

FINAL DECISION AND SUMMARY REPORT

**PROPOSED CERTIFICATION OF THE
SOUTH GEORGIA PATAGONIAN TOOTHFISH LONGLINE FISHERY
PURSUANT TO
THE MARINE STEWARDSHIP COUNCIL'S
PRINCIPLES AND CRITERIA FOR SUSTAINABLE FISHING**

Report by

**THE INDEPENDENT OBJECTIONS PANEL
CONVENED BY
THE MARINE STEWARDSHIP COUNCIL**

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MARCH 15, 2004

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I. Introduction

This document is the summary version of the Final Decision and Report of the Objections Panel (hereafter “Panel”) convened by the Marine Stewardship Council (“MSC” or “Council”) to consider conservation stakeholder objections to the determination by a MSC-accredited certifier (“Certification Body”) that the South Georgia Patagonian toothfish longline fishery should be certified as meeting the MSC’s Principles and Criteria for Sustainable Fishing.

This report summarizes and is based upon a series of communications between the Panel and the Certification Body. Those communications are included with this Report as Appendices 1-4. The reader interested in more detail is encouraged to review the full text version of this report.

The Objections Panel made findings with respect to each objection presented by the conservation stakeholders (“Objectors”). The Panel found some objections to be unmerited and dismissed them. The Panel did, however, find certain objections to be merited and remanded the certification determination to the Certification Body with directions to revise its Assessment Report and, in some key matters, strengthen conditions prescribed for the fishery. The Certification Body has agreed to comply with the directions of the Objections Panel and will impose new or revised conditions on the client fishery that respond directly and substantially to the concerns presented by the Objectors and the Panel.

The Objections Panel finds that, based on the Assessment Report, as revised, the Certification Body may properly certify the South Georgia Patagonian toothfish longline fishery as meeting the standard set by the Marine Stewardship Council’s Principles and Criteria for Sustainable Fishing.

II. Discussion

a. *Summary of Process*

In April 2003, the Marine Stewardship Council convened an independent panel of five individuals familiar with fishery management and the Council’s fishery assessment and certification process to consider objections presented by a group of marine conservation stakeholder organizations to the determination by an MSC-accredited certifier, Moody Marine Ltd., that the South Georgia Patagonian toothfish longline fishery should be certified as a sustainable and well-managed fishery pursuant to the MSC’s Principles and Criteria for Sustainable Fishing. The Certification Body’s determination was made by its Governing Board on the basis of a peer-reviewed report (“Assessment Report”) prepared by a five-member Assessment Team of fisheries experts convened by the Certification Body.

The members of the Objections Panel are Mr. Henrique Cavalcanti, Dr. Ray Hilborn, Thomas Jensen, Esq., Dr. Ellen Pikitch, and Dr. André Punt. Mr. Cavalcanti, a member of the MSC’s Board of Trustees, served as chair of the Objections Panel.

The Objections Panel operated pursuant to Terms of Reference prepared by the MSC which provide, in part, that:

- 1) *The Objections Panel review will be based on the MSC's Principles and Criteria for Sustainable Fishing and the record of the information submitted by the certification body, subject fishery and objecting party, including:*
 - a) *The initial objection by the objecting party.*
 - b) *The response to the initial objection by the certification body.*
 - c) *The further objection by the objecting party.*
 - d) *Any further input from the subject fishery available at the commencement of the Objections Panel's deliberation responding to issues raised in the objection.*
 - e) *The Final Report on the subject fishery.*
- 2) *On the basis of the information available to the certification body, evaluate the claims put forward by the objecting party in the context of the judgements made by the Assessment Team against the MSC Principles and Criteria for the subject fishery. This can include comment and evaluation of the evidence provided in support of the objection, while recognising that the objection is limited to the information available to the certification body at the time of the initial objection.*
- 3) *With reference to the objector's claims referred to in point 2 above and the response of the certification body, evaluate the relevant performance indicators and scoring guideposts used in the fishery assessment and comment on the following:*
 - a) *whether the indicators are sufficient to assess these aspects of the fishery relevant to the MSC's Principles and Criteria;*
 - b) *whether the scoring guideposts were set at a level sufficient to identify that these aspects of the fishery meet the MSC Principles and Criteria and result in a sustainable and well-managed fishery; and*
 - c) *whether the evidence and rationale provided by the certification body justify the outcome on the relevant performance indicators.*
- 4) *Comment on whether relevant Corrective Action Requests are sufficient to address inadequacies identified, such that the subject fishery would continue to meet the MSC Principles and Criteria for a sustainable and well-managed fishery within the period of certification.*
- 5) *If required, solicit external advice when making deliberations.*
- 6) *If required, request that the certification body, the subject fishery or objecting party present their respective cases orally.*
- 7) *The Objections Panel will*
 - a) *allow the Determination to stand, or*

