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ASOC Response to Moody Marine Ross Sea Toothfish Remand

ASOC appreciates the opportunity to submit comments on Moody Marine Limited's (MML) response to the remand of the Independent Adjudicator (IA) on the Ross Sea toothfish longline fishery MSC Certification.

The IA expressed serious concerns with the process and substance of MML's certification effort. In response, however, MML has provided largely general information and a repetition of its earlier conclusions. The submission does not reflect the new analysis required by the IA and does not justify the conclusions or scores awarded.

First, the letter from MML does not contain the reasoning behind the selection of language for PISGs under Principles 2 and 3, as specifically requested by the adjudicator and as required by MSC Objections Procedure. Second, the explanations provided by MML for maintaining the original scores for remanded Principle 1 PIs do not adequately justify their decisions to leave all scores unchanged. In many cases MML has not responded to the specific matters raised by the IA. On this basis it is appropriate for the IA to uphold the objection. These scores are material to the outcome of the assessment, and MSC procedure states that if the response is not adequate then the objection should be upheld.

Therefore, the IA must uphold the objection. Indeed, at this point, the IA has two choices according to MSC Objections Procedure: once the Certification Body has submitted its response to a remand:

> "4.9.4. The Independent Adjudicator shall . . . either
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> (a) accept the response as adequate to meet the matters raised in the remand and confirm the original or amended Determination, as the case may be, by the certification body; or
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> (b) after reviewing the response of the certification body, determine that the objection shall be upheld on one or more of the grounds specified in Section 4.8.2."

Further, the Objections Procedures are clear: "A decision by the Independent Adjudicator under Section 4.9.4 is final. No additional objections may be lodged under these procedures in respect of such decision. The certification decision of the certification body shall be made with reference to the decision of the Independent Adjudicator." Given the clearly insufficient response by MML, the IA must uphold the objection and determine that this fishery cannot be certified in this manner.

1. Principle Indicator Scoring Guideposts

The IA stated that "the determination must be **remanded** in order for the certification body to review the Principle 2 PISGs [Principle Indicator Scoring Guideposts] and the relevant Principle 3 PISGs identified above in light of the stakeholder comments and either modify the PISGs or provide reasoned explanations for not modifying them" [emphasis original].[1] The IA ordered a remand noting that: "[I]n general, the PISGs under Principles 2 and 3 are not expressed clearly. In some cases it is difficult to see the substantive difference between the 60 and 80 or the 80 and 100 guideposts."[2]

In its response to the remand, MML refers to a letter of 17 June 2008 sent to representatives of the World Wildlife Fund and ECO concerning this issue. MML asserts that this response is sufficient to satisfy the remand and the concerns of the IA. Yet this letter does not provide any of the information or detailed explanations requested by the adjudicator. The IA requested consideration of the apparent lack of distinction between the scoring guideposts for PIs 2 and 3 due to vague language, but MML's letter merely replies to stakeholder concerns about "ambiguous" language, stating "it is more a factor of being sufficiently general to allow us to evaluate many different fishery circumstances without having to change the PIs fundamentally."[3] MML's letter did not address any of the specific comments made by either WWF or ECO on numerous individual performance indicators.

The MML letter of 17 June states, "Also attached to this letter are a) a summary of the main issues raised by stakeholders to date which will be specifically considered in the MSC assessment b) a summary of other points raised during our meeting in Wellington c) a response to the specific points raised by WWF. In relation to the latter, I much appreciate the care and attention given to this exercise. I hope the points above set the scene for many of my responses."

ECO also noted in its submission of 27 August 2009 that it was "disappointed that [ECO's] previous submissions on the Ross Sea MSC proposal were not included in the Report for Stakeholder Comment." This was the letter setting out its concerns over the PISG. Only the WWF letter was included in the MML report, and not parts b) and c). Taken together this is further evidence that MML did not take seriously the submissions made by ECO and WWF on the PISGs.

