

Sir.-
Lenin Moreno Garcés
Constitutional President of the Republic of Ecuador

Ms.-
María Alejandra Muñoz Seminario
Constitutional Vice President of the Republic of Ecuador

Sir.-
Oswaldo Jarrín Román
Minister of National Defense

Sir.-
Ivan Ontaneda Berrú
Minister of Production, Foreign Trade, Investment and Fisheries

Sir.-
Paulo Proaño
Minister of Environment

Sir.-
César Litardo Caicedo
President of the National Assembly

Attention.-

Dear sirs and madam, I respectfully submit the following:

Cordial greetings from those of us who make up and support the Pacífico Libre collective. Under the right to petition that which assists us, we address you according to **Arts. 10, 66 numeral 23 and Art. 18 numeral 2** of the Constitution of the Republic of Ecuador, which establishes recognition of the right to direct requests and petitions, without prejudice to the rights established in the Constitution and in current international instruments, and the right to freely access public information. Today, I write regarding the delicate circumstances resulting from the presence of the fleet of fishing vessels along the edge of the Exclusive Economic Zone of Ecuador; I present the following for your consideration:

I. BACKGROUND

1. In 1985, Ecuador committed itself to the FAO Responsible Fisheries Manual;
2. On December 26, 2012, the State of Ecuador ratified the United Nations Convention on the Law of the Sea Convemar through its publication in the Official Record Supplement 857.

3. The Ecuadorian State ratified the Convention on Fishing and Conservation of Living Resources of the High Seas on August 28, 2013, published in Official Record Supplement 68;
4. In 2015, 193 countries adopted the 2030 Agenda for Sustainable Development and its 17 SDOs, including Ecuador. Within the objectives, objective 14 is dedicated to "Underwater Life", including the aim to "conserve and sustainably use the oceans, seas and marine resources for sustainable development."
5. In 2017, naval teams intercepted the Chinese vessel *Fu Yuan Yu Leng 999* while it was illegally sailing within the Galapagos Marine Reserve. Some 300 tons of fish were found in the holds of this Chinese vessel, including vulnerable species.
6. On July 16, 2020, the Ecuadorian Navy warned about the presence of a fishing fleet made up of 260 foreign-flagged Chinese vessels near the limit of the Insular Exclusive Economic Zone (ZEEI).
7. Among the mediated actions, the following were communicated by the Foreign Ministry of Ecuador on August 5, 2020:
 - a. From 2020, a fishing moratorium for all Chinese fishing boats would be in place for several months (they propose September to November in the western high seas of the Galápagos protection zone and will cease their operations during said moratorium);
 - b. China agrees that Ecuador supervises Chinese fishing vessels that are on the high seas. It requests that if the Ecuadorian party has any indication of illegal fishing by the Chinese fishing fleet, its Government would be informed;
 - c. Willingness to find an immediate permanent solution through diplomatic channels at the bilateral and multilateral level (Regional Organization for Fisheries Management of the South Pacific -OROP-PS).

II. FOUNDATIONS OF LAW

CONSTITUTION OF THE REPUBLIC OF ECUADOR

Art. 10.- Communities, nations and their people are bearers of rights and shall enjoy the rights guaranteed to them in the Constitution and in international instruments. Nature shall be the subject to those rights that are recognized by the Constitution.

Art. 66.- The following rights of persons are recognized and guaranteed:

23. The right to file individual and collective complaints with authorities and to receive substantiated responses and replies. No petitions can be addressed on behalf of the people.

Art. 73, (first paragraph).- The State shall apply preventive and restrictive measures on activities that might lead to the extinction of species, the destruction of ecosystems and the permanent alteration of natural cycles.

Art. 95.- Citizens, individually and collectively, shall participate as leading players in decision making, planning and management of public affairs and in the people's monitoring of State institutions, society and their representatives in an ongoing process of building civic engagement. Participation shall be governed by the principles of

equality, autonomy, public deliberation, respect for differences, monitoring by the public, solidarity and interculturalism.

The participation of citizens in all matters of public interest is a right which may be exercised by means of mechanisms of representative, direct and community democracy.

Art. 261, (numeral 1,2,7, 9 and 11) .- The central State shall have exclusive jurisdiction over:

1. National defense, domestic security, and public law and order.
2. International relations.
7. Protected natural areas and natural resources.
9. Measures to be taken as a result of international treaties.
11. Energy resources; minerals, hydrocarbons, hydric, biodiversity and forest resources.

ORGANIC ENVIRONMENT CODE

Art. 9 (numeral 7).- Environmental principles. In accordance with that which has been established in the Constitution and in international instruments ratified by the State, the environmental principles contained in this Code constitute the conceptual foundations for all decisions and public or private activities of individuals, communes, communities, peoples, nationalities and collectives, in relation to the conservation, use and sustainable management of the environment.

7. Caution. When there is no scientific certainty about the impact or damage that any action or omission entails for the environment, the State, through its competent authorities, will adopt effective and timely measures designed to avoid, reduce, mitigate or stop the impact. This principle will reinforce the principle of prevention.