- b) *remand the Determination to the certification body with instructions to consider significant procedural issues, information omitted or inadequately considered in the assessment. Elaborate, in writing, the specific matters which the certification body must consider in the remand and the relationship of these matters to one or more of the MSC's Principles and Criteria or procedural rules.*
- 8) *If required, discuss the remand with the certification body and its response to the remand.*
- 9) *Make a final decision, in writing, detailing how the certification body's response meets or fails to meet one or more of the MSC's Principles and Criteria.*

The Objections Panel met by teleconference numerous times and conducted extensive consultations by email. The Panel considered written materials prepared or referenced by the Certification Body and the Objectors.¹ The Objections Panel also met by teleconferences with representatives of the Certification Body and Assessment Team, the Objectors, and the Government of South Georgia and South Sandwich Islands.

Members of the MSC staff participated in some of the Objections Panel's teleconferences to provide advice on procedural matters and to assure administrative support for the Panel. MSC staff members were sometimes present for, but in no case participated in the Panel's deliberations on the merits of the objections raised.² The Objection Panel's work was conducted with complete independence from the fishery under assessment, the Certification Body, MSC, Objectors, and all other parties.

b. Summary of Panel Findings on Objections

The Objections Panel issued an initial report in October 1, 2003 (hereafter the "Remand"). That report, attached to this document as Appendix 1, was provided to the Certification Body, the Objectors, the Government of South Georgia and South Sandwich Islands and relevant MSC staff, but was not otherwise released to the public. The initial report describes the various objections presented by the Objectors, the response of the Certification Body to those objections, and the views of the Objections Panel on the merits of the objections and the adequacy of the Certification Body's responses thereto.³

The Panel upheld the judgment of the Certification Body on many of the items as to which objections were presented. The Panel did, however, agree with several of the objections. In brief, the Panel made the following findings supporting the Certification Body's determination:

¹ Those documents are listed in Appendix 1, pages 3-4.

² The Objections Panel found the staff's participation to be very helpful and wishes to express its gratitude to the MSC for assuring their availability.

³ The Objections Panel also raised certain issues for consideration by the MSC, rather than the Certification Body. Appendix 1, page 37.

- The Assessment Team’s analysis covered the range of issues properly considered in applying the MSC Principles and Criteria.
- The Assessment Report evidenced no clear errors of fact.
- The Assessment Team showed a commendable degree of skepticism regarding the method used to assess the extent of IUU fishing in the geographic area covered by the certification review. General issues raised about IUU surveillance in the fishery (not raised in the initial objection) required no further action. (Appendix 1, pages 27-28)
- The potential for confusion between Patagonian toothfish (*Dissostichus eleginoides*) and Antarctic toothfish (*D. mawsoni*) is not relevant to the certification determination because Antarctic toothfish do not occur in the region of the South Georgia Patagonian toothfish longline fishery. (Appendix 1, page 12)
- Stock assessment modeling used in the fishery is explicitly precautionary. Conditions imposed by the Certification Body on the modeling were appropriate. (Appendix 1, pages 12-14)
- The present sovereignty dispute concerning the area of the fishery did not provide a basis for remand because there was no evidence to suggest adverse impact on management. (Appendix 1, pages 23-27)
- The potential for new fishing capacity or additional fishing effort in the fishery relates to the ability to monitor catches and is not a reason for remanding the certification. (Appendix 1, pages 28-29)
- MSC rules allow for certification of the longline fishery separate from the pot fishery. The pot fishery is only relevant to review of the longline fishery to the extent that TACs for the target species are set in a manner that appropriately reflects harvest in both fisheries. The record before the Assessment Team fully supported their conclusion on this point. (Appendix 1, pages 28-29)
- Fishing that occurs on stocks that are other than those exploited by the fishery under assessment is not germane to the question whether the fishery under assessment meets the MSC’s Principles and Criteria for Sustainable Fishing. (Appendix 1, pages 30-34)
- Some of the objections raised by the conservation stakeholders concerned issues that are not within the scope of the MSC’s Principles and Criteria and, thus, were not amenable to resolution by the Certification Body. Those issues properly should have been addressed to the MSC or to CCAMLR member states and related bodies.

