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Indian Ocean Tuna Commission
Commission des Thons de l'Océan Indien

IOTC-2020-CoC17-07a_Add2[E]

COMMUNICATION FROM THE FLEET OF TAIWAN, CHINA CONCERNING THE VESSEL YONG QING FA No. 666

Prepared by IOTC Secretariat, 30 September, 2020

PURPOSE

To provide information received by the IOTC Secretariat to the Compliance Committee to assist it in taking a decision on the vessel YONG QING FA No. 666.

Fisheries Agency's Report on Actions Taken on Its Vessel, "YONG QING FA No.666"

September 30 2020

The owner and operator of the vessel, "YONG QING FA No.666", (Registration Number: CT6-1221; IMO Number: 8653061; IRCS: BH3221) (462 GT & 49.5 meters in length) is "JENN AN HOA FISHERY CO. LTD". The vessel had been authorized by Fisheries Agency (hereinafter referred to as this Agency) to operate in the Indian Ocean during 2018.

● Actions taken prior to the entry of the vessel into the waters of South Africa (before December 2019)

1. Since its departure from Port Louis of Mauritius in June 2018, the vessel violated our domestic regulations regarding vessel position reporting, i.e., failure to report its vessel position. Therefore, this Agency sanctioned the vessel owner/operator a cumulative fine of 4,250,000 NTD dollars, approximately 142,000 US dollars. Moreover, this Agency also revoked the fishing license of the vessel and ordered the vessel to navigate directly back to its home port within the required timeframe.
2. In addition to the abovementioned administrative sanctions, this Agency transferred the case to the judicial authority for further criminal investigation due to the vessel's failure to return to its home port within the required timeframe in accordance with our domestic regulations, which stipulates that any offender shall be subject to imprisonment of 3 years and under, or in lieu thereof or in addition thereto a criminal fine of 6,000,000 to 30,000,000 NT dollars.
3. While this Agency had exerted all its efforts to locate the vessel through all possible means and channels, including a notice requiring our inspectors based in foreign ports to collect relevant information about the vessel, its whereabouts were still unknown until this Agency was notified in December 2019 by our representative office in Cape Town, South Africa (hereinafter referred to as the representative office) that

the vessel entered the waters of the country.

● **Actions taken following the entry of the vessel into the waters of South Africa (before December 2019)**

1. The representative office was notified on December 2 2019 by the competent authority of South Africa that the vessel entered its waters without permission and that the vessel had insufficient fuel and fresh water to continue its voyage. This Agency learned the above information on the very same day and sent a letter to the authority of South Africa via the representative office on December 4 2019 (attachment 1), explaining that the vessel had violated our domestic regulations and requesting cooperation from South Africa, the port State, in preventing the vessel from leaving its port. The vessel was seized by the authority of South Africa on December 13 2019, and there were 6 crew members on board (2 holding our citizenship, including the vessel master, and 4 of the nationality of Myanmar).
2. Following the abovementioned letter, the representative office had kept cooperating with the competent authority of South Africa in this case. On December 18 2019, this Agency convened a cross-ministerial meeting, based on the decision of which:
 - (1) the representative office would send to the competent authority of South Africa an official letter, appealing to the port State in accordance with the Resolution 16/11 of the IOTC and the FAO Port State Measures Agreement (a) to deny the vessel the use of port services, including refueling, (b) to inspect the vessel and (c) to prohibit it from leaving South African port so as to prevent it from engaging in IUU fishing activities in the future.
 - (2) the representative office would interview the vessel's crew members in order to clarify if the vessel had engaged in any IUU fishing activity before it was seized by the port State.
3. By following the decision made by the abovementioned cross-ministerial meeting, the representative office sent an official letter to the competent authority of South Africa on January 6 2020; in addition, the representative office sent another official letter dated December

20 2019 to Myanmar Embassy in South Africa to request exchanges of views regarding those Myanmar crew members being held in co-detention in the port State. The representative office had also interviewed, with the consent of the port State, the crew members on December 24 2019, January 17 2020, and January 20 2020 respectively. In accordance with the interview records, the vessel with no fishing gears and baits on board did not engage in any fishing activity prior to its seizure by the port State. Besides, the vessel entered the waters of South Africa for the purpose of being refueled.

