

# Update to the Principle 3 scoring of Panama against the Marine Stewardship Council fisheries Standard

**Confidential Report**

**Version 1.1**

*by* **Key Traceability Ltd.**

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## 1 Introduction to scoring updates

In 2010, a National Plan for the Conservation of Sharks was implemented across Panama to combat, discourage, and prevent illegal, unreported, and unregulated fishing. In 2017, an amendment was made to the plan to include rays in the management initiatives. Ray species occupy similar ecological niches as sharks and are, subsequently, as at risk from fishing mortality.

In Panama alone, 46 species of sharks and 33 species of rays are known to inhabit coastal waters and a number of sharks have been the target species for commercial and artisanal fishing fleets since the 1980's. However, not all are commercially important, or target catch, which means they are often underrepresented in catch reports. A paucity of catch data or stock assessment can mean these species particularly vulnerable to overfishing.

The ecological and biological significance of top predators like sharks and rays is well researched, and conservation management initiatives are required to ensure the longevity of species' stocks. The aim of the National Action Plan is to ensure the sustainability of long-term populations of both sharks and rays through five goals:

1. Promote and facilitate more research and monitoring of sharks and rays, their habitats and the fisheries that target them.
2. Strengthen the regulatory management to guarantee the conservation of sharks and rays, and their habitats in Panama
3. Have surveillance programmes, aimed at ensuring compliance with regulations and reduce illegal activity.
4. Ensure information about the initiatives are widely communicated to the public to increase awareness.
5. Achieve financial aid for the execution and activities within the National Action Plan.

Fishing and aquaculture are under the Panama Aquatic Resources Authority (ARAP) written to the Ministry of Agricultural Development (MIDA). ARAP is the governing body of the State to ensure compliance with and enforcement of laws and regulations regarding aquatic resources and national fisheries and aquaculture policies. The Authority has territorial jurisdiction in the Republic of Panama and its jurisdictional waters in accordance with current legislation.

With respect to the regulations related to fisheries and aquaculture, this is maintained in a sometimes described, confusing legislation on the responsibility of its actors, with laws dating back 58 years (Law 17 of July 9, 1959) and different regulations (FAO, 2018).

## 2 Principle 3 Amendment

Table 1 - Summary of Performance Indicator level scores of Panama

Performance Indicator	Draft scoring range	Data deficient?
3.1.1 – Legal and customary framework	60 – 79	Yes
<b>Rationale or key points</b>		
<p>Panama took an important step for responsible fishing through the creation of the Aquatic Resources Authority (ARAP) through the enactment of Law 44 of November 23, 2006. The ARAP, for its part, promotes regulatory and policy instruments to order the management of aquatic resources, highlighting among them: the formulation of the Panama Aquatic Resources Policy for Fisheries and Aquaculture, a preliminary draft of the Fisheries Law, and the establishment of procedures to impose administrative sanctions for infractions on aquatic resources. SG80 is met for Sla.</p> <p>Fisheries and aquaculture are under the Aquatic Resources Authority of Panama (ARAP) written to the Ministry of Agricultural Development (MIDA). ARAP is the governing body of the State to ensure compliance with and enforcement of laws and regulations regarding aquatic resources and national fisheries and aquaculture policies. The Authority has territorial jurisdiction in the Republic of Panama and its jurisdictional waters in accordance with current legislation and is subject by law to a mechanism for the resolution of disputes within these territories. SG80 is met for Sib.</p> <p>In addition, Panama is a member of the following Regional Fisheries Bodies:</p> <ul style="list-style-type: none"> <li>• Fisheries Commission for the Central-Western Atlantic (WECAFC).</li> <li>• Central America Fisheries and Aquaculture Organisation (OSPESCA).</li> <li>• Commission for Inland Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC).</li> <li>• Inter-American Tropical Tuna Commission (IATTC).</li> <li>• International Commission for the Conservation of Atlantic Tunas (ICCAT).</li> <li>• International Whaling Commission (IWC).</li> <li>• South Pacific Regional Fisheries Management Organisation (SPRFMO).</li> <li>• The Aquaculture Network for the Americas (RAA).</li> </ul> <p>There are almost 200 marine fishing communities in the country, however, in recent years, the importance of fishing communities and the number of fishers in the same communities has declined, as tourism increases in importance in coastal places, and many fishers have become tour operators. No evidence can be found to be able to score Sic more than 60.</p>		
<b>Improvement recommendations</b>		
<p>Further communication with the flag state is required to understand more about the fishing communities within the country, as well as on-site visits and in-person discussions with crew and communities.</p> <p>To score scoring issue C better, the management must have a mechanism to observe the legal rights created explicitly or established by custom of people dependent on fishing for food or livelihood in a manner consistent with the objectives of MSC Principles 1 and 2.</p>		

