

John McKendrick QC
MSC Independent Adjudicator
Marine House
1 Snow Hill
London EC1A 2DH

12 June 2018

Dear Mr McKendrick,

In relation to the objections received from IPNLF, Shark Project and WWF to the certification of the Echebistar Indian Ocean Skipjack Tuna Purse Seine Fishery, this letter presents the Echebistar SA (client) submission in accordance with MSC CR 2.0: PD2.6.4.

Please allow me to briefly describe the background.

Echebistar is a Basque tuna fishing company based in Bermeo. The company has a fleet of five tuna vessels. Two of these are flagged in Spain and three in the Republic of Seychelles. Our boats only work in the Indian Ocean.

We have been working on tuna fishing since 1967, promoting sustainable fishing, the responsible use of fishery products and the utmost concern for the environment. In fact, we are proud of our sustainability credentials and our pioneering efforts aimed at sustainable harvesting tuna in the Indian Ocean.

Examples of our commitment are the introduction of non-entangling FADs (Fish Aggregating Devices), limiting the number of vessels and her carrying capacity (including supply vessels), limiting the number of FADs below the IOTC (Indian Ocean Tuna Commission) level until the end of the summer of 2017, evaluating the feasibility of biodegradable FADs, full coverage of the human observers before the IOTC so requires, full cooperation with the AZTI (technological center expert in marine environment and natural resources in the context of sustainable development) and Seychelles authorities in the training of observers and the effective collection of data, a strong commitment to the IOTC, the EU and the Government of Seychelles to strengthen fisheries governance in the Indian Ocean, working with the Spanish government in the design and implementation of its pioneering FAD management plan, and working with our Spanish colleagues and Seychellois groups to review the options for recovering lost FADs.

Echebistar, based in his experience and deep understanding of the Indian Ocean tuna fishery operations, has a strong point of view about the actual process that we consider relevant to the objection procedure.

We hope our comments put the evaluation in the real-life situation and identify where efforts have been made to undermine the process and discredit the evaluation.

Echebistar entered into an MSC evaluation process in 2013. We did not achieve it in November 2015 (after objection and arbitration process) because

P1 does not comply with the MSC standard with concern about PI 1.2.2 – Harvest Control Rules.

At the end of 2016, MSC approached us to re-enter the fishery for evaluation under what was later called the Simplification Pilot Process. We agree to participate in the understanding that the lessons learned would contribute to the definition of a new approach. We did not understand that the actual process would change throughout the evaluation period, basically, in response to complaints and comments made by stakeholders. We discussed the proposed changes, but MSC went ahead independently.

While some stakeholders have commented that the process of "simplification" was not appropriate for a fishery like Echebistar and have made their feelings publicly known, in our opinion, Echebistar has been the party most affected by the changes. We have incurred a substantial cost to maintain the evaluation process and have been subject to a lot of negative comments about our sustainability credentials including the objections.

As an example, the unfortunate WWF letter of presentation of objections signed by three significant officers and fishery specialists, Philipp Kanstinger, Raul Garcia and Andrew Russel, in which the fifth paragraph questioned the clarity of the operations of Echebistar activities, as a grave concern for them. This was submitted to the IA on February 22 and later rectified (8th of March) after all our sector and many other stakeholders had read it. The damage was done, and the correction included no intention to explain its inaccurate statement.

At this point I think it is important to mention that Echebistar is a partner with WWF and many others in the FIP (Fisheries Improvement Project) of the Indian Ocean since the year 2016, which makes it even more difficult to understand how they made this confusing statement that had to be rectified with a "technical correction".

We remain committed to the MSC process. We recognize that it is the best available measure of the sustainability of a fishery in terms of its impact on the target resource and ecosystem.

Our commitment to MSC incorporates belief the full participation of the stakeholders is vital to the process.

As a result, we were very concerned that three interested parties (WWF, Shark Project and IPNLF) refused to participate in the visit to the Echebistar sites (Spain and Seychelles) and did not present any evidence to the team of experts. However, in its submission to the independent adjudicator, IPNLF claims to have made contact with the team of experts during the site visit. No one in the expert team remembers any input or conversation with IPNLF or its representatives. Apparently, they only contacted the CAB, Acoura, at the beginning of the evaluation process to express its concerns about the nominated team of experts.

This is contrary to the spirit of the MSC process, specifically 1.8.1.5. of the process of simplification and guidance, that invites interested parties to

comment before the end of the last day of the site visit (but noting that it would be beneficial to receive comments before the site visit begins) and attend the site visit. Our understanding is that the intention was to encourage all parties to familiarize with all the matters related with the fishery and then seat on the correspondent meeting table to see, discuss and possibly clarify the information and the concerns that they may have during the visit.

Apart from the above, WWF's comments seem to be substantive in nature. We will let the Acoura team of experts respond to that and the Shark Project presentation.