The MML letter does not satisfy the IA's request that MML review the detailed stakeholder comments about the PISGs for Principles 2 and 3 and either change the PISGs or provide an explanation for leaving them unchanged. The letter mentions nothing about Principle 2 or 3 but refers to the PIs and SGs as a whole. The IA did not ask for a general statement on the philosophy behind the overall approach to the language used in PIs and SGs, but instead requested that MML "either modify the PISGs or provide reasoned explanations for not modifying them."[4] By identifying Principle 2

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[1] Decision of the Independent Adjudicator in the Matter of an Objection to the Final Report and Determination on the Proposed Certification of the Ross Sea Antarctic Toothfish Longline Fishery in Accordance with the MSC Principles and Criteria for Sustainable Fishing. 5 May 2010. Page 19.
[2] Ibid, 18.
[3] Letter to WWF and ECO from Moody Marine Limited, 17 June 2008.
[4] Decision of the Independent Adjudicator, page 19.

and 3 PISGs as the ones that MML should review, the IA clearly indicated that he wanted MML to discuss those PISGs, and the stakeholder comments on them.

Aside from its presentation of the June 2008 letter, MML includes a series of bulleted statements to further illuminate its **general** reasoning behind the choice of PISGs and their wording. Only two individual PIs are referenced in these statements, but even the statements concerning these PIs do not address the remand. MML notes that PI 2.1.1.3, identified in the remand as having vague SG language, is similar to PI 2.5.3 in the revised Fisheries Assessment Methodology (FAM). The IA, however, was asking for clarification on the difference between "significant elements" and "main elements," as well as the difference between "generally understood" and "understood." For PI 2.1.2.3, MML asserts that the SGs are stronger than those in a similar, but not identical PI in the FAM. Again, the IA's request concerned the actual language used in the assessment and stakeholder suggestions for improvement, not how it compared to a related PI in the FAM. The rest of MML's statements are similarly general and not relevant to the IA's request.

Astonishingly, instead of addressing PISGs as requested, MML hopes that the IA will be satisfied by their "generic 'reasoned explanation'" and that he will issue **another remand** if he wants the specific explanations that he has requested.[5] This comment indicates that MML has not given serious consideration to the IA's remand instructions.[6]

Further, MML concludes that it need not adjust any of the scores awarded for the Principle 2 and 3 PISGs. If the IA were to accept that MML appropriately established the PISGs, he must now determine whether ASOC's objections to the scores for those PISGs should be upheld.

2. Principle 1 PIs

PI 1.1.1.2 Is the life history of the species understood and the spawning and nursery areas described?

The IA notes that "the conclusion reached by the assessment team is not supported by the evidence and that the decision to award a score above the 60 SG can be described as arbitrary or unreasonable."[7] He additionally concluded, "I would remand this PI for further consideration as to whether the 60 SG is met."[8] In making this determination, the IA has found that "the life history is not generally understood and the information is not adequate to support an appropriate population model."[9]

[5] Moody Marine Limited. 2010. Response to Remand of 5 May 2010.
[6] Nor is it clear that a further remand is either appropriate or permitted where the certification already has had an opportunity to justify its conclusions. In fact, the Objections Procedure appears to allow the IA only to accept the response or reject it and uphold the objection. Given the inadequate response by MML, there is no reason to create a third choice in order to provide for an additional remand on this issue. There could be a reason for a subsequent remand on the scores awarded for the Principle 2 and 3 PISGs, which were not considered by the IA in the initial remand.
[7] Decision of the Independent Adjudicator, page 21.
[8] Ibid.
[9] Ibid.

MML's response is not persuasive. MML first compares the first sentences of SG60 and SG80, which refer to the level of information on the life history of a target species. MML's response hinges on the fact that there is a "credible hypothesis of life history."[10] This explanation is clearly inadequate, and the IA has already concluded that the very hypothesis on which MML relies (in Hanchet et al. 2008) is "hypothetical,"[11] which is very different from "documented and generally understood." In fact the title of the Hanchet et al. paper is "A Hypothetical Life Cycle for Antarctic Toothfish (*Dissostichus mawsoni*) in the Ross Sea Region", and the authors state in their conclusions that "considerable uncertainty remains over the spawning dynamics and early life history of *D. mawsoni*" and that "[m]uch of the hypothesized life history is speculative."[12] The authors believed that more research is required to address the uncertainties.

MML claims that the inadequacies in the life history all concern spawning and nursery areas, and discusses this issue separately, leading to a score of SG60 for this portion of the PI and a score of SG80 for the life history section. It is unclear how MML can consider reproduction not to be a major part of life history, particularly as management of this species is based on the assumption that decrease in spawning biomass will result in increased subadult growth and survival, and how a life history can be said to be "generally understood" if direct information on spawning (not a hypothesis), including where, when, number of eggs, and how often, is completely lacking and adult natural mortality is highly uncertain. Moreover, the average age of maturity for this species was recently revised from 8-10 years to 16.6 years for females and 12.8 years for males, which underscores the lack of confirmed information about it.

