

# Marine Stewardship Council - Variation Request

Date submitted to MSC	26/09/2018
Name of CAB	Bureau Veritas Certification Holding SAS
Fishery Name	AGARBA SPAIN BARENTS SEA COD FISHERY – re-assessment started in 2018-
Programme Manager	Macarena García
Scheme requirement for which variation requested	General Certification Requirement 7.5.6: <i>“The CAB shall issue fisheries certificates with a maximum validity period of 5 years from the issue date”.</i>
Is this variation sought in order to fulfil IPI requirements (FCR 7.4.14)?	No

## 1. Proposed variation

Currently the expiry date for this fishery is the 27<sup>th</sup> of November 2018. The CAB is requesting a variation on GCR7.5.6 to extend the validity of the certificate up to the 27<sup>th</sup> of April 2019 (5 months counting from the anniversary date).

## 2. Rationale/Justification

At the time of the last surveillance audit (Nov-Dec 2017), the Unit of Certification was comprised by the two vessels listed in **table 1**. However, the manager of ‘Pesquera Ancora, S.L.’ had already warned the CAB about its plans to get a new vessel to replace the f/v Nuevo Barca (see reports from 3<sup>rd</sup> and 4<sup>th</sup> surveillance audits).

**Table 1.** List of AGARBA vessels included in the UoC at the 4<sup>th</sup> Surveillance audit.

Name	Company	Vessel Reg. N	IMO
Arosa Nueva	Velaspe, S.L	CO-2-3844	8617469
Nuevo Barca	Pesquera Ancora, S.L.	VI-5-1-14	8609357

Pesquera Ancora, S.L. is part of larger group of companies with UK Fisheries at the head. This group is currently undergoing a fleet renewal process with new vessels being constructed and other being moved into companies with older units. Pesquera Ancora, S.L. initially announced that it was to build a new vessel to substitute the current fishing unit “Nuevo Barca” (see Section 2.3 at the 3<sup>rd</sup> surveillance audit report). Due to the complicated administrative process for building and flagging in Spain, the company was already forced to renounce to that idea and pass the contract to one of the companies inside the UK Fisheries group, which in turn was to transfer their fishing vessel “Kirkella” to Pesquera Ancora, S.L. This was needed to be able to meet the construction dates in the original building contract.

The switch was initially scheduled for March 2018, but delays in the construction of the new “Kirkella” in Norway resulted in a delay in the process, with “Nuevo Barca” deciding to take a new trip before its farewell (this fishing trip finished on June 12th). Also, it was decided that “Nuevo Barca” would be transferred to the group’s Portuguese company, Absolutely Genuine UL, where it would substitute their existing vessel. On June 9th “Kirkella” arrived in the Port of Vigo where it awaited until “Nuevo Barca” arrived on the 27th of the same month.

The long flagging process was initiated in June, but Spain is a country of “consecutive” administration processes where the next step can only be taken after previous has concluded. In this case the list of administrative steps to be taken was extensive:

- ✓ Authorization to import the vessel by Fisheries authorities (both national Spanish and Regional Galician)
- ✓ Authorization to import the vessel by Merchant Shipping (flag), including perusal of technical information and technical inspections of the vessel
- ✓ Full stability test of the vessel



- ✓ Ensuing authorization to inscribe the vessel into the Spanish Flag and Registry
- ✓ Health and sanitary inspections
- ✓ Inscription in the Labour Ministry as an authorized employment centre
- ✓ Fishing licensing of the vessel and posterior fishing permit (double authorization needed in Spain)
- ✓ Inscription of the vessel in the list of authorized EU vessels with access to Norwegian waters

To safely assume there will be no impediment for the vessel to join the Spanish operational fishing fleet, the opening of the Spanish registry page is key, that means to have accomplished up the first four steps listed above. Initially the company expected to have that process concluded by mid-July, so that the vessel had all the fishing permits to start operating by mid-August. This was the main reason why the site visit for the re-assessment was planned by mid-July, so the team could assess whether the new vessel had successfully completed all administrative processes to be included in the UoA/UoC. Unfortunately, the change of government in Spain froze the process at the Fishing authorities' level and pushed the process to August, which being a holiday month in the administration further delayed the process until the end of August. Finally, the opening of the registry page only took place on the 26th of September, when the vessel received the authorization to join the Spanish flag under its new name of "Lodairo". So at the moment of preparing this letter the company has just received the confirmation that the vessel has successfully completed the administrative process to get the vessel sailing. Now the company will begin to process the fishing licence and permit, as well as its inscription as an authorized employment centre. According to the latest feedback from the client, the vessel is expected to start fishing by the end of October. However, this is an optimistic forecast and the possibility of some other inopportune delay should be taken into consideration.