The Panel made the following determinations supporting objections raised by the conservation stakeholders:

- The Objectors raised responsible, serious, and important issues relevant to the Assessment Team’s analysis during the Team’s deliberations and, subsequently, in the objections they filed with the Certification Body and Marine Stewardship Council.
- The Assessment Team and Certification Body erred in their judgment, or failed to explain their judgments adequately with respect to:
 - The strength of the evidence relied upon to support the judgment by the Assessment Team that the South Georgia stock of Patagonian toothfish is a distinct population substantially isolated from other populations of toothfish in the Southern Ocean (Appendix 1, pages 6-11), and
 - The scoring of some indicators associated with MSC Principle 2, which addresses ecosystem considerations in management. (Appendix 1, pages 16-19)
- The Peer Reviewers of the draft Assessment Report raised a number of legitimate questions but the final Assessment Report did not reveal how the Assessment Team or Certification Body took action in response to the Peer Reviewers’ criticisms and observations. (Appendix 1, pages 16-19)
- The Assessment Report devoted too little discussion to certain background issues, including CCAMLR procedures and debates. The report placed an unreasonably heavy burden on the reader to obtain and parse secondary sources. (Appendix 1, pages 19-21)
- The Certification Body’s response to the Initial Objections from the Objectors was, in some key respects, brief to the point of terseness, which deprived the Objectors and other readers of a full appreciation of the Team’s deliberations on certain issues and created the impression that some topics received less than full and respectful consideration. (Appendix 1, pages 35-37)

Based on its findings, and pursuant to § 7 of its Terms of Reference, the Objections Panel remanded the certification determination to the Certification Body with directions to revise its Assessment Report, including conditions applicable to the fishery, to address the concerns raised by the Objectors and affirmed by the Panel. The Panel also made certain recommendations (i.e., non-binding suggestions) for improvements in the Assessment Report.

The Certification Body responded to the Panel’s Remand on October 20, 2003. That communication, attached to this document as Appendix 2, provided the Certification Body’s initial response to the Panel’s Remand decision, including several requests for clarification. That document was distributed to the Objections Panel and MSC staff, but not otherwise. The Panel responded to the Certification Body on November 20, 2003, noting that the Panel found the Certification Body’s initial response satisfactory in some parts, but inadequate in others. The Panel’s response was copied to the Objectors and MSC staff, and is attached to this document as Appendix 3.

The Certification Body replied to the Panel’s November 20th communication on December 17, 2003, with an electronic message and three text files containing the Certification

Body's proposed revisions to the Assessment Report. That response, which was distributed to the Objectors and the Government of South Georgia and South Sandwich Islands, is attached to this document as Appendix 4. Specifically, the Certification body transmitted:

- An amended Section 3.4.1 dealing with UNCLOS;
- A new Section 7.5 to appear at the end of the 'Stakeholder Consultation' section introducing the Objection Procedure;
- Amended text from the scoring table for those indicators on which points were raised by the Objection Panel (1A.3, 1A.6) or, for Principle 2, by peer reviewers (2A.1, 2A.2, 2A.3, 2B.5, 2C.1, 2C.2, 2C.3, 2D.1, 2D.2, 2E.1, 2E.3, 2E.5, 2F.2, 2F.3); and
- An amended set of conditions and recommendations, all of which have been accepted by the client fishery.

