



07 August 2013 / 7 août 2013

IOTC CIRCULAR 2013–65 / CIRCULAIRE CTOI 2013–65

Dear Sir/Madam,

SUBJECT: COMMUNICATION FROM MOZAMBIQUE REGARDING RESOLUTION OF THE CASE TXORI ARGİ FISHING VESSEL

Please find attached a communication from Mozambique regarding resolution of the case Txori Argi fishing vessel.

Madame/Monsieur,

SUJET: COMMUNICATION DU MOZAMBIQUE CONCERNANT RESOLUTION DU CAS DE PECHE INN DU TXORI ARGİ.

Veillez trouver en pièce jointe une communication du Mozambique concernant résolution du cas de pêche INN du Txori Argi.

Yours sincerely / Cordialement

Rondolph Payet
Executive Secretary / Secrétaire exécutif

Attachments / Pièces jointes:

- Resolution of the case Txori Argi fishing vessel/ Résolution du cas de pêche du Txori Argi.
- Settlement Agreement / Ce document est disponible uniquement en Anglais seulement

Distribution / Destinataires

IOTC Members / Membres de la CTOI: Australia, Belize, China, Comoros, Eritrea, European Union, France (Territories), Guinea, India, Indonesia, Iran (Islamic Rep of), Japan, Kenya, Rep. of Korea, Madagascar, Malaysia, Maldives, Mauritius, Mozambique, Oman, Pakistan, Philippines, Seychelles, Sierra Leone, Sri Lanka, Sudan, United Rep. of Tanzania, Thailand, United Kingdom (OT), Vanuatu, Yemen.

Cooperating non-Contracting Parties / Parties coopérantes non-contractantes: Senegal, South Africa.

Chairperson IOTC / Président de la CTOI

Copy to / Copie à: FAO Headquarters, FAO Representatives to CPCs

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REPÚBLICA DE MOÇAMBIQUE
MINISTÉRIO DAS PESCAS
NATIONAL FISHERIES ADMINISTRATION

To:
Mr Rondolph Payet
Executive Secretary
Indian Ocean Tuna Commission
Victoria, Seychelles

Ref: 678/ADNAP/2013

Date: 01 August 2013

Subject: **RESOLUTION OF THE TXORI ARG I UU FISHING CASE**

Dear Executive Secretary:

Mozambique wishes to respond to Paragraph 56 of the Summary Record of the 17th Annual Session of the IOTC Commission as it had committed to report on the resolution of the Mozambican *Txori Argi* case.

Mozambique is pleased to announce that courtesy of the joint efforts of the EU and its delegation members and Mozambique, the case has been resolved with the agreed financial payment of US\$700,000 received and the appeal on the case by INPESCA has been withdrawn from the Administrative Tribunal of Mozambique. The matter has now been resolved to the satisfaction of Mozambique.

Meanwhile Mozambique is pleased to inform CPCs that suspended licenses of all other INPESCA vessels including *Txori Argi* during the period of the proceedings have now been lifted following the payment of the fine. Our records indicate that the *Txori Argi* did not fish in Mozambique's waters during the ongoing procedures of the infraction.

To ensure that there are no further misinterpretations of the Settlement Agreement, Mozambique has attached the final Settlement Agreement to this correspondence in the interests of transparency to all CPCs and conclusion of this case.

This letter and the Settlement Agreement may be found on the Mozambican Ministry of Fisheries webpage at www.mozpesca.gov.mz.

A handwritten signature in blue ink, consisting of a stylized 'A' followed by a flourish.

We wish to sincerely thank the European Union in its efforts with Mozambique to resolve this matter in an amicable manner.

Sincerely,

The Director General



Simeão Lopes





EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

INTERNATIONAL AFFAIRS AND MARKETS

Brussels, 9 May 2013
MARE.B/SD

Memo for Mr Hermínio Tembe, Permanent Secretary of the Ministry of Fisheries of
Mozambique

ATT: DNFP
Pana o
devid seguin
de mont
14/05/13

Subject: Settlement of the Txori Argi case

Dear Mr Tembe,

I would like to praise the efforts made by the Republic of Mozambique in helping to reach a compromise in the Txori Argi case.

