



ADVICE

Subject: Promoting effective respect of human rights, environmental and labour standards, good governance in third countries fishing and fish processing through trade agreements such as GSP+. The case of The Philippines.

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The LDAC would like the EC to explore how best the EU can promote effective respect of human rights, environmental and labour standards, good governance in third countries fishing and fish processing through trade agreements.

In particular, we are concerned whether a unilateral system like the GSP+ can contribute to promoting the respect of human rights. This can be illustrated with the case of the Philippines.

The Philippines is one of the top tuna catching and tuna exporting countries in the world¹. Since becoming a beneficiary country of the new Generalised Scheme of Preferences (GSP+) at the end of 2014, the fish products have a zero tariff duty, by opposition of the previous tariff duty of 20%.

To achieve the status of GSP+, the beneficiary countries have to show a genuine commitment to implementing, ratifying and observing a number of international instruments laid down in Regulation (EU) No 978/2012, i.e. 27 core Human and Labour Rights UN/ILO Conventions and Conventions related to the environment and to governance principles².

In the case of The Philippines, labour conditions in both the fishing and the processing sector, as well as the respect, by Filipino fleets, of fisheries legislation in third countries or in RFMOs, has raised some concerns³. It must be noted that the Philippines was pre-identified as a non-cooperating country in terms of fighting against IUU fishing in 2014. This “yellow card” was subsequently lifted in 2015.

¹According to the latest FAO data, the Philippines is the second country in the world in terms of tuna catches (2014) and fifth in the production of preserved and prepared tuna (2013). Based on information by EUROSTAT, in 2015, the first year as GSP+ beneficiary, the Philippines exported 38.379 tons of preserved tuna to the EU, which was up 23% on the previous year.

² Vid. Art.9 and Annex VIII of Regulation (EU) No 978/2012

³ Research on Indicators of Forced Labour in the Supply Chain of Tuna in the Philippines

https://www.verite.org/sites/default/files/images/Research%20on%20Indicators%20of%20Forced%20Labour%20in%20the%20Philippines%20Tuna%20Sector_9.16.pdf



The EC report about the GSP+ in the Philippines, made public in January 2016, states that: *The Department of Labor and Employment (DOLE)[of Philippines] has taken the GSP+ as an additional tool to help support some of its policies to strengthen labor rights. Notably following labor rights issues in the tuna industry in General Santos, DOLE has been working on a joint department order to ‘harmonize laws and regulations in giving decent work to fishermen and ease doing business with the fishing industry. It will also ensure the industry’s competitiveness, expansion and growth.’*

The order will help compliance with labor standards and occupational safety and health standards and focus on the needs of fishermen. DOLE Secretary Baldoz stated that, ‘with the accession to GSP+, Philippine companies should open itself up to closer scrutiny for compliance with labor laws and international labor rights instruments’. It is in this light that a memorandum of agreement was agreed with DOLE, Department of Agriculture, Department of Transportation and Communications, Department of Science and Technology, Maritime Industry Authority(MARINA), Bureau of Fisheries and Aquatic Resources (BFAR), Philippines Fisheries Development Authority (PFDA) and the Philippines Coast Guard in recognition of the need to harmonise government interventions at the operational, programme and policy levels.’⁴

In our view, such situation as the one described for the Philippines raises our doubts about the real efficiency of the GSP+ program as a way of promoting the respect for human rights, in particular labor rights in the fishing and the processing sector.

We understand that the GSP+ regime envisages the temporary withdrawal of tariff preferences in respect to all or to certain products, in the case that there is a lack of progress in implementing international conventions on Human Rights, Labor Standards, Environmental and Good Governance

It is our view that the EU should strictly apply trade sanctions where violations of human rights -and abuses of workers’ rights in particular- occur. In this case, the General Exceptions laid down in Article XX of The General Agreement on Tariffs and Trade (GATT) may be applicable. These provisions permit current WTO Members to justify potential trade restrictions - which would otherwise be incompatible with their obligations under GATT.

⁴Vid. p. 81 of report: http://trade.ec.europa.eu/doclib/docs/2016/january/tradoc_154178.pdf#Philippines



Taking into account the above mentioned considerations, the LDAC would appreciate clarification from the European Commission regarding the following questions:

- 1) Is there any benchmark indicator to measure a WTO Member's compliance with labor, safety and health standards?
- 2) Is there any specific monitoring of fish workers labor conditions to ensure positive changes are made on labor conditions in the Philippine fishing and processing sector? This is due to the fact that cases of human rights abuses in the Philippine fishing and processing sector continued to be widely reported as late as the end of 2015⁵.
- 3) Could details be provided on the evaluation process of progress made by The Philippines with regards to the implementation of these conventions? What the conditions and timeframe are for withdrawal provisions to be applied?
- 4) Is there any consultation procedure foreseen to involve local groups, including artisanal fishing organizations, during this assessment process?
- 5) What are the views of the European Commission regarding the possibility to develop WTO compatible trade measures (applicable to all trade agreements) so that fish products that have been caught or processed by countries which do not respect human rights, the environment and labor standards do not enter the EU market?

⁵<http://www.theguardian.com/global-development/2015/nov/02/revealed-trafficked-migrant-workers-abused-in-irish-fishing-industry>.

An e.g. http://www.nytimes.com/2015/11/09/world/asia/philippines-fishing-ships-illegal-manning-agencies.html?_r=0 / <http://www.iuf.org/w/?q=node/4611>