3.1.2 – Consultation, roles, and responsibilities	60 – 79	Yes
<b>Rationale or key points</b>		
<p>In 2017, the government of Panama approved the Action Plan for Sustainable Fisheries. Historically, the exploitation of aquatic resources has given Panama great benefits in terms of food security, economic income and as a source of employment. However, the state of traditional fishery resources and with it the profitability of fishing has followed a downward spiral due to a fishing effort that was growing without greater control due to free access and lack of control and monitoring of rigor. The Aquatic Resources Authority of Panama (ARAP) is the government entity responsible for the control of the fishing activity in the country, but the outdated legal framework and the low levels of coordination at the sectoral and inter-institutional levels take away management effectiveness from the institution. The Government sought that the National Dialogue for Fisheries process contribute to generating inputs for the elaboration of a National Plan of Action for the Sustainability of Fisheries in Panama. This Plan is the roadmap for the work of the ARAP and the National Commission for Responsible Fisheries as of 2017. Organisations involved in the management process have been identified. Functions, roles, and responsibilities are explicitly defined and well understood for key areas of responsibility and interaction. SG80 is met.</p> <p>In addition, the Plan has contributed to identifying areas of coordination between the ARAP and the other public institutions that have responsibilities in areas that affect the fishing sector, as well as between the ARAP and the private sector. As a starting point for ordering the discussions, the ARAP identified four strategic axes to structure the Action Plan for the Sustainability of Fisheries in Panama:</p> <ul style="list-style-type: none"> <li>• Institution Strengthening</li> <li>• Responsible and sustainable fisheries and aquaculture</li> <li>• Optimisation of productivity and competitiveness</li> <li>• Management and integral control</li> </ul> <p>This demonstrates the potential for the management system to include consultation processes that obtain relevant information from the main affected parties, including local knowledge, to inform the management system. SG60 is met for SIb. No information could be found as to whether the management system regularly seeks and accepts information, so SG80 could not be met.</p> <p>Regarding participation of stakeholders in the consultative processes, there was not enough information to answer whether there is opportunity for all interested and affected parties to be involved in the discussions. SG80 could not be met.</p> <p><b>November 2021 update</b></p> <p>The 2017 ARAP National Action Plan regarding the conservation management for sharks and rays requires the continual research of shark and ray habitats and stocks to ensure the fishing efforts of fisheries aren't damaging the species. However, no record of how stakeholders are involved within this process through consultations, so this update fails to increase any scoring.</p>		
<b>Improvement recommendations</b>		
<p>Meetings with stakeholders are required to understand their participation in the fishery management actions and initiatives. On-site visits and in-person meetings would also be beneficial to clarify their involvement and prove there is a consultation process that regularly seek and accept relevant information and allows all stakeholders to comment.</p>		

3.1.3 – Long term objectives	≥80	Yes
<b>Rationale or key points</b>		
<p>In 2017, the government of Panama approved the Action Plan for Sustainable Fisheries. Historically, the exploitation of aquatic resources has given Panama great benefits in terms of food security, economic income and as a source of employment. The Government sought that the National Dialogue for Fisheries process contribute to generating inputs for the elaboration of a National Plan of Action for the Sustainability of Fisheries in Panama. This Plan is the roadmap for the work of the ARAP and the National Commission for Responsible Fisheries as of 2017. In addition, the Plan has contributed to identifying areas of coordination between the ARAP and the other public institutions that have responsibilities in areas that affect the fishing sector, as well as between the ARAP and the private sector. As a starting point for ordering the discussions, the ARAP identified four strategic axes to structure the Action Plan for the Sustainability of Fisheries in Panama:</p> <ul style="list-style-type: none"> <li>• Institution Strengthening.</li> <li>• Responsible and sustainable fisheries and aquaculture.</li> <li>• Optimisation of productivity and competitiveness.</li> <li>• Management and integral control.</li> </ul> <p>Long term objectives to guide decision-making, consistent with MSC fisheries standard and the precautionary approach, are implicit within management policy, SG60 is met. As they are not explicit, SG80 cannot be met.</p> <p><b>November 2021 update</b> The National Action Plan has five main initiatives that will eventually be met by all Panamanian fisheries that aid with the long-term sustainability of shark and ray populations around Panama. This is evident that the flag state will be applying clear management and conservation initiatives for long-term goals where the precautionary approach is explicit. This increase Sla to SG80 and closes out the PI.</p>		
<b>Improvement recommendations</b>		
NA		