In a further effort to avoid the conclusion that SG 60 is not met, MML seeks to discount the information in the SGs by asking, "What impact would knowledge on spawning behavior have on current management practice?" It then posits the way in which it - as the certification body - would respond to this lack of information (by closing spawning areas).[13] That, of course, is not the certification body's role and, in fact, this information would be particularly important for a species, like toothfish, which is slow-growing, late-maturing, with potentially low fecundity and only intermittently reproducing. For these reasons Antarctic toothfish are much more vulnerable to fishing pressure than a species that reproduces early and often. Thus, it is of critical importance to have direct information about spawning and reproduction of toothfish to ensure that fishing does not have an adverse impact. The current management strategy is to enhance spawning behavior and subsequent survival by reducing the spawning biomass, thereby triggering a density-dependent response of remaining fish. Spawning is thus critical to the model. MML has not provided sufficient justification that this fishery meets SG60 and thus the IA must uphold the objection.

PI 1.1.1.3 Is the geographical range of the target stock known and any seasonal migration described?

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[10] MML (2010), 5 (page numbers were not included in the document and refer to the number of the printed out page in ASOC's copy). The related comment in this section that the natural mortality estimate is "likely to improve" is extraneous since the PI does not ask about the possible results of future research.
[11] Decision of the Independent Adjudicator, 21.
[12] Hanchet, S.M., Rickard, G.J., Fenaughty, J.M., Dunn, A., and Williams, M.J.H. (2008). A Hypothetical Life Cycle for Antarctic Toothfish (Dissostichus mawsoni) in the Ross Sea Region. *CCAMLR Science* 15: 35-53.
[13] MML (2010), 5

The IA remanded this PI on the basis that CCAMLR WG-FSA-06/34 and the 2008 stock assessment report from the New Zealand Ministry of Fisheries (MFish) were not fully considered. MML explains that WG-FSA-06/34 was "superseded by a later updated version."[14] As for the 2008 stock assessment report from MFish, MML says that "we are at a loss to understand why, in any sense, the current knowledge is inadequate."[15] But the IA clearly stated that this document indicates that "stock affinity of the assessed stocks with toothfish in surrounding areas is not well understood, which is at odds with the assessment team's finding that the geographic range is well estimated."[16] MML does not address this concern and instead discusses other parts of the section on 1.1.1.3, although ultimately those issues were not remanded. Hanchet et al. (2008) offers more than one possible scenario for seasonal migration patterns. In fact, the exact boundaries of the stock are unknown. For example, fish tagged in McMurdo Sound have been caught in the fishery on both the Ross Sea shelf and slope as well as distant areas to the north.[17]

MML also rehashes its arguments about the sufficiency of the tagging programme, even though the IA limited his remand to the consideration of the two documents. Aside from mentioning them, MML has not provided even a brief explanation of why these documents do not affect the final score. At the very least, MML should have explained why WG-FSA-06/34 is superseded by WG-FSA-07/40 and what that means for its scoring, and why the 2008 stock assessment's assertion that there is uncertainty about the affinity of the target stock with other stocks is consistent with their description of the geographical range estimate as "reliable."[18] Thus, the IA must uphold the objection because MML has not changed the score or demonstrated that these documents support SG80.

PI 1.1.1.5 Is there an understanding of the relationship of recruitment to parental stock?

The IA remanded this PI on the basis that MML did not fully consider the comments made by the peer reviewers or the 2008 report by Hanchet et al. In response, MML asserts that the "main concern is with the quantitative stock-recruitment relationship" and that, therefore, the IA and the peer reviewers have incorrectly interpreted the scope of this PI, and that it does not in fact deal with qualitative issues of life history.[19] Yet MML notes, "The SG80 requirements are that: a) '*Adequate indices of recruitment and spawning stock are estimated and used*,'" and further notes, "*In this regard, the age-structured stock assessment will produce a time series of recruitment estimates and spawning stock*."[20]

This argument is both surprising and contradictory, given MML's statement with regard to PI 1.1.1.2 that information on spawning is of minimal value in understanding this species' life history. As stated earlier, eggs, larvae or small juvenile fish have not been

