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Marseille, on 08/02/2024

## **Lome, Togo, huge fines for maritime infringement**

Dear Sirs,

Following the recent developments in Lome, regarding the Customs Authorities' practice, we would like to raise your concern and crew members' concern in ensuring that they always go through the ship's agent for any specific needs or purchases. They should especially not trade anything with local fishermen on small pirogues coming alongside their vessels while at anchorage.

Indeed, recent changes in Togo have extended the Customs Authorities competency. While the maritime infringements were usually dealt by the Maritime Police, it is not the case any longer and the Customs Authorities are now very much more involved.

Any infringement can still be ascertained by the Maritime Police, but the Customs Authorities are in charge of the notice of infringement and the fine, as well as of related proceedings that will result from the same.

The Togolese Customs code is wide enough to enable the Customs Authorities to impose *HUGE* fines on the vessel whenever she or her crew are prosecuted for a maritime infringement.

The general climate is a zero-tolerance policy and any vessel involved in any sort of prohibited trade will be systematically fined. This zero-tolerance policy also seems to apply even to Togolese Nationals who are prosecuted and remain in custody until the trial takes place.

We are speaking here of offences that the crew may consider minor, such as trading some cargo on board against fresh fish from local fishermen while the vessel is at anchorage, or a few litters of gasoil against food.

For the last month, the customs authorities have fined at least 3 vessels for such infringements. Each time, the amount of the fine is calculated on the basis of the seized objects which includes the vessel. Based on the vessel's value and other objects seized, the amount of the fine includes additional percentage of taxes and other which gives a figure multiplied by 4 to value the final amount fined.

Please find below Customs code related provisions:

*Art 361:*

*The following shall be liable to confiscation of the object of fraud, confiscation of the means of transport, confiscation of objects used to conceal the fraud, **a fine equal to four times the value of the objects confiscated and imprisonment of between one (01) and three (03) years:***  
*[emphasis added]*

As you can imagine, this leads to huge fines, often beyond one **hundred million Euros!**

Of course, the authorities ensure that the vessel cannot sail until the fine is fully settled. While the Customs Authorities are inclined to discussions, they however expect great levels of settlement.

The situation is also tricky, as the customs authorities will only release a copy of the infringement notice if it is beforehand signed by the Master or a local representative, which step they then consider to be an admission of liability. Even when a counsel is involved, he is required to sign the notice on behalf of the Owners before he can access a full copy and initiate discussions.

Please ensure that Masters and crew members are well informed of the situation in Lome, make sure that they only go through the agent to buy anything and that they do not participate in any illicit trade or smuggling while they wait at anchorage.

If case of any doubt, the agent or the P&I correspondent should be immediately called.

We remain at your entire disposal for any further information and remind you that the details of our local office are as follows:

**Mr Emmanuel NADJO**

**AFRICA P&I TOGO**

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Sincerely,



ETIC SAS / AFRICA P&I Services / OCEANIA P&I

**Boutigny & Co.** in Le Havre is joining ETIC group as from 1<sup>st</sup> January 2024

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