The European Union has treated this case promptly and with the highest priority, in close cooperation with the flag Member State, Spain. In that regard the excellent cooperation experienced with the Mozambique authorities concerning the exchange of information relevant for the case is highly appreciated.

The European Union notes that a settlement agreement has been accepted by the ship-owner, INPESCA, following consultations with Mozambique authorities in the margin of the IOTC annual meeting. The European Commission is informed about the conditions set out in the settlement agreement, that INPESCA withdraws the related appeal and that a payment of 700,000 US dollars has been established and to be paid within thirty days from the date of signature.

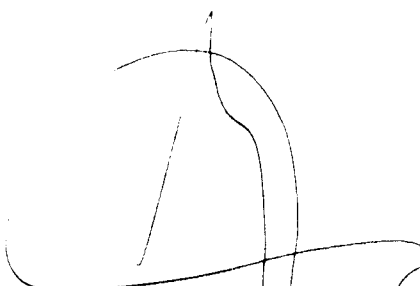
In light of this settlement agreement, and the level of cooperation shown by the European Union (as Contracting Party to IOTC), by Spain (as the flag Member State), and by INPESCA (as the ship owner), the European Union would hereby like to request that the Republic of Mozambique withdraws its proposal for listing the Txori Argi vessel in the 2013 IUU vessel list under IOTC framework.

The European Commission will remain in close contact with the flag Member State, Spain, and will follow the execution of the settlement agreement. If you have any remarks during the execution of the agreement, we would be thankful to receive them promptly for any appropriate follow up action in the matter.

I would like to take this opportunity to express the assurances of my highest consideration.

p.p.o. S. Depy
Stefaan DEPYPERE
Director

**Settlement Agreement on the resolution of
the TXORI ARG1 case**



R. Williams Austin

[Signature]

This Settlement Agreement resolves the dispute on the Spanish fishing vessel TXORI ARGÍ (hereinafter the vessel) raised in March 2012 and is made and entered into by and between the Republic of Mozambique represented by the Permanent Secretary of the Ministry of Fisheries of Mozambique, **Mr. Hermínio Tembe**, and the General Manager of COMPAÑIA INTERNACIONAL DE PESCA Y DERIVADOS, S.A. (hereinafter INPESCA), **Mr. Guillermo Arrien**. In consideration of the following promises, the parties agree to resolve all matters arising out of the TXORI ARGÍ case.

Based on the gentlemen's agreement settled on the margin of the 17th session of the IOTC Commission and as recommended by this Commission, the parties desire to settle and resolve the Charge and Action and all other disputes and claims which have been or could have been asserted amongst them.

THEREFORE, for and in consideration of the mutual releases, covenants and undertakings hereinafter set forth, and for other good and valuable consideration, which each party acknowledges, it is agreed as follows:

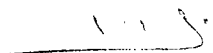
INPESCA RESPONSABILITIES

Signing this agreement INPESCA agrees:

- 1) To pay to the Claimant the total amount of seven hundred thousand American dollars (USD 700,000) through a Bank Transfer to the following bank account:
BENEFICIÁRIO: Ministério das Pescas da República de Moçambique.
Full Bank Name: BANCO INTERNACIONAL DE MOÇAMBIQUE-BIM
Account name: FUNDO DE FOMENTO PESQUEIRO
Account number: 68293433
NIB: 000 1 00 00 000 68 29 34 33 57
Account currency: MZN
- 2) To submit to the Claimant the receipt/evidence of the payment within 30 days from the date of signing of this agreement;
- 3) To withdraw the appeal pending in the Administrative Tribunal in Mozambique. The letter of withdrawal of the court case will be transmitted to the Ministry of Fisheries of the Republic of Mozambique within the same timeframe.

