

To:
Mr. Joao Aguiar Machado
Director General of Maritime Affairs and Fisheries – DG MARE
JII 99
Brussels

Madrid, 5th of December 2017

Subject: Conflict on inspections and boardings of European fishing vessels in the EEZ of third countries signatories of sustainable partnership fishing agreements with the European Union

Dear Mr. Director General Aguiar Machado,

During the recent meeting of LDAC Working Group 4 on Fishing Agreements with Third Countries, held on 19 October last in Brussels, a point was discussed relating to the recent wave of boardings that have taken place over the last few months by control authorities of third countries in inspection vessels chartered with the assistance and participation of the international conservationist organisation *Sea Shepherd*.

In 2017, this organisation has actively participated in control and inspection campaigns in West African waters, carrying out operations that have resulted in more than 20 boardings of Spanish and French freezer tuna seine and longline vessels, as well as vessels of other flag states such as Chinese trawlers or vessels flagged to El Salvador in the EEZ of countries such as Sao Tomé, Gabon or Liberia. The EU-flagged fishing vessels inspected target tropical tuna species (skipjack, yellowfin and bigeye tuna); swordfish, and two shark species: Blue shark and shortfin mako.

In many of these boardings (some of them accompanied by soldiers and armed forces) carried out in the EEZ of third countries, the number of inspectors allowed under the protocols of sustainable fishing agreements that the EU has signed with those countries have been exceeded. This suggests that the conditions relating to the inspection procedures stipulated in the clauses of these protocols have been breached. At times, cases of abuse of authority and tactics to intimidate skippers and crews of fishing vessels have taken place.

A recent example that illustrates the above referred situation is the case of the longline vessel "BAZ", as shown in Annex I. Although no violation of any European law nor any infringement of the conditions stipulated in the fishing agreement was detected by the flag state (Spain), Sea Shepherd published press releases urging Spain to use the opportunity to seriously investigate any wrongdoing. It also made a general accusation of "criminal activities" for the Spanish long line fleet as follows: *Sea Shepherd believes that the inspection and boarding of the Baz is an opportunity for the Spanish Flag State to finally reign in the criminal activities of its long-line fleet.* This might harm the image and reputation of all referred vessels.

The press release relating to the BAZ fishing vessel is available here: <https://www.seashepherdglobal.org/latest-news/shark-finning-operation-sao-tome/>

The LDAC stresses the key role and responsibility of the coastal state to monitor its waters and its industry members observe with concern how some sovereign countries that lack sufficient control and inspection means due to deficiencies in their control and training capacities are sometimes bound to rely on the help of foreign private entities. . In several advices and opinions formulated by the LDAC, we are supportive of the development of regional observer programmes and inspection protocols that will help improve the coordination of available control means with public funds.

The LDAC would like to encourage to third countries to avail and make the best use of the funds under the SFPAs sectoral support for strengthening their control means and fostering training of inspectors. The concerned EU fleets fishing in their waters would be willing to offer its collaboration to facilitate inspection procedures to be done in an orderly manner and in accordance with SFPA rules.

The LDAC requests DG Mare to discuss the issue of the number of inspectors allowed on board with the respective third country, namely that the protocols stipulate that there is a maximum of two inspectors in San Tome and Principe and five inspectors in Liberia allowed on board.

This possible non-respect of the fishing agreements would have serious economic and social repercussions, both for the community fishing operators that carry out their activity legitimately and for the economy of the coastal states that benefit from these fishing agreements with the EU as this could have the risk of paralyzing the fishing activity for the EU flag vessels.

In view of the above, the LDAC would like to formulate the following recommendations to the European Commission:

- **The LDAC requests DG Mare to discuss the issue of the number of inspectors allowed on board with the respective third country, namely that the protocols stipulate that there is a maximum of two inspectors in San Tome and Principe and five inspectors in Liberia allowed on board.**
- **An urgent meeting to be called by the EU with the control authorities and stakeholders of both the EU and coastal states with an SFPA in force to search for a solution to this issue and foster joint collaboration actions to develop an inspection programme within the framework of the agreements in force and other EU projects and programmes to reinforce Monitoring, Control and Surveillance and regional fisheries governance.**
- **The Commission and the third country concerned to jointly verify the implementation of the SFPA in all its aspects, including the inspections conditions, including compatibility of protocol with national laws, not only at the time the agreements are negotiated but also during their application and validity periods. The aim is to avoid where possible conflicts of regulations and for the SFPA protocol to be able to afford legal certainty to the fleet operating under its protection.**

We, at the LDAC, are committed to promote sustainable and responsible fishing within waters outside the EU, by fostering common rules and a level playing field that must be satisfied by all operators, regardless of their flag.

Yours sincerely,



P.P.

Iyan Lopez

Chair of the Long Distance Advisory Council

ANNEX 1. REPORT ON THE SPANISH LONGLINER "BAZ" IN SAO TOMÉ AND PRINCIPE (Source: ORPAGU)

The fishing agreement signed between the EU and the Democratic Republic of Sao Tomé and Príncipe offers fishing possibilities for 28 community tuna seiner and 6 longline vessels.

The longline fleet has been fishing in this fishing ground in a sustainable manner for several years, without any type of incident. The process carried out on board by the longline fleet, as it is known, is to gut and remove the heads of their catches for subsequent freezing and conservation on board, as the majority of them are freezer vessels.

The text of the fishing agreement, in point 2 of "Control and Inspection" section, determines that *"Inspection at sea, in the port or in the inlet of European Union vessels that own a licence in the fishing area of Sao Tomé and Príncipe, will be carried out by vessels and inspectors of Sao Tomé and Príncipe, which can clearly be identified as assigned to fishing control. The inspection will be carried out by a maximum of two inspectors, who must prove their identity and condition of inspectors before carrying out the inspection"*.

On 5 September last, the Spanish longliner, "Baz", that has a licence to fish in waters of Sao Tomé, was boarded by more than a dozen armed people, including members of the ecologist organisation, Sea Shepherd, and Gabon soldiers.

The vessel was boarded by surprise, by several speedboats that came from the vessel, *Bob Barker*, whose AIS system was disconnected. Armed soldiers from Gabon and members of the ecologist organisation, Sea Shepherd, were on-board these speedboats.

Representatives of the Sao Tomé authorities came on board the vessel later, but not at the time of the boarding. Meanwhile, members of the Sea Shepherd organisation carried out an extensive photo coverage.



On 16 October, the shipping company of the vessel, BAZ, received notice of infringement from the Sao Tomé authorities, which is based on the "Physical processing of fish on-board without due authorisation (art. 34 of Decree 28/2012 of the Democratic Republic of Sao Tomé)".

On 17 October, Sea Shepherd sent an extensive press release to all the media, supported by several photographs of the boarding, in which they accused the Spanish fleet of carrying out **criminal activities** and urging the Spanish State to sanction the vessel in question.

The five longliners that have fishing licence to fish in waters of Sao Tomé have passed on their concern to ORPAGU informing of their intention to abandon their fishing activity in the area whilst this situation of uncertainty and legal uncertainty lasts.

END