

**Att.: Director General for Maritime Affairs and Fisheries
DG MARE
J-II 99
B-1040, Brussels**

Subject: Request for clarification about access to Chilean ports by the European surface longline fleet

Madrid, 16 May 2018

Dear Director General for Maritime Affairs and Fisheries, Mr. Aguiar Machado,

On Tuesday 17 April the LDAC held its Working Group 3 meeting, dealing with issues related to fisheries management in international waters and to other RFMOs such as IATTC, SPRFMO or SEAFO.

During this meeting, the representative of the DG MARE, Mr. Molledo, summarised the state of play of negotiations between the UE and Chile regarding the modernisation of the trade agreement.

The issue of the *de facto* hurdle to access to Chilean Ports for landings and transshipments of the EU surface longline fleet (catching swordfish, tuna and sharks) was addressed. We remind you that this situation has remained unaltered since 1991.

The members were informed about the fact that the Chilean authorities had expressed that access to Chilean designated ports would be granted to European vessels to carry out landings and transshipments of swordfish in conformity with provisions set forth in D.S. No. 123 of the Deputy Secretariat for Fisheries of the Ministry of Economy, Public Works and Reconstruction, of 3 May 2004, approving the policy for use of national Chilean ports by fishing vessels bearing a foreign flag and fishing in adjacent high seas¹.

Aforementioned D.S. 123/2004 sets forth the following requirements:

1. Issuing a notice to the port authorities 72 hours prior to the date of the landing/transshipment.
2. Having a valid fishing license for that species in international waters (IATTC RA)
3. Tracking the fishing trip of the relevant vessel by means of a satellite-based global positioning system or blue box which is compatible with and connected to the Chilean National Food Control System (NFCS).

¹Link to D.S. 123/2004: http://www.subpesca.cl/portal/615/articles-10872_documento.pdf



The Chilean authorities made it clear that these three requirements are mandatory and that no exceptions would be accepted based on the principle of non-discrimination to third country fleets (including European pelagic trawlers) and that it might be possible to adopt stronger measures as foreseen in the FAO Port State Measures Agreement (PSMA).

In light of the above, we would like to request clarification in writing of the following issues in order to obtain legal certainty prior to formally requesting access to port.

- 1. Have the Chilean authorities adopted an official commitment to apply D.S. 123/2004 and to allow for the surface longline fleet to gain access to port for the landing/transshipment of catches at the ports designated to this end in Chile?**
- 2. Will the landing and/or transshipment operation of all species caught by the surface longline fleet be authorised, or just those of swordfish?**
- 3. Concerning the requirement to show VMS data, could you confirm that it is not mandatory to install a second “blue box” on board of vessels to report to Chilean control authorities and that it would be valid to submit an Excel spreadsheet duly fulfilled and validated by the Administration of the Flag State with the VMS positions of the last fishing trip?**
- 4. With regard to the previous question, would it be enough to notify the catch data related to the landings or it is also necessary to report on the activity carried out in the whole last fishing trip, taking into account that swordfish catches are exclusively fished in the IATTC RA in international waters?**

We would like to remind you the LDAC position, according to which negotiations to modernise the trade agreement should be linked to port access conditions and to the absence of bureaucratic or legal obstacles to carry out the landing or transshipment of the catches of the surface longline fleet, in order to unblock a situation that has been in deadlock for over 25 years.

If that is the case, we will call upon our members with surface longline fleets targeting that species for them to proceed with these landings and inform the European Commission and the competent authorities about any bureaucratic or administrative incidences there might be.

We will be looking forward to receiving your answers to our questions above.

Yours sincerely,


Iván López
LDAC Chairman