This document, prepared pursuant to § 9 of the Objection Panel's Terms of Reference, presents the Panel's final decision on the adequacy of the Certification Body's proposed revisions to the Assessment Report and certification determination.

c. Summary of Certification Body's Responses to Remand

The Certification Body responded to each issue or item (i.e., each directive and recommendation) included in the Remand from the Objections Panel. This section of this report summarizes each direction from or issue raised by the Panel, the Certification Body's response, and the Panel's opinion regarding that response. The reader should be aware that the Panel considered and discussed in its Remand every issue raised by the Objectors. *See* Appendix 1. However, the Panel found that only a subset of those issues created the basis for a Remand and, thus, the Certification Body was directed or encouraged to take action on a subset of the total range of issues raised by the Objectors. Presented here are only those items on which the Certification Body was directed to take action, or as to which the Panel made a recommendation.

1. Issue Area 1 - Stock Assessment

A. STOCK DISTINCTION; GENETICS AND TAGGING INFORMATION

Objections Panel Opinion: The Panel found that the evidence available to the Assessment Team and Certification Body at the time of the original assessment, as documented in the Assessment Report, was insufficient to conclude that the South Georgia toothfish population is a reproductively isolated, genetically distinct stock. In the opinion of the Objections Panel, the evidence available to the Assessment Team that is documented in its report did not merit the score of 85 assigned to performance indicator 1A.3 which queries "Is the geographical range of the target stock known?" In the view of the Objections Panel, the evidence cited in the Report would support a score between 60 and 80, but not above that level. While such a score constitutes a pass against the MSC Principles and Criteria, the Objections Panel disagreed that the information cited in the Assessment Report provided the basis of a "reliable estimate" since that information failed to answer key questions regarding the genetics and potential movements of the fish.

Direction to the Certification Body: The Certification Body was directed to reconsider and lower below 80 the score assigned to indicator 1A.3 in light of the concerns expressed by the Objections Panel as to the inadequacy of the information cited in the Assessment Report. The Certification Body was directed to prescribe special certification conditions for the fishery that would address the concerns expressed by the Objections Panel.

Response by Certification Body: The Certification Body lowered the score allocated to Indicator 1A.3 to 70 and set an additional condition, Condition 2, for certification. Condition 2 provides as follows:

Existing studies shall be reviewed and, where necessary, extended in order to demonstrate that the toothfish stock at South Georgia is sufficiently discrete that locally implemented management measures alone should be sufficient to ensure the sustainability of this stock. This is to include the following:

- *To review existing studies and where necessary commission supplementary new studies, on genetic characteristics of toothfish populations*
- *To review existing studies and where necessary commission supplementary new studies, involving the tagging of toothfish to determine movement out of South Georgia into adjacent areas. Similar studies involving toothfish populations in neighbouring areas of the South Atlantic should be initiated so as to provide information on any migration into South Georgian waters*
- *On the basis of genetic and tagging studies, to examine various scenarios of mixing of adult and/or juvenile toothfish and the implications of this for the sustainability of the stock*

Existing studies should be fully reviewed, supplementary studies identified and scheduled, and an estimation of the implications for stock sustainability carried out within 12 months of certification. Additional studies to address any areas of uncertainty should be carried out over appropriate timescales as agreed with the assessment team. The assessment of the implications of such studies for the sustainability of the stock should be reviewed as information becomes available. This will be a subject addressed during annual surveillance audits.

Judgment of Objections Panel: The response of the Certification Body is satisfactory, subject, however, to the understanding that the Objections Panel interprets the use of the words “to demonstrate” in the first sentence of the new Condition 2 to mean that stock identification studies will be reviewed and, where necessary, extended in order to determine the degree of stock discreteness and level(s) of mixing with other populations. The Condition does not, and cannot properly presume that the additional studies will confirm that the South Georgia stock is discrete. If the studies do not confirm the discreteness of the stock, the certification would need to be reconsidered by the Certification Body.

B. SURVEYS AND CPUE DATA

Objections Panel Opinion: The Objections Panel found that, although surveys are conducted regularly and provide information on recruitment, they only provide an index of some unknown proportion of the adult stock. The only index of abundance for older/larger animals

appears to be the CPUE data. While these data are standardized to allow trends to be determined, the use of CPUE as an index of abundance is always subject to considerable uncertainty. The decision rule on which catch limit recommendations are based appears to ignore the differences among sexes in terms of biological parameters and gear selectivity. The impact of this shortcoming is unknown, but may be substantial if, for example, females are subject to higher fishing mortality than males. It appeared to the Objections Panel that the available information would, at best, justify a score of something near 80 as to Indicator 1.A.6.

