



# JAPAN P&I NEWS

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To the Members

## **Togo – Further Warning on "Bartering" with Local Fishermen (Update)**

In our Japan P&I News [No.1260](#) "Fines at the Port of Lomé, Togo" dated 6 March 2024, we issued a warning regarding customs fines associated with the exchange of goods in the region. We have now received an update and an urgent warning from our local correspondents, BUDD Togo, regarding the latest situation, which we share with you in the attached documents.

According to the correspondents, Customs authorities continue to strictly enforce regulations against the informal transfer and bartering of goods with local fishermen and crafts in these waters. A summary of the correspondents' warning is as follows:

### **All Unauthorised Transactions Are Treated as Smuggling:**

The act of handing over items such as sludge, waste oil, drinking water, scrap metal or old ropes in exchange for seafood, SIM cards, etc., from small boats at anchorages is entirely deemed an undeclared import (smuggling) under the country's Customs Code.

### **Massive Fines and Prison Sentences:**

Fines are calculated based not only on the value of the exchanged goods but also on the estimated market value of the vessel, amounting to two to four times their combined market value. Consequently, fine demands can scale up into the hundreds of millions of euros (approximately €129 million in a recent case). Furthermore, involved crew members risk facing prison sentences of between 1 and 3 years.

### **Strict Personal Liability of the Master:**

The Master is held strictly liable for any Customs infringements committed on board, regardless of whether they authorised or were even aware of the crew's transactions.

### **Caution When Signing the Fine Statement (Procès-Verbal):**

Adding conditional disclaimers such as "Without Prejudice" or "For Receipt Only" to the fine statement (Procès-Verbal) presented by Customs is not permitted. If such annotations are added, formal discussions will be suspended, thereby prolonging the vessel's detention.

The Members are once again requested to instruct their crew members to strictly prohibit any exchange of goods with local fishermen and others at anchorages and within Togolese waters.

Yours faithfully,

**The Japan Ship Owners' Mutual Protection & Indemnity Association**

Attachment: News from BUDD Togo



## Beware of Bartering in Togolese Waters

In view of a recent surge in alleged smuggling cases, Budd Togo urgently reminds vessels that exchanging goods with fishermen may well be interpreted as a major Customs infringement (see [Togo: Fine Alert](#)).

In accordance with the Togolese Customs Code (Law n° 2018-007), undeclared transfers or bartering with local fishermen in Togolese waters can result in substantial Customs fines. The most recent cases involve fines ranging from €120,000 to €400,000,000—alongside vessel detention and prison sentences of between 3 months and 3 years for involved crew members.

### Legal Framework

#### 1. APPLICABLE STATUTORY LEGISLATION:

The governing legal foundation remains Law n° 2018-007 (Togolese Customs Code).

#### 2. PERMIT REQUIREMENTS FOR ANY ITEM TRANSFERRED (ART. 60 & 372):

Under Article 60 (Paragraph 2), no goods or materials may be discharged or transferred without prior written authorization from Customs. Any unauthorized physical exchange—including sludge barrels, bottled water, scrap metal, old ropes, or small fuel quantities in exchange for seafood, cigarettes, or SIM cards—is legally categorized as undeclared import/smuggling under Articles 361, 362, and 372.

#### 3. STRICT PERSONAL LIABILITY OF THE MASTER:

Pursuant to Article 340 (Paragraph 1), the Master is held liable for any Customs infringements found and committed on board by crew members, regardless of whether the Master authorized or was aware of the transaction.

#### 4. REAL CASE ILLUSTRATION

To demonstrate how these statutory calculations are applied, a [Procès-Verbal de Constat \(PV\)](#) issued by the Togolese Revenue Authority (OTR) in August 2026 illustrates the applicable legal framework:

An ocean-going vessel at Lomé anchorage transferred 35 cans of fuel residue (approximately 875 litres) to a local pirogue in exchange for fish, cigarettes, and SIM cards.

- **The Offence:** Classified as a Class 3 customs offence under Articles 60, 361, 362, and 372 of Law n° 2018-007.
- **Criminal Sanctions:** The statutory penalty includes imprisonment of between 1 and 3 years for the involved crew members.
- **Financial Penalties:** The total calculated penalty exceeded 84.6 Billion XOF (approx. €129 Million/USD 140M+), calculated as quadruple the combined value of the fuel, Customs duties, and the estimated market value of the vessel itself.

(For reference, the original French legal clauses cited above can be reviewed in the [Togo Customs Code clauses document](#)).

The fishermen involved were subject to similar sanctions but on a scale commensurate with the value of their vessel.

Please click here for a [translation](#) of the Procès-Verbal de Constat (PV).

## 5. WHY FINES VARY FROM €120K TO OVER €400M:

Statutory fine formulas under Articles 359 and 361 link financial penalties directly to the estimated value of the transport involved, as well as the goods exchanged. Because the calculation includes twice or quadruple the full estimated market value of the vessel, fine demands for modern commercial ships scale up into tens or hundreds of millions of Euros.

## 6. SIGNING THE FINE STATEMENT (PROCÈS-VERBAL – PV):

Togolese Customs require the Procès-Verbal de Constat (PV) to be signed without conditional disclaimers. Adding protective annotations such as “Without Prejudice” or “For Receipt Only” can suspend formal discussions, prolonging the vessel’s detention.

### Recommendations for Masters & Vessel Operators

- **STRICT ZERO-BARTERING POLICY:** strictly instruct all crew members that exchanging, gifting, trading, or disposing of any items (sludge, scrap, ropes, food, water, or fuel) with local craft at anchorage is strictly prohibited.
- **PREVENT UNAUTHORIZED APPROACHES:** keep all unauthorized local craft away from the vessel. Log, photograph, and report any unauthorized approaches to harbor authorities and local agents immediately.
- **SEEK P&I ASSISTANCE:** if approached by Togolese Customs or presented with a Procès-Verbal (PV), contact BUDD Togo immediately before signing any official documentation.

Information provided by Budd Togo ([budd.togo@budd-pni.com](mailto:budd.togo@budd-pni.com))



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