[14] MML(2010), 9.
[15] MML(2010), 9.
[16] Decision of the Independent Adjudicator, 22.
[17] WG-FSA-06/34; WG-FSA-07/40, and references therein; A. F. Petrov and V. A. Tatarnikov. 2010. New Data on Migrations of Antarctic Toothfish *Dissostichus mawsoni* in the Dumont d'Urville Sea in the 2008/2009 Season. *Journal of Ichthyology* 50, pp. 140–141
[18] Moody Marine Limited. 2009. Final Report for Ross Sea Toothfish Longline Fishery, Scoring for PI 1.1.1.3, page 3.
[19] MML (2010), 11.
[20] MML (2010), 10.

found and the average number of eggs produced by mature females at the time of spawning is unknown. This adds to the uncertainty in trying to estimate the stock recruitment relationship. The New Zealand assessment notes that the major sources of uncertainty are "the natural mortality rate, stock structure and migration patterns, stock-recruit steepness and natal fidelity assumptions with respect to other areas. Uncertainty about the size and variability of year classes affects the reliability of short-term stock projections."[21] Thus, MML is contradicting itself while not answering the remand. MML has therefore failed to prove that its scoring decision was based on an adequate consideration of peer reviewer comments and Hanchet et al. (2008). The objection must be upheld on these grounds.

PI 1.1.1.7 Is information available on environmental influences on the stock dynamics?

The IA remanded this PI for MML to reconsider peer review comments with respect to the robustness of available information. MML addresses these concerns somewhat: "we agree with Peer Reviewer B that the current information on environmental influences is rudimentary and understand the IA's question of whether this could create a problem for scoring against the SGs. However, we believe that our scoring and approach is consistent with the intent of the SGs."[22] After discussing some information from the 2009 Fishery Report asserting consistency in length-frequency data over several seasons, MML concludes that "this is not the sort of pattern expected in a heavily environmentally influenced stock."[23]

MML still has not addressed the fundamental problem noted by the reviewer and the IA, that the only information cited in support of the scoring for this PI mostly concerns "geographic differences rather than environmental influences."[24] The IA was not convinced that the information available justifies a score of 80, and numerous studies[25] support the conclusion that profound changes to Ross Sea toothfish habitat are underway on a decadal time-scale, rather than the inter-annual time-scale referred to in the 2009 Fishery Report.

In addition, a sufficient justification would need to explain in greater detail how Fenaughty (2006) provides information on the biological and physical factors affecting distribution, survival, and year class strength as required by SG 80. It seems more likely that Fenaughty (2006) could support SG 60, which requires "some relevant studies have been undertaken on the effects of biological and physical factors which could affect the stock." MML's response to the IA that "there <u>is</u> knowledge on relevant biological and

[21] Ministry of Fisheries (2009). Toothfish. In: *Report from the Mid-Year Fisheries Assessment Plenary November 2009: Stock Assessment and Yield Estimates*, 194.
[22] MML (2010), 13.
[23] MML (2010), 13.
[24] Decision of the Independent Adjudicator (2010), 25.
[25] Jacobs, S. 2006. Observations of change in the Southern Ocean. *Philosophical Transactions of the Royal Society A*, doi:10.1098/rsta.2006.1794, Published online; Jacobs, S.S., C.G.Giulivi, P.A. Mele. 2002. Freshening of the Ross Sea during the Late 20th century. *Science* 297: 386–389. Stammerjohn, S.E., D.G. Martinson, R.C. Smith, X. Yuan, D. Rind. 2008. Trends in Antarctic annual sea ice retreat and advance and their relation to El Nino-Southern Oscillation and Southern Annular Mode variability. *Journal of Geophysical Research* 113, C03S90, doi: 10.1029/2007JC004269.

physical factors, but it is rudimentary and in many cases suspected, but not proven"[26] indicates SG 60.

Nor can MML escape this conclusion by putting the onus on "objectors . . . to point to environmental information or influence which should be used, but which is not."[27] In fact, the obligation at this stage is on MML to justify the score awarded. ASOC has not made any claims, contrary to what is implied by MML, about information that was available but not used in this regard. It is entirely appropriate for us (and the IA and the Peer Reviewer) to question whether the data cited by MML meet the standards of the scoring guideposts. Because MML has not provided more specific information to the IA about the biological and physical factors described by Fenaughty and how they affect Antarctic toothfish, this portion of the remand has not been addressed and the decision to leave the score unchanged has not been justified. The IA, therefore, must uphold the objection.

PI 1.1.4.1 Is there a mechanism in place to contain harvest as required?