Direction to the Certification Body: The Certification Body was directed to change the score for indicator 1.A.6 from 90 to 80 or to explain with greater clarity why the higher score would be merited despite the acknowledged uncertainty as to the proportion of stock actually sampled. The Certification Body was further directed to include as a recommendation to the Government of South Georgia and South Sandwich Islands (GSGSSI) that it press CCAMLR to see that the model on which the decision rule is based is modified to take account of between-sex differences in biological parameters.

Response by Certification Body: The Certification Body lowered the score for Indicator 1.A.6 to 80. The Certification Body also agreed to make a recommendation (Recommendation 2) to the GSGSSI that there should be a request from the UK to CCAMLR to investigate modification of the model on which the decision rule is based to take account of between-sex differences in biological parameters.

Judgment of Objections Panel: The response of the Certification Body on this issue complies satisfactorily with the Panel's direction.

2. Issue Area 2 - Ecological Impacts/Dependent and Associated Species

Objections Panel Opinion: The Objections Panel found that the Assessment Report should be revised to include detailed, specific discussions of each score over which a Peer Reviewer raised a concern. In this regard, the Panel found that more emphasis in terms of analysis needed to be given to indicators that reflect the impact of the fishery on protected, threatened and sensitive species. For example, with respect to skates and rays, emphasis should be placed on the likely impact that the catch of these species by the fishery has on projected maintenance of population abundance and the risk of severe depletion or extinction. While improvements in quantifying seabird bycatch in the South Georgia toothfish fishery have been made, and estimates of bycatch are very small in the legal fishery, the consequences for sustainability of seabird bycatch from any source within the fishery should be addressed explicitly. Finally, the Panel also found that another area that needed more emphasis is the effect of the toothfish catch in this fishery on ecosystem functioning

Direction to Certification Body: The Panel directed the Certification Body to revise the Report to change the indicators and their relative weighting to better reflect the MSC criteria for Principle 2. The Certification Body was directed to revise scores assigned to various indicators in concert with the recommendations of the Peer Reviewers and the Panel, or if the scores could be justified, the reasons needed to be clearly explained. The Certification Body was directed to:

- Present and discuss individually each Principle 2 indicator as to which a Peer Reviewer raised a concern or noted disagreement with the Assessment Team;
- As to each such individual indicator, identify and discuss each applicable Peer Review comment;
- As to each such Peer Review comment, discuss how the Assessment Team considered and applied it, and
- Explain the score for the individual indicator in light of the preceding two points.

The Panel further directed the Certification Body to give greater emphasis to the recommendation by the Certification Body’s governing board regarding monitoring. Specifically, the Panel directed that the Certification Body’s annual surveillance visit should examine how research is being focused towards achieving a better understanding of the ecosystem impacts of the toothfish fishery.

In addition, the Panel directed that Condition 3 (now Condition 4) be strengthened to require development within 12 months of a strategy to obtain reliable information on fishery-related impacts on rajid populations so as to allow managers to determine whether and to what degree populations are being maintained, depleted, or placed at risk of extinction.

Response by Certification Body: The Assessment Team considered further the wording and scoring of the 14 Indicators under Principle 2 which were questioned by the Peer Reviewers. The results of these further considerations are presented in the following table. Several new Conditions (Conditions 4, 9, and 10) have resulted:

Indicator No.	Action taken by Certification Body
2.A.1	Discussed & explained, no change to score
2.A.2	Discussed & explained, no change to score
2.A.3	Discussed & explained, score lowered and new Condition 9
2.B.5	Discussed & explained, score raised but not as high as peer reviewer suggested
2.C.1	Discussed & explained, no change to score
2.C.2	Discussed & explained, no change to score
2.C.3	Discussed & explained, but included new information from 2003 fishing season that had been made public at CCAMLR, no change to score
2.D.1	Discussed & explained, score lowered, previous Recommendation 3 has been upgraded to Condition 10
2.D.2	Discussed & explained, score lowered but no new Condition necessary
2.E.1	Discussed & explained, score lowered, Conditions 4, 8, 9 & 10 are relevant. (Conditions 4, 9 & 10 are new). Note: the Certification Body’s final report will require minor editing to ensure consistency - the section on Conditions & Recommendations in report should include reference to 2.E.1 in the boxes for Conditions 4, 8 & 9.
2.E.3	Discussed & explained, no change to score, but reference to new Condition 4 on rays & skates is related to issues raised by peer reviewers
2.E.5	Discussed & explained; no change to score but explained that Conditions 3, 4 (new), 8, 9 (new), 10 (new) are relevant. Certification Body’s final

