

# MARINE STEWARDSHIP COUNCIL

## INDEPENDENT ADJUDICATION

### IN THE MATTER OF

### SOUTH AFRICAN HAKE TRAWL

---

#### DECISION OF THE INDEPENDENT ADJUDICATOR

---

1. By Notice of Objection dated 11 December 2020 the Wildlands Conservation Trust (hereafter “WILDTRUST”) submitted an Objection to the report and recommendation of Lloyd’s Register, the Conformity Assessment Body (hereafter the “CAB”) to certify the ‘South African Hake Trawl’ (hereafter shortened the “Fishery” for convenience). WILDTRUST objects to the proposed certification. The Fishery Client is South African Deep-Sea Trawling Industry Association (hereafter “SADSTIA” or the “Fishery Client”).
2. By a decision dated 7 January 2021, the Independent Adjudicator accepted some of the grounds in the Notice of Objection and dismissed others. Applications pursuant to PD 2.7.10 to review and/or suspend and/or seek withdrawal of the decision of 7 January 2021, led to a further decision, dated 22 January 2021, which refused to suspend or withdraw the 7 January 2021 decision.
3. The three parties have helpfully engaged in the PD 2.5 ‘consultation process’ from mid-January 2021 to date. I held a conference call with the parties on 25 January 2021. The parties sought additional time and reported progress in their consultation. Accordingly, I extended time pursuant to the IA’s discretion found in PD 2.5.1.1 for the consultation until 10 February 2021.

4. Today, 10 February 2021, I have received a letter signed by representatives of all three parties in which they jointly state:

In summary, for those points where it is possible for the Conformity Assessment Body and / or the Client to take action, we have agreed responses for inclusion in the Public Certification Report that will address the Objector's concerns. We have all concluded that some of the other points raised in the Objection lie beyond the purview of the MSC assessment process for this fishery and are issues for the Objector to raise with the Marine Stewardship Council directly.

We have now all agreed that in accordance with MSC Fisheries Certification Process v2.1 at PD2.5.4 we have resolved as far as possible, all of the items admitted from the Notice of Objection, that the CAB shall proceed to prepare a revised Public Certification Report, and that we would all support the issuing of a Notice of Cessation for this process.

5. Attached to this letter is a detailed and comprehensive 21 page document entitled "South African Hake Trawl Fishery: Proposed Responses to Objections". This document has been worked on by all three parties. It helpfully and succinctly identifies where the parties propose the CAB shall make amendments to the Final Draft Report and further sets out areas where the parties have agreed no action is required in respect of the Objection.
6. These documents comply with PD 2.5.4 and they clearly set out the areas where the CAB will amend the Final Draft Report and in due course, pursuant to FCP section 7.24, publish the Public Certification Report.
7. PD 2.5.4.2 requires the IA ("shall issue a notice of cessation") to proceed to issue a notice of cessation. This document is the notice of cessation.
8. It matters not whether an IA agrees or disagrees with the changes agreed by the parties. As I have observed above Annex PD does not confer a discretion on the IA at this stage. Nonetheless, I have carefully read the parties' agreed documents. If I may respectfully say so,

the cooperation shown by Dr Jean Harris on behalf of WILDTRUST, of Dr Johann Augustyn on behalf of SADSTIA and by Dr Jim Andrews on behalf of Lloyd's Register is an example of outstanding cooperation between highly committed professionals. Their hard work over the last month has achieved amendments to the CAB's report which will help protect the ecology and conservation of the South African Hake Fishery and will further enhance the high standards of SADSTIA's fishery operation. The parties' hard work is a model of cooperation. I thank the representatives for their efforts to agree these documents.

## **Order**

9. The CAB shall make the changes and revisions to the Final Draft Report as set out in the document entitled *South African Hake Trawl Fishery: Proposed Responses to Objections* and shall proceed to prepare a Public Certification Report in compliance with FCP section 7.4.
  
10. A notice of cessation is hereby issued which concludes this Objection.

**John McKendrick QC**  
**Independent Adjudicator**  
**10 February 2021**