The IA concluded that the reasoning provided for this PI does not justify a score of 100, because "the PISGs…clearly require some qualitative evaluation of the effectiveness of the harvest control measures in light of known information."[28] The IA agreed with ASOC that "given the admitted high degree of uncertainty over critical elements such as the size and definition of the stock, it is logically difficult to draw conclusions as to the effectiveness of the measures."[29] It is worth noting that the Fisheries Certification Methodology sets a high standard for SG 100 scores in general, noting that "100 – defines the upper boundary of the scoring and represents the level of performance on an individual performance indicator that would be expected in a theoretically 'perfect' fishery."[30]

SG 100 should be very difficult to meet for even data-rich fisheries, much less one still considered "exploratory" by its governing body, because there is more unknown about Antarctic toothfish than is known, as has been described extensively by ASOC in this document and previous submissions.

MML contends that the first part of SG 100 for this PI is fulfilled by the existence of a Total Allowable Catch (TAC). The second part of SG 100 is that "measures are robust to uncertainty in data inputs or stock biology." According to MML, uncertainty is fully accounted for by using only some (NZ vessel generated) tagging data to set the TAC, resulting in precautionary decisions. MML ignores the fact that many fishery scientists and observers find even this small data set to have many problems stemming from lack of spatial coverage and inconsistent sampling (e.g. WG-FSA-08/18).

MML contends that the third and final part of the PI is fulfilled by "200% international observer coverage and accurate catch reporting."[31] This last portion of the PI is where the IA and ASOC have concerns that SG 100 is not reasonable for this fishery, because it is difficult to see how these measures demonstrate effectiveness of the TAC. They may

[26] MML (2010), 13.
[27] MML (2010), 13.
[28] Decision of the Independent Adjudicator (2010), 28.
[29] Decision of the Independent Adjudicator (2010), 27.
[30] Marine Stewardship Council (2006). Fisheries Certification Methodology Version 6, page 19.
[31] MML (2010), 15.

help ensure that the TAC is enforced, but they do not prove that the TAC is effective in management of this fishery given the uncertainties and assumptions that comprise most of the inputs to the stock modeling.

Further, MML concludes that "the principle [*sic*] way to determine the effectiveness of management measures is through the ongoing stock assessment process."[32] This statement does not answer the IA's concern that there is significant uncertainty over stock size and definition, and thus there should be "some qualitative evaluation of the effectiveness of the harvest control measures"[33] to meet SG 100. A score of 100 would require more complete reasoning that the stock assessment provides information that the TAC is effective based on the "specific measures" required by SG 100.

MML also ignores the need for consensus for CCAMLR to make decisions, which can be a block on adopting effective measures in a timely way. In addition, there is an assumption by MML that all vessels have observers on board who are effective, seeing and reporting on all problems. Given previous debates in CCAMLR over legal vessels failing to fish according to the rules, a score of 100 is not justified.

PI 1.1.6.1 Is there evidence that stock status is consistent with that providing long-term productivity?

The IA remanded this PI so that MML could "reconsider the scoring against the specific language of the PISG, and to provide further justification of its conclusions based on the evidence as to the level of fishing mortality."[34] MML awarded this PI a score of 100, which should represent perfection on the part of the fishery. The IA does not believe that the explanation provided by MML justifies this score, and supports a score closer to SG 80. SG 100 for this PI states "the stock has a high probability of being consistently at or above its target reference levels," and SG 80 states "the stock has a high probability of being above its limit reference point and the stock is at, or fluctuating around, its target reference point." The IA notes that "it seems to be unduly optimistic to conclude that the stock must also be above the target reference point without a clear explanation of the uncertainties surrounding the estimates of fishing mortality."[35]

MML does provide some further explanation for its scoring decision when it states that "the stock assessment is considered to represent the best scientific evidence available,"[36] as a justification for believing that the stock has a high probability of exceeding its limit reference point. However, MML is incorrect that "the implication of the comments made is that this assessment may not provide the best scientific advice available."[37] There is little question that the stock assessment represents the *best available* advice. Yet the problem is that since the fishery has been in operation only for about ten years, with even the limited useable tagging-recapture data (mentioned above, on which this stock's assessment is based) dating back only about five years, the best available data are not strong enough to support the requirements for a score of 100, and they are not sufficient for CCAMLR to classify this as an "assessed" rather than an "exploratory" fishery. As Peer Reviewer B noted in a section of general comments:

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[32] MML (2010), 16.
[33] Decision of the Independent Adjudicator (2010), 28.
[34] Decision of the Independent Adjudicator (2010), 30.
[35] Ibid, 30.
[36] MML (2010), 17.
[37] Ibid.