4. In accordance with the letter dated January 15 2020 from the competent authority of South Africa to this Agency via the representative office, together with the inspection report regarding the vessel, the vessel has been detained for being unseaworthy. The chief engineer acting as vessel master holding our citizenship was not qualified to steer the vessel. Besides, South Africa has laid criminal charges against the vessel master for the vessel's entry into its waters without permission. Most of all, there were no catches on board because the fish holds were full of water.
5. On January 21 2020, this Agency convened another cross-ministerial meeting. In accordance with the decision of which, a letter dated January 22 2020 (attachment 2) was sent to the competent authority of South Africa via the representative office, (1) explaining the actions taken by this Agency on the vessel since its departure from Mauritius in June 2018, (2) offering to provide funds for repatriation of the crew members as humanitarian aid, (3) extending our respect to the decision made by the port State to initiate the necessary Judicial Sale to compensate any relevant costs incurred, and (4) emphasizing our concern and care about the condition of the crew members while providing them with all necessary assistances, including the supply of food and clean water for several times since its presence in South African waters. We received a positive response from South Africa regarding the above letter.
6. On February 26 2020, this Agency forwarded the abovementioned report provided by South Africa, especially the information about the

vessel being unseaworthy, to our Marine and Port Bureau in the spirit of cooperation across ministries.

7. Among the two members holding our citizenship, the vessel master still stays in South Africa at the time of writing due to his being criminally investigated. The representative office continues providing him with necessary assistance during the process. The other one has returned home on March 1 2020 under the assistance of the representative office.
8. With respect to the four Myanmar crew members, they have left South Africa on March 20 2020, arriving at Myanmar on March 21 2020, with the help of the representative office (attachment 3 & 4 & 5). All the transportation costs, including the airline tickets and land transportation, were paid by this Agency to ensure that they could return home safely as soon as possible.

- **Clarification to the incorrect and misleading accusations from South Africa indicated in the document, “IOTC-2020-COC17-07a [E]”**

As mentioned above, we have kept working with South African competent authorities to settle each issue resulting from the vessel since it entered the waters of South Africa. Therefore, we would like to express our great astonishment, confusion and disappointment to the incorrect and misleading accusations claiming that we refused to cooperate with the port State on this matter, leaving behind the vessel and the crew members. To clarify any possible misunderstanding, our responses are as follows.

The vessel claimed by South Africa to have engaged in IUU fishing activities

1. In accordance with the competent authority of South Africa, the vessel entered its waters without its permission.
2. However, based on the inspection report provided by South Africa, there were no catches on board. Not only was the vessel itself deemed as unseaworthy but the chief engineer/acting master was also not qualified to steer the vessel.
3. Moreover, it is impossible for such a large-scale fishing vessel, nearly 500 GT, to engage in fishing activities with only 6 crew members, let alone with neither fishing gears nor bait found on board.
4. With no other concrete evidence, this Agency is therefore unable to reach a conclusion that the vessel had engaged in any illegal fishing activities before it was seized by South Africa. However, in order to eradicate any possible IUU fishing activities to be conducted by the vessel in the future, we appealed to the port State to deny the vessel any port services and prohibit it from leaving in accordance with relevant international laws.

The vessel and crew members claimed by South Africa to have been abandoned by this Agency and the representative office
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1. As mentioned above, ever since we have learned that the vessel entered South African waters, especially after it was seized by the port State, the representative office has continued providing necessary humanitarian assistance to the crew members. Before the end of 2019, the representative office had supplied food and water for 5 times. Starting from January 3 2020 to the time of writing, the representative office has been offering necessary supplies for nearly 20 times with the amount totaling more than ZAR 5,600. The Consul General of the representative office also visited the vessel to express our care and concern to those crew members respectively on January 3 2020 (attachment 6 & 7) and September 3 2020 (attachment 8 & 9).
2. With this Agency bearing the responsibility of paying the transportation costs, 4 Myanmar crew members returned home even though their employer left them behind. Besides, one of the 2 crew members holding our citizenship already left South Africa under the assistance of the representative office.
3. As for the vessel master under criminal investigation by South Africa, the representative office has kept offering necessary help, including transportation and cooperating with an NGO (Apostleship of the Sea, AOS) in providing legal assistance and representing the master in court. However, the proceedings have been postponed for 12 times. At the time of writing, the trial has not started yet. Nevertheless, the representative office will continue providing assistance to the vessel master and see him through the whole procedure.

● **Conclusion**

Ever since the vessel “Yong Qing Fa No.666” left from Port Louis of Mauritius without reporting its position, this Agency has properly fulfilled its duties. We have severely sanctioned the operator of the vessel; we support South Africa, as the port State, to take all necessary port State measures; we have supplied food, water and humanitarian aids to the vessel crew members for over 20 times; we have provided financial

support to repatriate the Myanmar crew members back to their home country; we have properly taken care of the livelihood of the vessel master who is still detained on board by the authority of South Africa; and, we have already established the channel of cooperation with South Africa at the very beginning of this case. Last but not least, we have already expressed our support and respect for South Africa to initiate a Judicial Sale of the vessel. Therefore, with the abovementioned information in mind, we wish to emphasize that the accusations about our refusal to cooperate with the port State and abandoning the vessel crew members are incorrect and misleading.