I. PETITION

Given the presence of a foreign-flag fishing fleet found near the limit of the Galapagos EEZ, and according to its powers under the rights Right of Petitions and all other rights previously established, I request the following for your consideration:

- 1) Through the World Trade Organization, propose a binding trade barrier agreement for illegal, unreported, and unregulated fishing and eliminate the fishing subsidy and technical support of such fishing fleets from these countries.
- 2) Expedite the technical-scientific research needed to achieve the expansion of the continental and insular shelf beyond 200 nm, under Article 76 of the Convemar.
- 3) Conduct studies of the marine ecosystem of the water column that is located between the exclusive economic zones of mainland Ecuador and the islands, in order to obtain data on marine species that are under pressure. This for the preservation of species that are protected or endangered, thus facilitating compliance with international treaties. Propose the establishment of a marine protected area on the high seas, especially taking into account the environmental co-management model of the sanctuary Pelagos in the Mediterranean.
- 4) Support the currently regionally-supported CMAR (Eastern Tropical Pacific Marine Corridor) initiative at the national level. Furthermore, in addition to the Ministry of Environment and Water, the Chancellery and the Ministry of Defence as maritime

authorities in these cases, the Ministry of Foreign Trade, Production, Investment and Fisheries should also be included.

- 5) Initiate an investigation on the conservation of marine biodiversity before Convemar; that the investigation reaches the special arbitration tribunal for evidence of fisheries and the effect on biodiversity, as well as before the South Pacific Regional Fisheries Management Agency and the Inter-American Center for Tax Administrations (IACT).
- 6) That the possibility of expanding the Galapagos Marine Reserve be studied and technically justified, so that it can be included in the reforms of the Organic Law on Special Regime of the Galapagos that is processed in the Permanent Specialized Commission on Biodiversity and Natural Resources
- 7) That Government promote and coordinate with the Assembly and that they resume the respective report and debate on the proposal for the Law on Navigation, Security Management and Maritime Protection
- 8) Inform the nation's public what the National Secretariat of Planning and Development has accomplished since replacing the Technical Secretary of the Sea, in accordance with Executive Decree No. 923, as published in Official Register Supplement 710 of March 11, 2016
- 9) That the competent authorities cooperate with international conservation and environmental organizations and accept support and advice; by working together with the Ecuadorian state, examine the merit of international agreements and whether or not they strengthen the preservation of marine migratory biodiversity through constant presence in the reserve
- 10) That technical and scientific support for decision-making be maintained in the process of research and implementation by the Government-designated commissions on the subject of fishing fleet; that these commissions be accompanied by national or regional scientists, experts and NGOs, and that the commissions' actions are publicly known.
- 11) That in addition to the reports from the Ministry of Environment regarding the existence and amount of economic resources for the preservation of the marine species of the Galapagos, that the Ministry of Production, Foreign Trade, Investment and Fisheries should also provide such reports regarding specifics of bycatch that is taking place in the country, to the detriment of certain species, such as sharks
- 12) Report on the Ministry of Defence's budget amount for the National Navy on the offshore fisheries control axis and the EEZ.
- 13) Have the National Government set up a fund, by public trust, for the security and management of ocean activities
- 14) That the National Assembly holds the Chancellery to account for how Convemar has been implemented in the areas of scientific research, technology transfer, fisheries, and ecosystem conservation; provide documentation on how the signed agreements on these issues have been implemented.

- 15) The Assembly should propose an organizational or legal scheme for the incorporation of ocean and coastal public policies, taking into account the Blue Economy and maritime spatial planning.
- 16) Monitor fishing gear used by large vessels and board vessels to inspect their fishing, pursuant to the New York Agreement and Convemar's Art. 73
- 17) Lobby for the endorsement of the United Nations Convention on Marine Biodiversity beyond national borders by the end of 2020
- 18) That access to internal information for technical and scientific support be granted when the collection and research use of such information contributes to the development of maritime protection policies.
- 19) Strengthen CITES controls and permits in order to prevent illegal smuggling of shark fins or any protected or endangered species through collaboration between the Ministry of Production, Foreign Trade, Investment and Fisheries, SENA and the Ministry of Environment and Water
- 20) Renegotiate terms and timing of moratorium in which China indicated that the fleet will not fish in these waters from September to November each year., This influence of the Humboldt current reaches Ecuador months before September and November, bringing high productivity and flow of many marine species, including migratory species, with it. The main target species for fishing in this fleet are giant squid, shark and tuna. The high fishing season for giant squid is from July to October. The high fishing seasonality of tuna differs according to the species - bigeye tuna is from March to June in the first season of the year and July to October in the second season; yellowfin tuna from February to May in the first season and October and November in the second season; skipjack tuna is February, March and April in the first season and October and November in the second season. For shark species, we do not even have this data.
- 21) That the Presidents of each nation take the initiative to converse, agree and make the sea a meeting point for the effective conservation and management of natural resources; form a consensus agreement to eliminate fuel subsidy for all vessels that provide port facilities to the vessels in question.
- 22) That the Precautionary Principle established in the Rio Declaration (1992) be requested and implemented; that the Ecuadorian State assert the ability to impose restrictive measures, without the need for scientific evidence, as a precautionary measure in protection of the fishery resources, biodiversity and livelihoods of future generations.

I. COMMUNICATIONS

I provide the following email address for future communications: info@pacificolibre.com

Best regards,

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