Non-compliance by INPESCA will lead Mozambique to request the IOTC Secretariat to immediately list the vessel into IUU vessel list.

MOZAMBICAN RESPONSABILITIES



Signing this agreement Mozambique agrees:

- 1) To remove his proposal for listing the vessel in the IUU vessel list under IOTC framework during the course of 17th session being held from 5th to 10 May in Mauritius and to refrain himself from contributing to the listing of the vessel in any other IUU vessel list whatsoever, definitive or not;
- 2) To give back the original document issued by BANCO BILBAO VIZCAYA ARGENTARIA, S.A., Plaza San Nicolás nº 1, 48004, Bilbao, España called *Avala* immediately after the payment referred to above and not to execute it ever;
- 3) To immediately lift the suspension of all licenses and applications from INPESCA and any other company that INPESCA may participate in, by official communication addressed to INPESCA;

The parties agree that this Agreement may not be modified, altered, amended, or otherwise changed. Signing this Agreement their respective representatives, directors, officers, executives, employees, attorneys, from now and forever cannot:


- Make statements, public or not, that might go against the interests of the parties in connection with the case and the conciliatory spirit of this agreement.
- Complain, against any charges, demands, causes of action, debts or liabilities from each other related to this case.

This Agreement constitutes the entire agreement among the parties, and there is no other understanding or agreements, written or oral, among them on the subject. Separate copies of this Agreement shall constitute original documents, which may be signed separately but which together shall constitute a single agreement.

This Agreement will not be binding on any party until signed by all parties or their representatives.

Signed in Mauritius, 09th May, 2013

On behalf of Republic of Mozambique
Ministry of Fisheries


Hermínio Tembe
(Permanent Secretary)

INPESCA


Guillermo Arrien
(General Manager)

Note : ce qui suit est la traduction d'un courrier en Anglais reçu par le Secrétariat. Pour plus de détails, se reporter à l'original.



REPÚBLICA DE MOÇAMBIQUE
MINISTÉRIO DAS PESCAS
NATIONAL FISHERIES ADMINISTRATION

M. Rondolph Payet
Secrétaire exécutif
Commission des thons de l'océan Indien
PO Box 1011, Victoria, Mahe
Seychelles

Le 1^{er} août 2013

Réf. 678/ADNAP/2013

Objet : Résolution du cas de pêche INN du *TXORI ARG1*.

Cher Secrétaire exécutif,

Le Mozambique souhaite répondre au paragraphe 56 du rapport de la 17^e session de la CTOI, dans lequel il s'était engagé à faire rapport sur la résolution du cas du *Txori Argi*.

Le Mozambique a le plaisir d'annoncer que, grâce aux efforts conjoints des membres des délégations de l'UE et du Mozambique, l'affaire a été résolue avec la réception du paiement de la somme de 700 000 \$ originalement prévue et le retrait par INPESCA de son appel devant le Tribunal administratif du Mozambique.

Le Mozambique a également le plaisir d'informer les CPC que la suspension, pendant la durée de la procédure, des licences de tous les navires d'INPESCA, y compris le *Txori Argi*, a été levée suite au paiement de l'amende. Nos registres indiquent que le *Txori Argi* n'a pas pêché dans les eaux du Mozambique pendant la durée de la procédure.

Afin d'éviter toute nouvelle mauvaise interprétation de l'accord de règlement final, le Mozambique joint le texte dudit accord à cette correspondance, dans un but de transparence envers l'ensemble des CPC et pour conclure cette affaire.

Ce courrier et l'accord de règlement peuvent également être consultés sur le site Web du Ministère des pêches du Mozambique (www.mozpesca.gov.mz).

Nous remercions sincèrement l'Union européenne pour les efforts déployés avec le Mozambique pour résoudre cette affaire de façon amiable.

Cordialement,

The Director General


Simeão Lopes