Although during the visit all the parties involved agreed that there is no problem for the new ship to successfully complete all the administrative processes necessary to start operating, the truth is that the team must have evidence that this is the case before to finalize the PDR. Until such evidence exists, it cannot be considered that the new ship can actually be included in the UoA (the vessel only got the Spanish flag and the new name on September 26, but at the moment of preparing this variation request is still not authorised for fishing).

Taking all the above into consideration, the CAB considers that by the end of November there should be evidence that the new vessel could be included in the UoA since at that moment the vessel registration process and issuing of the fishing licence and permits should have been completed safely. That means that the Preliminary Draft Report could be handed to the client by that time. See below the modified timeline proposed by the CAB as a result from this variation request.

MSC PROCESS	2018								2019			
	M	J	J	A	S	O	N	D	J	F	M	A
Re-assessment announcement												
Site visit and information collection												
Peer Review Nominations												
Preliminary Draft Report (PDR)												
Peer Review of Draft Report (PRDR)												
Public Comment Draft Report (PCDR)– review by stakeholders												
Final Report (FR)												
Compilation of objections and objection procedure (as necessary)												
Certification awarded (as appropriate) and Public Certification Report (PCR) published on MSC website.												

**Since the timeline of the re-assessment process has to be modified due to a compelling reason (i.e. significant delay in the administrative processes required before the new vessel can be included in the UoA), the CAB is requesting to extend the validity of the certificate up to the 27<sup>th</sup> of April 2019.**

Current variation request does not alter the conformity of the applicant or certificate holder in relation



to the relevant MSC standard. The fishery remains consistent with the standard.

Further, as a result of the proposed variation the future anniversary date would be more aligned with the needs expressed by the client in relation to the timing of the anniversary date (see details provided in section 5), facilitating future surveillance assessments.

### 3. Implications for assessment (required for fisheries assessment variations only)

An extension of the certificate until the 27<sup>th</sup> of April 2019 would affect the scheduled timeline for the re-assessment process in place (see above). If approved, a modified timeline aligned with the new date of expiry will be prepared by the CAB and notified to all stakeholders.

#### 4. Have the stakeholders of this fishery assessment been informed of this request? (required for fisheries assessment variations only)

If approved the certificate with the new expiry date will be updated in Ecert. Also, as part of the re-assessment process in place, the CAB will notify the modified timeline to all identified stakeholders

### 5. Further Comments

The rationale provided in section (2) accounts for what the CAB considers a compelling reason to modify the re-assessment timeline and therefore to request for an extension in the first certificate period. However, the CAB wants to emphasize that other circumstances that have concurred must also be considered:

- The initial assessment of the fishery was carried out by another CAB (FCI). The fishery was certified on the 28th of November 2013. It is worth saying that from the first moment the client wanted to establish the certification date, and therefore the subsequent surveillances timing of the fishery, between February and April (see attached email from the client for the reasons) but due to delays and issues during the certification process the surveillance timing was finally set out by FCI in the month of November. The client requested the transfer to Bureau Veritas close to the first surveillance audit timing. Therefore, Bureau Veritas could not perform the site visit by the anniversary of the fishery. Consequently, the first on site surveillance audit had to be delayed up to 2 months from the anniversary of the fishery. The second surveillance audit was also performed on the month of January. Furthermore, the third surveillance audit was delayed up to February due to the following reasons: fishing seasonal activity and information needed for closing some of the certification conditions (for more details see the announcement of the third surveillance). The CAB tried to catch up with the anniversary date by the forth surveillance audit. With the effort of both the CAB and the client, the fourth and last surveillance audit was held in November, in accordance with FCR 7.23.6.
- At the time of performing the 4<sup>th</sup> surveillance audit two out of the five initial conditions issued to the fishery remained open. These two conditions referred to the Habitat component of the P2 (Pls 2.4.2 and 2.4.3). Taking into account that this fishery would be the first one among all overlapping fisheries to be assessed against FCR V2.0, the CAB decided to be precautious before facing the re-assessment process and split the 4<sup>th</sup> surveillance and the site visit for the re-assessment. This procedure succeeded in ensuring that the fleet had indeed made the effort to collect detailed information regarding the interaction with VMEs.
- In April 2018 the f/v Arosa Nueve (Velaspe, S.L.) broke down when fishing, and the vessel had to stop until the end of May. This situation, together with the purchase/sale operation in which the other partner (Pesquera Ancora, S.L.) was immersed, reduced the availability of the client for negotiating and signing the contract, as well as to complete the necessary prior information.
- Official data on catches requested to the SGP during the site visit held in July 2018 has still not being received at the moment of writing this report.
- As introduced at the end of the rationale provided in section (2), the result of the proposed



variation would yield a future anniversary date which would be more aligned with the needs expressed by the client in relation to the timing of the anniversary date.

**6. Confidential Information**

Please find attached an email from the client explaining the reasons why the timing of the current anniversary date of the fishery is considered inadequate.