In contrast, the IPNLF approach can be interpreted as an effort to undermine the integrity of the MSC process by presenting broad objections and comments. In our opinion, most of these objections can be characterized as vexatious and defamatory. They refused to participate in the first part of the evaluation process. Many of his comments relate to the need for the team of experts to present evidence to support the scoring logic for various performance indicators. From our point of view, the function of the interested parties is to provide evidence for them to be considered by the team of experts.

While we know the experience and qualifications of the Acoura team, the three reviewers, and the technical oversight role of the MSC, we do not know who prepared the IPNLF objection, their knowledge of the MSC process, and their ability to provide a review of the evaluation.

We accept that there are different interpretations of the MSC standard and individual experts may have differences in the interpretation of the available evidence to evaluate a fishery. Stakeholders may have legitimate concerns about the findings and the score of the expert team and it is up to the team of experts to defend their findings. A healthy debate can solve the problems, but at the end can be the intervention of an independent adjudicator.

However, we cannot accept that the team of experts is responsible for so many arbitrary or unreasonable scores as stated in the 65 IPNLF objections supported by between 400 and 500 individual points.

Our point of view is supported by the relatively limited number of MSC TO comments and three peer reviewers, after the publication of the second draft of the report.

For this reason, we question the decision of MSC and the IA to allow all IPNLF objections to continue, rather than ruling out a significant portion of them as allowed by MSC CR PD2.4.1.1.

Recalling the observation of the IA that covered the first evaluation process of Echebatar, the IPNLF does not seem to like anything about the report.

That is not strictly true. We note that the IPNLF does not comment on the performance indicators of Principle 1, neither in the current evaluation nor in the

first evaluation process. We suspect that this is due to their participation in the certified skipjack fishery of the Maldives.

In formulating so many objections to the results of the assessment, the IPNLF basically asserts that the team of experts does not have the knowledge, experience or ability to qualify the Echebatar fishery using the evidence available within the context of the MSC standard. In addition, they accuse without any reason the integrity and professionalism of the three experts and the Acoura team.

However, at the same time, it can be argued that the IPNLF has doubts about the credibility of other evaluations completed by the three experts. Two of the experts in Echebatar's team of experts have been closely linked to the certification and recertification processes of the Maldives tuna fishery, which include the three Principles and the position of team leader.

This leads us to question the reasons of IPNLF to make their objections.

Tuna is often characterized as a commodity, with little to differentiate the products of different marine areas exploited by a large number of producers. This leads individual companies to look for a competitive advantage. Increasing consumer awareness of the vital importance of sustainable fisheries provides such an advantage.

Consequently, we consider that IPNLF's problems with the evaluation with 65 objections are not motivated by a determination to ensure correct application of the MSC process, but that IPNLF seeks to protect the commercial interests of those member companies that benefit of the exclusive nature of the Maldives certified skipjack fishery. It seems that when they cannot avoid certification of a competitive tuna sector, it seeks to prolong the evaluation and increase the costs of the process. It can be concluded that the IPNLF hopes that if enough mud is thrown, part of it will stick.

This comment does not reflect on the Maldives fishery. Over the years since the Maldives became a contracting party to the IOTC, the public and private sectors of the Maldives have worked to drive changes within the IOTC and reduce the risk of overfishing of tuna resources in the Indian Ocean. Maldives actions have reported benefits to all fishermen in the region.

We have fully responded to the MSC requirements and we have accepted the changes introduced through the "simplification" process. We are convinced that we have the sustainability credentials necessary to comply with the MSC standard, and we have been prepared to support that belief through substantial over spending of the original budget to maintain the evaluation process.

Therefore, we suggest that IPNLF demonstrate courage in its supposed conviction, with the obligation to present and support each of the 65 objections during the arbitration process. If this does not happen, a precedent will have been created for other stakeholders to subvert the MSC process by extending the required period and substantially increasing the client's costs.

In addition, IPNLF has shown that it has the resources to finance preparation of its lengthy submission. We propose that IPNLF should be required to cover the total cost of its participation in an arbitration process that can be considerably expanded due to the nature of the IPNLF intervention. From our point of view, it should not be considered that MSC subsidizes such kind of objections.

Given the apparent intractable position of the IPNLF, we consider that an arbitration hearing will be required. We understand that the Independent Adjudicator selects the location for said hearing. May we respectfully suggest that the Seychelles be the location.

We make this suggestion because of our strong belief that those who review the fishery should have a solid understanding of the practical activities on board a tuna seiner, including the characteristics of FADs, the observer program and the way in which observers work on board, the professionalism of the crew and the experience and competence of the Seychelles authorities.

Echebaster and AZTI have full-time offices in the Seychelles, the Executive Director of IPNLF is based in South Africa and WWF has permanent offices in the Indian Ocean. For those of us based in Europe and the United States, there are regular flights through one of the Gulf states.

We expect our presentation to respond to the procedures defined for the MSC objection process. If you have questions or need clarification, do not hesitate to contact me on + 34 606 136848.

Yours sincerely,



Jose Luis Jauregui
Pesqueras Echebaster, S.A.
48370 Bermeo
Spain