With a long-standing distant water fishing fleet in three Ocean, we wish to reiterate our position that we take combating IUU fishing activities and protecting human rights of the crew members very seriously. In the future, we will keep working with relevant RFMOs and the parties concerned to ensure the sustainable utilization of fisheries resources in the Ocean. Needless to say, it is unfortunate to hear our South African counterpart have made such incorrect and misleading accusations against us; nevertheless, we will still have good intention to continue our cooperation with South Africa to settle the issues related to the vessel.

December 4, 2019

Mr. Qauiso Mketsu
DD Pelagic & High Seas
SOUTH AFRICA
QauisoM@daff.gov.za

Dear Mr. Mketsu,

I am writing to seek your assistance in taking necessary actions on a Taiwanese fishing vessel, "YONG QING FA NO.666" (national registration number: CT6-1221, IRCS: BH3221), appearing near your port.

Due to its violation of our domestic regulations, the abovementioned vessel has been ordered by this Agency to stop fishing and return to its home port for further inspections. However, the vessel has yet to return to Taiwan.

As you are aware, the vessel is now near your port and intends to be refueled. As a result, we would like to seek your assistance and cooperation in taking necessary measures to prevent it from departing from your port until further notification from this Agency.

Through such bilateral cooperation in vessel monitoring, this Agency believes that marine fisheries resources will be conserved and managed in a more effective way.

I look forward to hearing from you at your earliest convenience.

Sincerely yours,

for Wang mao-chen

Ding-Rong LIN
Director
Deep Sea Fisheries Division

Captain Vernon Keller
Deputy Chief Operations Officer
South African Maritime Safety Authority

January 22, 2020

Dear Captain Keller

In the first place, the Fisheries Agency of Taiwan, as the competent authority of Taiwanese fishing vessels, would like to extend its appreciation to the South African Maritime Safety Authority for providing its inspection report on the fishing vessel "Yong Qing Fa No.666," and this Agency would also like to reiterate its strong and steady position on combating illegal, unreported and unregulated (IUU) fishing and respecting the Work in Fishing Convention (No. 188) of International Labour Organization.

As this Agency had explained to the Department of Environment, Forestry and Fisheries (DEFF) of South Africa in the letter dated 4th December, 2019, the fishing vessel "Yong Qing Fa No.666" had never reported its vessel position pursuant to our domestic regulations ever since its departure from Port Louis of Mauritius in June 2018. Therefore, this Agency had sanctioned the owner of the said vessel for a cumulative fine of 4,250,000 NT dollars. Moreover, this Agency also revoked its fishing license in accordance with our domestic regulation. In addition, this Agency has been trying to establish contact with the said vessel owner through all possible means and channels. However, we still cannot achieve the goal despite all the efforts.

Given the abovementioned circumstance, Taiwan, as a responsible flag State, fully respects the Article 21 of the Work in Fishing Convention (No. 188) even though Taiwan is not a signatory, and thus we will bear the responsibility and offer the funds for repatriation of those crew members.

At the same time, this Agency, on the basis of its position on cooperating with your Authority, will also respect and support the decision made by your Authority in accordance with your domestic regulations to initiate the necessary Judicial Sale of the said vessel as you indicated in your early communications in order to cover the costs for the repatriation of the crew members, compensate the salary of crew members and settle any other relevant costs incurred, since the said vessel may be the only property left of the owner at the present time.

Furthermore, one thing should be clarified and emphasized is that we highly care about the condition of all crew members onboard the said vessel; therefore, the Ministry of Foreign Affairs of Taiwan has ordered the Taipei Liaison Office in Cape Town to provide humanitarian aid and all necessary assistances to the crew members. Ever since the vessel's presence in South African waters, the Taipei Liaison Office in Cape Town has supplied foods, clean water and canned foods to the crew members for at least five times and dispatched officers to visit those crew members in order to provide humanitarian aid in time. We would like to thank your authority for facilitating our representative in carrying out the above-mentioned works.

After all, Taiwan is a country which firmly respects and protects human rights, and this Agency bears a strong and eager will to establish a closer cooperation relationship with all relevant South African competent authorities on matters relating to combating IUU fishing as well as protection and enhancement of human rights. We hope this case can serve as a good beginning for our cooperation in fulfilling the above-mentioned matters.

Yours sincerely,

The signature is written in blue ink and appears to read 'for Lin, Kuo-Ping' in a cursive style.

Chih-Sheng CHANG (Mr.)

Director-General

Fisheries Agency,

Council of Agriculture, Taiwan

Attachment 3



Attachment 4



Attachment 5



Attachment 6



Attachment 7



Attachment 8



Attachment 9