3.2.1 – Fishery specific objectives	<60	Yes
<b>Rationale or key points</b>		
<p>This PI is relevant for Panama, as the fishery takes place in Panamanian waters. However, this is only relevant for tuna and mahi-mahi species in this pre-assessment as swordfish is an illegal species to land.</p> <p>In December of 2010, Executive Order No. 486 was issued, which prohibited the use of longline vessels over 6 GRT. In December of 2011, Administrative Order No. 125 placed limits on the amount of fishing effort. Resolution No. ADM / ARAP 59, which occurred on May 10, 2011, creates a Multi-year Program for the Conservation of Tuna in the Eastern Pacific Ocean for the years 2011, 2012 and 2013. Executive Decree No. 126 of 2017 was published in the Official Gazette No. 28365-B. The decree is a step forward in the management of the Panamanian mahi-mahi and yellowfin tuna, as it issues regulations regarding the use of longlines in waters under jurisdiction of the Republic of Panama.</p> <p>There is no specific legislation related with mahi-mahi fishery in Panama. No specific targets have been established for the fishery. However, legislation having an impact on the fishery, such as the General Law regulating the Fishing Activity, dated 1959, Decree N° 486, dated 2010, regulating the use of logline in general and Law N°. 9, dated March 16th, 2006, forbidding shark finning in general, indicate that implicitly within the general management system there are objectives consistent in broad terms with Principles 1 and 2.</p> <p><b>November 2021 updates</b></p> <p>The National Action Plan for Panama clearly outlines the efforts that will be made regarding the sustainability of shark and ray populations and the ecosystems that they inhabit, which highlights the country’s aims to address Principle 2 PIs (habitat, ecosystem and bycatch) However, as there is no proper management system for the fishery with clear specific objectives, we consider that this indicator would fail.</p>		
<b>Improvement recommendations</b>		
<p>More evidence is required to understand the fishery-specific objectives in place for target species including mahi-mahi and tunas.</p>		

3.2.2 – Decision-making processes	<60	Yes
<b>Rationale or key points</b>		
<p>Regarding decision-making processes, as the fishery is not taking place in Panama’s waters, it is the RFMO-level, IATTC’s decision-making processes that are of importance for this SIa (refer to IATTC scoring). With respect to SIb, it is not clear as to whether Panama has well-developed and responsive (transparent, adaptive, timely) processes nor that national measures routinely apply to serious and other important (flag State) issues. The pre-assessment was conducted remotely and evidence to whether Panama are complying to all data requirements was not found. SG60 could not be awarded on this basis.</p> <p>Regarding the precautionary approach (SIc), information being available to stakeholders on request (SI d) and the management system’s approach to disputes (SIe), the RFMO management level is deemed most relevant and should be focussed on for this PI, rather than the national level management. Please see the rationale for IATTC for these scoring issues (all awarded at least SG80).</p>		
<b>Improvement recommendations</b>		
<p>Conducting onsite visits will be beneficial in understanding more about the decision-making process within Panamanian fisheries. Proof will need to be if Panama are complying to all IATTC data requirements</p>		

<b>3.2.3 – Compliance and enforcement</b>	<b>60 – 79</b>	<b>Yes</b>
<b>Rationale or key points</b>		
<p>Fisheries and aquaculture are under the Aquatic Resources Authority of Panama (ARAP) written to the Ministry of Agricultural Development (MIDA). ARAP is the governing body of the State to ensure compliance with and enforcement of laws and regulations regarding aquatic resources and national fisheries and aquaculture policies. The Authority has territorial jurisdiction in the Republic of Panama and its jurisdictional waters in accordance with current legislation. Since July 1996, Panama is part of the United Nations Convention on the Law of the Sea (1982) and, since December 2008, of the United Nations Agreement on Transzonal Fish Populations and Populations of Highly Migratory Fish (1995). It is not part of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels Fishing on the High Seas (1995) nor has it signed the newly adopted Agreement on Measures of the Port State of Puerto Rico (2009). Being members of RFMOs such as IATTC does mean however that they must comply with RFMO Resolutions, meaning there is a MCS implemented for the fishery. The presence of a Panama flagged vessel on the 2019 IATTC IUU vessel list demonstrates an ability to enforce relevant management measures, strategies and/or rules. SG80 is met for Sla.</p> <p>Sanctions to deal with non-compliance exist and there is some evidence that they are applied. SG60 is met for Slb.</p> <p>Fishers are generally thought to comply with the management system under assessment, including, when required, providing information of importance to the effective management of the fishery. Evidence enough to award SG80 for Slc was not possible without engaging directly with the fishery. The singular vessel on the IATTC list suggests that the fishers generally comply with the management system. SG60 is met for Slc.</p> <p>There is no evidence of systematic non-compliance. SG80 is met for Sld.</p> <p><b>November 2021 updates</b></p> <p>All vessels must comply with the National Action Plan initiatives so the Sla scoring remains at SG80. However, there is no indication that sanctions are enforced on vessels/fisheries that are in breach of the compliance, so the scoring for Slb does not change.</p>		
<b>Improvement recommendations</b>		
<p>Evidence of examples where sanctions were enforced on fisheries after non-compliance or illegal activity should be provided. Direct engagement with the fishery via on-site visits will be important in understanding the compliance with management systems.</p>		