	report will require minor editing to ensure mentioning that Recommendation 4 is also relevant; also edit Section on Conditions and Recommendations in final report to include reference to 2.E.5 in the boxes for Conditions 9 & 10.
2.F.2	Discussed & explained, no change to score
2.F.3	Discussed & explained, no change to score

It is particularly noted that the Certification Body modified the condition relating to rajid by-catch (renumbered as Condition 4) to reflect the Panel’s requirements. That Condition, which pertains to Indicators 2A.1 and 2E.5, now reads:

A strategy (or research plan) should be developed to obtain reliable information on fishery-related impacts on rajid populations. The outcomes of this strategy should be sufficient to determine whether, and to what degree, populations are being maintained, depleted, or placed at risk of extinction and to provide points of reference to interpret the effects of by-catches on populations of these species.

The strategy should include, but not be limited to, population estimates of rajids from by-catch and ongoing surveys and may require further research on the biology of the species concerned. Interpretation should include information from IUU effort estimates.

Mitigation measures should be developed as part of, or in advance of, the strategy, as appropriate, and the biological basis of mitigation measures should be established.

A suitable strategy/research plan should be developed within 12 months of certification and the strategy fully implemented within three years of certification

Judgment of Objections Panel: The response of the Certification Body on this issue complies satisfactorily with the Panel’s directions.

3. Issue Area 3 - Fishery Management System

A. COMPLIANCE WITH UNCLOS AND APPLICATION OF MSY PRINCIPLE

Objections Panel Opinion: The Objections Panel found that the Assessment Report did not adequately explain the role of UNCLOS with respect to the South Georgia Patagonian toothfish longline fishery, particularly the application of the principle of MSY to this fishery. The Objections Panel also found that the setting of catch limits was not evaluated by means of simulation which gave rise to unnecessary uncertainty.

Direction to Certification Body: The Objections Panel recommended that the Assessment Report be revised to explain in greater detail the role of UNCLOS and the application of the principle of MSY to this fishery. The Objections Panel also recommended that the Certification Body make a recommendation to the GSGSSI that the algorithm for determining catch limits be evaluated by means of simulation.

Response by Certification Body: The Certification Body modified Section 3.4.1 of the Assessment Report which deals with the Management Objectives applied to the fishery. The section was modified to provide specific explanation of the relationship of the CCAMLR/GSGSSI management regime to UNCLOS and the application of the principle of MSY to the fishery. The Certification Body also agreed to make a recommendation to the GSGSSI in line with the suggestion of the Objections Panel.

Judgment of Objections Panel: The response of the Certification Body on this issue complies satisfactorily with the Panel's recommendations.

B. RELIANCE ON CCAMLR MANAGEMENT REGIME

Objections Panel Opinion: The Objections Panel agreed with the Objectors that reliance on the CCAMLR management regime introduced an element of uncertainty into the process of managing the fishery.

Direction to the Certification Body: The Panel recommended that Condition 1 be modified so that continued certification of the fishery requires that:

- Catch limits for subarea 48.3 continue to be set to achieve long-term management objectives that are at least as precautionary as those that are currently used when determining catch limits; and
- Catches do not exceed catch limits by an extent that would have a long-term negative impact on the probability of sustaining the population.

Response by the Certification Body: The Certification Body modified Condition 1 such that the issues raised by the Panel will be expressly considered during future surveillance audits of the fishery.

Judgment of Objections Panel: The response of the Certification Body on this issue complies satisfactorily with the Panel's recommendation.