"[I]t is doubtful that any simulations based on unreliable biomass estimates, a relatively poor understanding of population dynamics, and an assumed recruit/SSB relationship (with no corroborating evidence), can provide reliable estimates of TACs that will ensure a particular probability of spawning biomass falling below or exceeding a proportion of its unexploited level. Any model's output is only as good as the data and parameters used… Though the management system appears to be based on sound principles, its scientific basis is unreliable (the data, not the scientists)."[38]

MML vigorously defends the stock assessment and discusses extensively why it is sound. But even MML acknowledges that the stock assessment is "conditional upon the problems identified in the various PIs."[39]

ASOC is not suggesting that the stock assessment be rejected, as MML claims, but simply that MML has not presented a plausible argument for SG 100 because there are still many uncertainties. MML's argument that "if we accept the stock assessment, then the SG100 requirements are met"[40] is their own tautological interpretation. The PI asks about probability, and it seems entirely appropriate that certifiers would assess the limitations of data in determining the score. By MML's logic, every fishery under assessment would receive a score of 100, since every fishery must have a stock assessment. Presumably a certifier would not proceed to full assessment if it believed that the stock assessment was not scientifically sound, but that should not mean that the certifier relinquishes the duty to identify problems with the stock assessment and score related PIs accordingly.

MML has not explained why the uncertainty associated with the stock assessment nevertheless results in a perfect score for this PI, and its decision to leave the score unchanged is not justified.

3. Response to Client Fishery Submission

ASOC has also had an opportunity to review the comments submitted in response to the remand by the client fishery.[41] The client fishery suggests that the IA has overstepped the role mandated by the MSC Objections Procedure. The basis for this assertion is said to be that the IA can only issue a remand "on the basis of the information presented in the objection."[42] However, this is contrary to the objections procedure, which clearly states that the IA "shall evaluate objections solely on the basis of: (a) the record, which shall include and be limited to: (i) the Final Report of the certification body…(ii) the notice of objection…(iii) any written representations submitted pursuant to sections 4.5.6 and 4.7.4" (this list has been shortened from the original).[43] While the IA may not consider issues not raised by the objection, he is obviously able to use a variety of

[38] Moody Marine Limited (2009), Peer Reviewer B Comments (pages not numbered).
[39] MML (2010), 17.
[40] Ibid.
[41] MSC Objections Procedure states "Any party to the objection may make written submissions on the matters specified in the remand or on the response thereto by the certification body under Section 4.9.2." It is not clear whether the client fishery is a party **to** the objection as opposed to being a party **in** the objections process. While the fishery has an interest in this process, it is not clear that they should be permitted to participate at this stage.
[42] Client Group Submission to IA on Remand and CB Response, June 18, 2010.
[43] MSC Objections Procedure (2009), p. 6.

information sources to make a final determination. The client fishery is attempting to impose additional limits on the adjudicator's already limited role.

Furthermore, the client fishery claims that the objections procedure places the burden of proof on the objectors. However, there is nothing in the procedure that supports this assertion. The Objections Procedure only requires the objector to make a sufficient showing to justify the IA accepting the objection. Section 4.8.2 elaborates the reasons for which the IA may issue a remand, and there is no mention of the burden of proof being on either the objectors **or** the certification body.

The rest of the client fishery's comments do not offer information to contradict any of the findings made by the IA but simply express support for the certification body's response to the remand. ASOC therefore submits that they are irrelevant to the current process. If the client fishery disagrees with the rules of the MSC Objections Procedure, they should raise their concerns in a different forum.

4. Conclusions

As explained clearly in his decision, the IA had very serious concerns about the process MML undertook with regard to this certification and with the conclusions it reached. Nonetheless, MML's response is, at best, superficial. It has largely re-stated its existing rationales and has not provided any new, substantive justification or thinking - let alone changing a single score. This response suggests that MML does not take the adjudication process seriously.

MML made errors that materially affected the outcome of its Determination. There is no specific response sufficient to justify the PISGs for Principles 2 and 3, and MML has not provided any rationale under which the scores awarded for the Principle 1 PISGs can be justified. Accordingly, MML has left the IA with no choice but to uphold the objection pursuant to Section 4.9.4.