3.2.4 – Management performance evaluation	≥80	Yes
<b>Rationale or key points</b>		
<p>Internal reviews are conducted when annual reports are sent to RFMOs, allowing evaluation of key parts of the fishery-specific management system, for example compliance with Resolutions. SG80 is met for Sla.</p> <p>No external review was observed to have taken place, so SG60 was only met for Sib.</p> <p><b>November 2021 updates</b> The National Action Plan states that reviews will take place within the fisheries every four years to ensure that management performance and compliance to the initiatives is taking place and still active. This increases the Sib to SG80 and closes out this PI.</p>		
<b>Improvement recommendations</b>		
NA		

**Table 2: Original and updated PI scores for Principle 3 actions for Panama following this review**

Performance Indicator			Panama	
Governance and Policy	3.1.1	Legal and Customary Framework	→	→
	3.1.2	Consultation, Roles, and Responsibilities	→	→
	3.1.3	Long-term Objectives	→	→
Fishery-specific Management System	3.2.1	Fishery-specific Objectives	→	→
	3.2.2	Decision-making Processes	→	→
	3.2.3	Compliance and Enforcement	→	→
	3.2.4	Management Performance Evaluation	→	→

### 3 Appendix

#### 3.1 ARAP signatory

**REPÚBLICA DE PANAMÁ**  
**AUTORIDAD DE LOS RECURSOS ACUÁTICOS DE PANAMÁ**

**RESOLUCIÓN ADM/ARAP No.014**  
(De 07 de mayo de 2018)

1

**"Por la cual se adopta el Plan de Acción Nacional para la Conservación y Ordenamiento de las Pesquerías de Tiburones y Rayas en Panamá, 2017"**

**LA ADMINISTRADORA GENERAL**  
en uso de sus facultades legales,

**CONSIDERANDO:**

Que los artículos 119 y 120 de la Constitución Política de la República de Panamá, establecen, respectivamente, que el Estado y todos los habitantes del territorio nacional tienen el deber de propiciar un desarrollo social y económico que prevenga la contaminación del ambiente, mantenga el equilibrio ecológico y evite la destrucción de los ecosistemas, y que el Estado reglamentará, fiscalizará y aplicará oportunamente las medidas necesarias para garantizar que la utilización y el aprovechamiento de la fauna terrestre, fluvial y marina, así como de los bosques, tierras y aguas, se lleven a cabo racionalmente, de manera que se evite su depredación y se asegure su preservación, renovación y permanencia.

Que la Convención de las Naciones Unidas sobre el Derecho del Mar (CONVEMAR), aprobada por la República de Panamá mediante Ley 38 de 4 de junio de 1995, establece en su artículo 64 que los Estados cooperarán para asegurar la conservación de especies altamente migratorias y promover el objetivo de la utilización óptima de dichas especies en toda la región, tanto dentro como fuera de la zona económica exclusiva, de forma directa o por conducto de las organizaciones internacionales establecidas para tal fin.

Que tanto en la Ley 5 de 3 de enero de 1989, que aprobó la Convención sobre la Conservación de las Especies Migratorias de Animales Silvestres (CMS), como en la Ley 14 de 28 de octubre de 1977, que aprobó la Convención sobre el Comercio Internacional de Especies Amenazadas de Fauna y Flora Silvestre (CITES), se contemplan medidas de protección internacional para ciertas especies de tiburones y rayas.

