



Updated P3 scores for the Yellowfin Tuna and Mahi Mahi in Panamanian waters

Prepare by:

Albert Arthur, Founder and Principal at Sea Strategies Consulting.

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Executive summary

This report updates the performance of Principle 3 of the large pelagics in Panama, Mahi mahi, and yellowfin tuna (swordfish wasn't included because there is not a fishery based on it). The large pelagic fisheries in the Exclusive Economic Zone, EEZ, only have a gear regulation, but no management plan or specific objectives are in place. The new fishing law from 2021 is currently aiming in the right direction, but it is still too early to evaluate it because it hasn't been totally implemented yet. Still, management plans will be developed in the next couple of years for each fishery. Even with those constraints, better performance of the fisheries was observed during the scoring process. The primary recommendation to improve the scoring is to develop actions on advocacy to support the creation of the management plans with clear fisheries objectives and periodic evaluations.

Background

Panama had a big step forward in their fisheries management based on the new Law 204 of March 18, 2021, which regulates and encourages activities such as aquaculture, sport, industrial and artisanal fishing following international standards and the latest technologies. Its general objectives include managing and promoting the sustainable use of aquaculture and fisheries resources and supporting and facilitating scientific and technological research in fisheries, aquaculture, and related activities.

Regarding the management of aquatic resources, the new law establishes that the Aquatic Resources Authority of Panama (ARAP), the governing body of the activity, will promote interinstitutional and intersectoral coordination and articulation to promote strategies and actions that contribute to the sustainable use of aquatic resources, including risk management, contingency plans, and early warning systems, as well as the implementation of policies for mitigation, adaptation and capacity building and resilience to the threats of climate change on aquatic resources and fishing communities. It will also establish and implement the conservation and management measures necessary to guarantee the sustainable use of aquaculture and fishing resources through the ecosystemic management of marine resources.

The Law specifies that any person engaged in aquaculture, fishing, and activities connected or related to fishing must be registered in the National System of Fisheries and Aquaculture Information and Statistics.

All of the above plus the regulation under the new law substantially changes Principle 3, as shown below.

Table 1 – Performance Indicator level scores

Performance Indicator	Draft scoring range	Data deficient?
3.1.1 – Legal and customary framework	≥80	No
Rationale or key points		
<p>Law 204, from March 2021, regulates fishing and aquaculture in the Republic of Panama. Article 4 establishes, “It is the responsibility of the Authority to prepare, update and execute the National Fisheries and Aquaculture Policy, in coordination with all those entities related to fishing, aquaculture, related activities and activities related to fishing.” Also, Article 5 says, “ The Authority is empowered to regulate fishing, aquaculture, related activities and activities related to fishing throughout the national territory, in continental waters and marine areas under the sovereignty and jurisdiction of Panama. Thus itself is empowered to regulate fishing and activities related to fishing carried out by Panamanian nationals or Panamanian-flagged vessels that operate beyond marine areas under the jurisdiction of Panama.” In addition, Article 8 establishes that the Authority will exercise its management taking into account general principles of the fisheries and aquaculture sector, with particular attention to Sustainability, Precautionary criterion, Participation, Cooperation, Prevention, and Ecosystem approach. As a result, and considering Panama’s membership and participation with several regional fisheries bodies, S.G. 80 is met for Sla.</p> <p>Article 134 of the Law establishes that “The administrative sanctioning process will be carried out following the principles of procedural economy, uniformity, speed, efficiency, simplification of procedures, publicity, and impartiality, with full respect for the due legal process and the right of defense of the interested. In addition, an appropriate dispute resolution framework is provided through a full-scale judicial system. As a result, S.G. 80 is met for Sib.</p> <p>Article 10 of the same Law says that “The general objectives of this Law are: 11. To ensure access and use of aquatic resources to coastal communities and towns natives.” Which is supported by Article 28 as well. Also, Article 50, says “For the purposes of this Law, the fishing activity carried out by Panamanian natural persons and foreigners domiciled in the Republic of Panama, with the purpose of feeding those who carry it out, their relatives and neighbors, shall be considered fishing for domestic consumption. The activity is generally carried out from the beaches or banks, and if you use boats, these are canoes or other rudimentary boats, using rudimentary fishing gear. The catches may not be marketed, and the Authority may regulate the activity.” As a result, Slc scores higher than SG80.</p>		
3.1.2 – Consultation, roles, and responsibilities	≥80	No
Rationale or key points		
<p>Law 204 identifies organizations and individuals involved in the management process. Functions, roles, and responsibilities are explicitly defined and well understood for critical areas of responsibility, including data collection, research, licensing, decision-making, monitoring, and surveillance. As a result, Sla scores higher than SG80.</p>		

Article 150 of the Law establishes the Board of Directors of the fishing Authority, which is made up of eleven members (4 of them from the civil society). Also, Article 8, Number 3 establishes, “Citizen participation: Organizations in the fishing and aquaculture sectors, communities and families directly related to fishing and aquaculture activities will have space for opinion and action in the implementation of this Law, policies and consequent actions.” As a result, S.G. 80 is met for SIb.