C. SOVEREIGNTY DISPUTE OVER SOUTH GEORGIA ISLAND

Objections Panel Opinion: The objection regarding the present dispute concerning sovereignty over the area of the fishery did not provide a basis for remand. The Certification Body's initial assessment and response to the objection were adequate. The disagreement among nations concerning sovereignty in the area covered by the assessment is relevant to the assessment of the fishery and certification under the MSC's Principles and Criteria only to the extent that the dispute affects the quality of fishery management evidenced in the disputed zone. In this case, the Certification Body determined that the Government of South Georgia and South Sandwich Islands is able to exercise its sovereignty in the area in a manner that allows for effective fishery management and that is not impaired by competing territorial claims from any other nation. The Objectors did not produce evidence to the contrary. However, the Objections Panel found that the sovereignty dispute over South Georgia Island could be relevant to the

ongoing certification if the dispute caused evident problems in the management of the fishery at some point in the future.

Direction to the Certification Body: The Objections Panel recommended that the Certification Body annually evaluate whether any nation has taken measures to destabilize or degrade management of the toothfish fishery in subarea 48.3 as a response to MSC certification of the toothfish fishery.

Response of the Certification Body: The Certification Body agreed that any destabilization or degradation of the management of this fishery will be a central element of future surveillance audits.

Judgment of Objections Panel: The response of the Certification Body on this issue complies satisfactorily with the Panel's recommendation.

4. Issue Area 4 - General Adequacy of Certification Body's Response

As a general observation, the Objection Panel also suggested that the Certification Body reconsider the text of the Assessment Report and its treatment of particularly controversial topics (e.g., those that involve matters of broad public policy or scientific uncertainty) with a view toward advancing the credibility and acceptance of fisheries certification as a conservation technique. The Objections Panel noted that certification under the MSC Principles and Criteria is a professional exercise, but it is not a purely scientific or objective one and that certification analyses should acknowledge and demonstrate respect for the subjectivity brought to the process by all of the parties involved.

The Certification Body appears largely to have taken to heart the Panel's suggestion on this point. Controversial topics raised by the Objectors have been considered further by the Certification Body and discussed substantially in the revised Assessment Report (as presented in Appendix 4) and in all aspects of the Certification Body's response to the Remand. Specific issues raised by the Objection Panel have been addressed as described above.

III. Final Decision by Objections Panel

The Objections Panel finds that the response of the Certification Body to the Remand is satisfactory. The Certification Body may properly certify the South Georgia Patagonian toothfish longline fishery as meeting the standard set by the Marine Stewardship Council's Principles and Criteria for Sustainable Fishing.

The Certification Body is directed to prepare and distribute pursuant to applicable MSC rules a final Public Certification Report that incorporates all revisions, including conditions and recommendations applicable to the fishery, contained in the December 17, 2003, transmission from the Certification Body to the Objections Panel. The Certification Body is further directed to make this Report, including Appendices, available to the public by means of posting on its website not later than five days after receipt hereof or March 31st, whichever is sooner.

IV. Concluding Observations

The Objections Panel hereby wishes to express its appreciation of the efforts that the Certification Body and Assessment Team have made to respond to the points raised in the Panel's Remand and subsequent communications. The Panel wishes also to compliment the client fishery itself for accepting the Panel's numerous conditions and recommendations augmenting those set by the Certification Body.

The Panel believes that the MSC's Objections process, as applied to the South Georgia Patagonian toothfish fishery assessment, has produced an improved Assessment Report, one that will more fully respond to the substantive and procedural concerns expressed by the Objectors. The Objections process has brought a greater degree of transparency to the fishery assessment and certification process in this case. More significantly, the Objections process has caused the fishery to adopt additional measures that should meaningfully improve management in the near- and long-term.

The Panel notes that the revised Assessment Report, while significantly improved, will still reach conclusions with which some stakeholders likely will not agree. Certification of the South Georgia Patagonian toothfish fishery is very controversial in some quarters and strongly opposed for reasons including, but not limited to, deeply felt concern that appearance of MSC-certified toothfish in global seafood markets will compromise certain management, enforcement, and advocacy efforts aimed at stopping illegal harvest of toothfish elsewhere in the Southern Ocean and Antarctica. Proper and rigorous chain-of-custody certification is clearly an essential matter for this fishery. The Certification Body and the fishery should work to address the stakeholders' other remaining concerns by assiduously meeting the terms and conditions prescribed by the Assessment Report, as amended.