Que de acuerdo a la Declaración de San José del 2 de abril de 2004, Panamá pertenece al Corredor Marino de Conservación del Pacífico Este Tropical (CMAR), cuyo enfoque ecosistémico y regional, incluye la protección de la ruta migratoria y hábitats utilizados por un gran número de especies de tiburones. De la misma manera, el país es miembro de organismos regionales como la Organización del Sector Pesquero y Acuícola del Istmo Centroamericano (OSPESCA) y la Comisión Permanente del Pacífico Sur (CPPS), las cuales, dentro de sus objetivos se encuentra el regular el manejo sostenible de las pesquerías de eslamobranquios.

Que la Ley 44 de 23 de noviembre de 2006, crea la Autoridad de los Recursos Acuáticos de Panamá, como entidad rectora del Estado para asegurar el cumplimiento y la aplicación de las leyes y políticas nacionales de pesca y acuicultura.

Que de acuerdo con el artículo 21 de la Ley 44 de 2006, es facultad de la Administración General de la Autoridad de los Recursos Acuáticos de Panamá, autorizar y coordinar con los organismos competentes las medidas necesarias, para la protección y conservación de los recursos acuáticos, sus productos y subproductos, así como establecer la organización de la Autoridad, y en general, adoptar todas las medidas que estime convenientes para la organización y funcionamiento del sector pesquero.

Que el artículo 86 de la Ley 41 de 1998, modificado por el artículo 42 de la Ley 8 del 25 de marzo de 2015, establece que el Ministerio de Ambiente coadyuvará con la Autoridad de los Recursos Acuáticos de Panamá, para asegurar que las normas sobre recursos acuáticos que esta elabore, con base en sistemas de ordenamiento pesquero, procuren el uso sostenible de dichos recursos.

Que mediante Resolución ADM/ARAP No.013 de 9 de febrero de 2009, se adoptó el "Plan de Acción Nacional para la Conservación y Ordenación en las Pesquerías de Tiburones", con el objetivo de atender el ordenamiento necesario que permitiese una actividad pesquera

AD

sostenible, así como la recuperación de las poblaciones de elasmobranquios que están siendo explotadas.

Que el artículo 10 de la Ley 9 de 16 de marzo de 2006, establece que este Plan de Acción deberá ser revisado cada cuatro años, producto de lo cual, se ha dado su actualización a través de un proceso de consulta que ha sido impulsado por el Ministerio de Ambiente, en conjunto con la Autoridad de los Recursos Acuáticos de Panamá, auspiciado por el Programa de las Naciones Unidas para el Desarrollo (PNUD) y con la participación de la sociedad civil, a fin de evaluar los objetivos, políticas, estrategias, programas, regulaciones y medidas de ordenación.

Que este nuevo Plan de Acción, da continuidad y reestructura de una forma más dinámica y participativa, la estrategia para el logro de los objetivos planteados con el fin de determinar las actividades y acciones de conservación, protección, desarrollo sustentable e investigación; en consecuencia,

**RESUELVE:**

**PRIMERO:** Adoptar el Plan de Acción Nacional para la Conservación y Ordenamiento de las Pesquerías de Tiburones y Rayas en Panamá, 2017, con el objetivo de proteger y garantizar el aprovechamiento sostenible a largo plazo de estos recursos.

**SEGUNDO:** Establecer que las disposiciones contenidas en el Plan de Acción adoptado, son aplicables a toda embarcación que realice actividades de pesca de forma dirigida o incidental del recurso tiburón, o de forma incidental del recurso raya, en las aguas jurisdiccionales de la República de Panamá.

**TERCERO:** Reiterar que el Plan de Acción deberá ser revisado cada cuatro años, de acuerdo al contenido del artículo 10 de la Ley 9 de 16 de marzo de 2006.

**CUARTO:** La presente Resolución entrará en vigencia a partir de su promulgación en Gaceta Oficial.

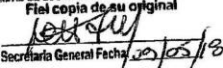
**FUNDAMENTO DE DERECHO:** Constitución Política de la República de Panamá. Decreto Ley 17 de 9 de julio de 1959. Ley 9 de 16 de marzo de 2006. Ley 44 de 23 de noviembre de 2006. Ley 8 de 25 de marzo de 2015.

**PUBLÍQUESE Y CÚMPLASE.**



  
**ZULEIKA S. PINZÓN M.**  
Administradora General



AUTORIDAD DE LOS RECURSOS ACUÁTICOS DE PANAMÁ  
Fiel copia de su original  
  
Secretaría General Fecha: 20/02/18