

## Enclosure

Brussels, 4 December 2020

I would like to acknowledge receipt of your letter dated 29 November. I will respond here to the various points you raise. In all friendship and with respect, I must say up front that the accusations made in your letter are based on misrepresentations of facts and misquotes. In any case, our common objective should be to ensure that the arms embargo on Libya imposed by the United Nations Security Council, acting unanimously under Chapter VII of the Charter of the United Nations, is fully implemented. Resolution [1970 \(2011\)](#) and subsequent resolutions are legally binding on all Member States of the United Nations, including the Republic of Turkey.

According to Security Council resolutions [2292 \(2016\)](#) (paras. 3–6) and [2526 \(2020\)](#), Operation EUNAVFOR MED IRINI naval assets are allowed to inspect, seize, dispose and take further actions against vessels going to or coming from Libya which they have reasonable grounds to believe are carrying arms or related material to or from Libya directly or indirectly.

On this basis, last 22 November, Operation EUNAVFOR MED IRINI inspected the M/V *Roseline A* container ship, flying the flag of Turkey, in the Central Mediterranean. Operation IRINI had reasonable grounds to suspect that the vessel could be acting in violation of the arms embargo on Libya. The inspection was carried out by the German frigate *Hamburg*, operating under the command of Operation IRINI, after all requirements stemming from resolutions [2292 \(2016\)](#) and [2526 \(2020\)](#) were duly followed.

Allow me to remember that, pursuant to paragraph 3 of resolution [2292 \(2016\)](#), all Member States of the United Nations have a duty to cooperate with inspections undertaken in that framework. On the other hand, States and regional organizations undertaking such inspections must make “good-faith efforts” to obtain the consent of the vessel’s flag State prior to any inspections.

Operation IRINI fully complied with this obligation.

On 22 November, at 7.50 a.m., Operation IRINI sent an official flag State consent request to relevant points of contact in the Turkish Ministry of Foreign Affairs – the Director General for Bilateral Political Issues, Maritime and Aviation, the Head of Department for Arms Control and Disarmament, the Mission of Turkey to the European Union and the Turkish Embassy in Rome – as foreseen by United Nations Security Council resolution [2292 \(2016\)](#). This request was then transferred to, and handled by, the Head of the Maritime Department of your Ministry.

Similar channels of formal notification have been used by Operation IRINI in the framework of the implementation of resolutions [2292 \(2016\)](#) and [2526 \(2020\)](#) since it was launched on 31 March, and neither the United Nations sanctions committee nor any of the other flag States contacted by Operation IRINI ever questioned this method of communication. Before Operation IRINI, Operation SOPHIA had followed the same method without being ever criticized for it. The Turkish authorities are invited to designate new or additional contact points if they so wish.

Throughout the day, Operation IRINI sent several messages to officials of the Turkish Ministry of Foreign Affairs, the Turkish Delegation to the European Union and the Turkish Embassy in Rome, using official email accounts and receiving notifications that the messages were received and read. Operation IRINI made repeated phone call attempts to the same contact points. Three conversations with the Turkish Military Attaché in Rome took place at 11 a.m., 11.44 a.m. and 12.56 p.m. Following those contacts, the Operation agreed to extend the four-hour notice by an

additional hour in order to allow the Turkish authorities to provide an answer to its flag State consent request.

Having received no denial to its formal flag State consent request, after the time had elapsed, Operation IRINI notified its contact points in the Turkish Ministry for Foreign Affairs of its intention to board the vessel at 1.02 p.m., and reiterated this intention at 3.54 p.m. In parallel, the frigate *Hamburg* had expressed the same intention directly to the master of M/V *Roseline A*, and started the boarding procedure at 3.04 p.m.

Throughout the action, Operation IRINI's boarding team acted with the highest degree of professionalism in accordance with internationally agreed procedures, including North Atlantic Treaty Organization procedures. No incident was registered either by the boarding team or by the master of the vessel or its crew.

The Turkish Military Attaché received an update on the ongoing inspection at 9.08 p.m., after which the Head of the Maritime Department of your Ministry formally notified Operation IRINI of Turkey's refusal to grant permission to inspect the vessel at 9.23 p.m. – more than 13 hours after the official flag State consent request and 6 hours into the inspection; the inspection was immediately suspended. Operation IRINI responded precisely as follows: “EUNAVFOR MED IRINI has taken note of the request of the Turkish Ministry of Foreign Affairs to conclude immediately the activity, respecting the denial of the flag State to let the Operation continue with the inspection in accordance with UNSCR 2292 (2016). Therefore, EUNAVFOR MED will now stop any further action related to the inspection on board MV *Roseline A* and will let the container ship continue with her journey.” At the time, only a limited number of containers had been inspected and no evidence of illicit material had been found. The vessel was cleared to pursue its route.

I am sorry to say that in your letter, you also misquoted my Spokesperson.

Never did the Spokesperson of the European External Action Service say or insinuate that the inspection “specifically targeted a Turkish vessel in a discriminatory manner on the basis of its nationality”, as you wrote. In his written statement published on 24 November, the Spokesperson speaking on my behalf stated that “given the pattern of navigation of this vessel, Operation IRINI had reasonable grounds to suspect that it could be acting in violation of the UN arms embargo”.

Repeated accusations by the Turkish authorities – including in your own letters to me and to the Secretary-General of the United Nations – that Operation IRINI is illegal or biased are completely false and should stop.

Operation IRINI was established legally by the European Union to contribute to the implementation of the arms embargo on Libya in accordance with Security Council resolutions 2292 (2016) and 2526 (2020). It operates within the framework of existing Security Council resolutions, which only authorize inspections of suspect vessels on the high seas – not the territorial waters of Libya – and do not authorize similar actions in the airspace or the territory of Libya.

The Operation draws, however, on naval, aerial and satellite assets to provide the broadest possible monitoring in support of the implementation of the United Nations arms embargo, regardless of provenance. The Operation has so far shown its ability to document and monitor arms embargo violations from both sides of the conflict in Libya and has reported accordingly to the United Nations.

As communicated before to your Ministry, when the European Union agreed to launch a new operation to contribute to the implementation of the United Nations arms embargo on 17 February 2020, a public announcement was issued the same day. Operation IRINI operates on the high seas and not on the territorial waters of Libya,

pursuant to resolutions adopted under Chapter VII of the Charter, and not on request of the Government of National Accord. However, the European External Action Service has been fully transparent throughout the planning phase and since the Operation was launched on 31 March. The European Union Delegation to Libya discussed the plans for the new Operation on several occasions with representatives of the Government of National Accord up to the ministerial level. So did I with my counterpart, both orally and in writing.

Although Operation IRINI is a European Union-only operation, the European Union remains open to informal consultations with any partner on its internal planning, consistent with the principle of autonomy of decision-making of the European Union. Following Turkey's request for consultations on this matter, the Council's Political and Security Committee agreed to hold a physical meeting in the PSC+8 format. Due to the coronavirus disease (COVID-19) crisis, this meeting was finally held on 10 September, and Operation IRINI featured indeed on the agenda. Many of the points made in today's letter had already been explained to your Ambassador on that occasion, but it is my pleasure to reiterate them again with the aim to avoid any further misunderstandings.

In closing, I would like to stress once more the European Union's call on Turkey to abide by its international obligations and to cooperate with the European Union in the framework of the implementation of the United Nations arms embargo on Libya. We should concentrate common efforts on this issue.

(Signed) J. Borrell Fontelles