Article 8 allows all stakeholders to be involved, and the roundtables are working. As a result, **S.G. 80 is met for Sic.**

3.1.3 – Long term objectives

≥80

No

Rationale or key points

Article 10 establishes general objectives of the Law, “1. To administer and promote the sustainable use of aquatic and fishing resources. 2. Support and facilitate scientific and technological research in fisheries, aquaculture, and related activities. 3. Establish and define the principles to order, promote and regulate the integral management and sustainable use of fishing and aquaculture, considering social, economic, technological, productive, biological, and environmental aspects. 4. Regulate and order the sustainable development of fishing, aquaculture, and related activities and activities related to fishing.” Article 8 definitions support article 10 by defining: “1. Sustainability. Aquatic ecosystems, be they marine or continental, must be used with responsible fishing and aquaculture practices, guaranteeing the option of benefits for current and future generations. 2. Precautionary criterion. Considering the most reliable scientific data available, the criterion is applied in the conservation, management, and exploitation of living aquatic resources to protect them and preserve the aquatic environment. In the absence of adequate scientific information, the corresponding measures will be taken in attention to the principle of environmental precaution established in the norms of international environmental Law.” **As a result, S.G. 80 is met.**

3.2.1 – Fishery specific objectives

<60

No

Rationale or key points

There are no specific management measures related to large pelagics beyond LAW 204. Even a ban in September of each year, which was the first effort to control the mahi mahi fishery, is no longer in place. The longline gear has regulations, which include mahi mahi and yellowfin tuna, but nothing specific to each fishery. As a result, **S.G. 60 is not met.**

However, if the fishery does not fish in Panamanian waters, this PI scores NA.

3.2.2 – Decision-making processes

60 – 79

No

Rationale or key points

The new legislation has some decision-making processes in place that could result in measures and strategies to achieve the fishery-specific objectives. But since there are no specific objectives or management plans, and the process hasn’t been tested yet, **S.G. 60 is not met for SIa.**

Decision-making processes established by Law 204 and its clear long-term objectives allow the Authority to respond to severe and other important issues identified in relevant research, monitoring, evaluation, and consultation, in a transparent, timely, and adaptive manner and take some account of the broader implications of decisions. As a result, **S.G. 80 is met for Sib.**

Decision-making process established by Law 204 uses the precautionary approach and is based on the best available information (see 3.1.1 rational). As a result, **S.G. 80 is met for Sic.**

Information on the fishery’s performance and management that the Authority compiles is available on request by transparency law. As a result, **S.G. 80 is met for Sid.**

Although the management authority or fishery may be subject to continuing court challenges, it is not indicating a disrespect or defiance of the Law by repeatedly violating the same Law or regulation necessary for the sustainability for the fishery. As a result, **S.G. 60 is met for Sid.**

3.2.3 – Compliance and enforcement

60 – 79

No

Rationale or key points

The new Law requires monitoring, control, and surveillance systems, including VMS for longliners. It is being implemented in the fishery, and there is the ability to enforce relevant management measures, strategies, and/or rules. As a result, **S.G. 60 is met for Sia.**

Sanctions to deal with non-compliance are clear as part of the new law, and there is evidence that they are applied. As a result, **S.G. 60 is met for Sib.**

Some evidence exists to demonstrate that fishers comply with the management system under assessment and provide information when required. This even improved since Decree 111, about traceability, was published in July 2021 and since fishers understood that a better-managed fishery based on good data could improve market access. As a result, **S.G. 60 is met for Sic.**

There is no evidence of systematic non-compliance within the fishery, mainly because the regulations are based solely on gear control. **S.G. 80 is met for Sid.**

3.2.4 – Management performance evaluation

<60

No

Rationale or key points

Law 204 has mechanisms to evaluate at least critical parts of the fishery-specific management system, but this hasn’t been implemented yet. There are management evaluations at the RFMO level, but that doesn’t reflect within the EEZ. **S.G. 60 is met for Sia.**

There is no fishery-specific management system, but once the management plans are developed, they should contain internal and external reviews. Again, this is different at the RFMO level, where there are internal and external reviews, even for commercial objectives like complying with market requirements (I.E., European Union inspections and evaluations). **S.G. 60 is not met for Sid.**

3.1.1 – Legal and customary framework	≥80
3.1.2 – Consultation, roles, and responsibilities	≥80
3.1.3 – Long term objectives	≥80
3.2.1 – Fishery specific objectives	<60
3.2.2 – Decision-making processes	60 – 79
3.2.3 – Compliance and enforcement	60 – 79
3.2.4 – Management performance evaluation	<60

Recommendations:

The assessment showed that it is clear that Law 204 gives an improved framework to the fisheries in Panama, which should positively affect the performance of the large pelagic fisheries. Currently, the Fishing Authority is working on implementing the law and will develop the management plans for each fishery, which may take a couple of years. The most critical actions to improve Principle 3 should aim to support the creation of these new roadmaps with specific and clear objectives and periodic management evaluations for each of the fisheries.

Interviewees

- Dario Lopez, Director de Investigación y Desarrollo de la Autoridad de Recursos Acuáticos de Panamá, ARAP.
- Gabriel Caballero, Abogado de la Autoridad de Recursos Acuáticos de Panamá, ARAP.

Supporting documents

- Ley que regula la pesca y acuicultura en la Republica de Panama. 18 de Marzo de 2021.
- Reglamentación de la Ley <https://arap.gob.pa/reglamentacion-de-la-ley/>
- Resolución ADM/ARAP N 053. Que adopta las recomendaciones y resoluciones de la Comisión Internacional del Atún Tropical (CIAT). 10 de Octubre de 2021.
- Acta de la Primera Mesa de trabajo de pesca de arrastre. 17 de Febrero de 2020.
- Decreto-Ejecutivo N 161 Mecanismos de Inspección Vigilancia y Control a los buques de Captura y Apoyo a la Pesca. 6 de Junio de 2013.
- Decreto Ejecutivo N 126, Que Regula La Licencia De Pesca Para Naves De Servicio Interior Que Utilizan El Arte De Pesca Denominado Palangre en las Aguas Jurisdiccionales de la República de Panamá. 12 de Septiembre de 2017.
- Decreto Ejecutivo N 111, Que reglamenta e implementa la trazabilidad de los productos provenientes de la pesca, actividades conexas y actividades relacionadas con la pesca en la República de Panamá. 5 de Julio de 2021.