



Trading troubles: Bartering for welfare items in ports

Sometimes seafarers participate in an amiable exchange of low-value items from the vessel, including scrap, stores, and personal effects, with locals in foreign ports. Through such bartering seafarers acquire welfare items like SIM cards and fresh supplies. However, some local authorities view such transactions as violations of local laws, potentially resulting in substantial fines and/or prosecution.

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Our correspondent in Togo, BUDD, reports that there have been recent cases in the port of Lome where crew members have been prosecuted by the local custom authorities. Hefty fines have been imposed on vessel as seafarers had exchanged items like scrap metal, bottles of water, discarded electrical appliances, and barrels of sludge from the vessel with the locals in return for fresh food and SIM cards. This was considered a violation of the Togolese Customs Code (Law n° 2018-007). Below is a summary of one such case handled by Gard.

Case study

The vessel was a gas carrier and had just arrived in Lome. During the inward clearance, the port's environmental officer informed the Master that garbage disposal is compulsory. The local agent had already arranged for it the following day. A person claiming to be agent's representative approached the vessel's Chief Engineer the next morning and asked if the vessel had any scrap to off land from the engine room and offered fresh seafood in return to which the Chief Engineer agreed. The scrap metal was off landed along with other garbage later that day to the garbage collector. The waste delivery receipt, however, did not mention the scrap metal.

The police later arrested a person on the port premises carrying empty cans, lights, amplifier, metal joints, electrical cables, and a metal sheet. Upon interrogation, he claimed to have received these goods from the vessel's Chief Engineer in exchange for 20 kg of shrimps. The crew were questioned by the police and custom authorities, following which the vessel was detained. As it was considered to be an unauthorized transaction, the authorities levied a fine on the vessel.

BUDD reports there have also been similar cases on vessels at anchorage. In all such cases, the fishermen were arrested by the police and interrogated. Based on the evidence, the crew members are then questioned and detained. Vessels are prevented from sailing until the fines have been settled.

Applicable legal framework

Barter such as those mentioned above, are treated as a maritime infringement by the local police and authorities, with the Togolese Customs adopting a zero-tolerance policy.

While the maritime police used to handle such cases in the past, the Customs Authorities are now more involved. The latter oversee the legal proceedings and impose fines for any infringement ascertained by the Maritime Police. It is worth mentioning that the Togolese Customs code is wide enough to allow the Customs Authorities to impose large fines in such instances although the matter may be considered trivial by the ship's staff. They will typically issue a Procès-Verbal (PV) which is a written notification detailing the offence and the resulting penalties, which are calculated based on the following:

- The value of the items that were exchanged.
- Plus, twice the estimated values of all the vessel involved.
- Plus, Customs duties of between 28% and 49% on both the articles exchanged and the estimated value of the vessel.

Monetary fines can exceed EUR 130 million, with crew members facing imprisonment for up to a year.

Recommendations

Members are advised to inform their crew on vessels calling Togo of the applicable local laws and the consequences of engaging in such exchanges with the locals both at anchorage and when alongside. It is recommended that vessels approach their local agents for specific needs or procurement instead of entering into deals directly with locals in foreign ports.

Although this particular alert focuses on Togo, similar laws may also exist in other countries.

We would like to thank our local correspondents BUDD for their contribution to this alert.