



Togo: Fine Alert!

Vessels calling in Lomé (Togo) should be aware that they may face **finances of over 130 million Euros and prison sentences of between 3 months and one year** for exchanging items with local people, notably fishermen.

In the three cases known to us, following requests from fishermen, vessels at anchorage gave them small quantities of low value items such as barrels of sludge, bottles of water, or scrap in exchange for seafood or sim cards.

In each case, the fishermen were arrested on their return to the port of Lomé and gave their accounts of the facts to the Police before the vessels were detained.

After preventing them from sailing, Customs told the vessels that they were liable for fines of somewhere between 60 and 130 million Euros on the grounds that their informal transactions constituted smuggling.

In all cases to date, Customs refused to either:

- discuss the fines unless the fine demand documents ("Procès Verbal de Constat" or "PV") were signed by a party with a formal mandate to speak on behalf of the vessel, or
- allow the signee to add standard disclaimers such as "Without Prejudice" or "For Receipt Only".

On the one occasion that a disclaimer was used, it was after weeks of discussions with Customs. During this time, the vessel remained under detention and no negotiations regarding the amount of the fine could start.

The reason these smuggling fines are so high is that they are calculated according to:

- **the value of the items that were exchanged**
- **plus twice the estimated values of all the vessels involved**
- **plus Customs duties of between 28% and 49% on both the articles exchanged and the estimated values of the vessels.**

Relevant Articles of Togolese Customs Code

The Fine Demands from Customs refer to the following articles of the Togolese Customs Code (Law n° 2018-007) which we have translated into English:

Article 60 - Paragraph 2

No goods can be discharged or transferred without written authorisation from Customs. Discharge and transfer operations must take place in the presence of Customs at the times and under the conditions decided by the General Commissioner.

Article 340- Paragraph 1

Captains of ships, boats, vessels and aircraft are considered liable for any omissions or inexact information found in their cargo manifests and, generally speaking, for any infringements committed on board their vessel or aircraft.

Article 372 - Paragraph 1

The following are deemed imports without declaration of prohibited goods: fraudulent disembarkation of articles cited in article 369, paragraph 2;

Article 369 - Paragraph 2

The following are deemed to be undeclared imports:

Those items which are prohibited or heavily taxed on entry or liable to internal taxes discovered on board ships within the limits of commercial ports or roads which were not duly included in the cargo and the ship's store declarations presented before inspection.

Article 359 - Paragraph 1

1. The following offences are punishable by confiscation of the object of fraud, confiscation of the means of transport, confiscation of objects used to conceal the fraud, a fine equal to double the value of the object of fraud and imprisonment of between three (03) months and one (01) year any act of smuggling as well as any act of import or export without declaration when these offences relate to goods in the category of those which are prohibited or heavily taxed on entry, or prohibited or taxed on exit.

The term of imprisonment is increased to a maximum of ten (10) years and the fine may be up to five (05) times the value of the object of the fraud when the acts of smuggling, importing or exporting concern goods that are dangerous to public health, morals or safety, the list of which is determined by order of the Minister of Finance.

The original French language texts are to be found [here](#).

Recommendations

Avoid bartering any items whatsoever, even at anchorage. You never know who is watching.

Immediately contact your P&I Correspondent if your vessel faces difficulties with Customs.

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