

21 May 2013 / 21 mai 2013

IOTC CIRCULAR 2013-50 / CIRCULAIRE CTOI 2013-50

SUBJECT: COMMUNICATION FROM THE UNITED KINGDOM ON BEHALF OF ITS INDIAN OCEAN TERRITORIES

Dear Sir / Madam,

Please find attached communication from UK (OT) regarding a fishing vessel identified as having carried out IUU fishing activities in the UK (OT) waters.

SUJET: COMMUNICATION DU ROYAUME-UNI AU NOM DE SES TERRITOIRES DANS L'OCEAN INDIEN

Madame, Monsieur,

Veuillez trouver en pièce jointe une communication du Royaume Uni (Territoires) concernant un navire de pêche qui a été identifié comme ayant conduit des activités de pêche INN dans les eaux du Royaume Uni (Territoires).

Yours sincerely/cordialement,



Rondolph Payet

Executive Secretary / Secrétaire Exécutif

Attachments / Pièces joint

- Letter from UK/ Lettre de UK
- IOTC IUU reporting form / Formulaire CTOI de déclaration d'activité illégale
- Inspection report (Seulement disponible en Anglais)
- Court Proceedings (Seulement disponible en Anglais)

Distribution / Destinataires

IOTC Members / Membres de la CTOI: Australia, Belize, China, Comoros, Eritrea, European Union, France (Territories), Guinea, India, Indonesia, Iran (Islamic Rep of), Japan, Kenya, Rep. of Korea, Madagascar, Malaysia, Maldives, Mauritius, Mozambique, Oman, Pakistan, Philippines, Seychelles, Sierra Leone, Sri Lanka, Sudan, United Rep. of Tanzania, Thailand, United Kingdom (OT), Vanuatu, Yemen.

Cooperating non-Contracting Parties / Parties coopérantes non-contractantes: Senegal, South Africa.

Chairperson IOTC / Président de la CTOI

Copy to / Copie à: FAO Headquarters, FAO Representatives to CPCs

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Letter from UK



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Mr Rondolph Payet
Executive Secretary
Indian Ocean Tuna Commission
Mahe
Seychelles

15 May 2013

cc. Mr Herminio Tembe, Chair of the Compliance Committee; Mr Hosea Gonza Mbilinyi Vice Chair

Dear Rondolph,

Resolution 11/03. On establishing a list of vessels presumed to have carried out illegal, unregulated and unreported fishing in the IOTC area; Laksha Duwa.

Please find attached, as required under resolution 11/03, details of one vessel flagged to Sri Lanka engaged in IUU fishing in BIOT waters. The vessel did not pay its fine and was impounded. No further action is required. The Sri Lankan Authorities have been notified of the actions taken.

Please circulate these details for the attention of the Compliance Committee, thank you.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'C.C. Mees', is written over a faint, circular official stamp.

Dr C.C. Mees
Head of UK-OT Delegation

IOTC Reporting form for Illegal Activity

Recalling IOTC Resolution 2011/03 *On establishing a list of vessels resumed to have carried out illegal, unregulated and unreported fishing in the IOTC area*, attached are details of illegal activity recorded in the British Indian Ocean Territory.

A. Details of Incident(s)

(Please detail the incidents(s) in the format below)

Item	Definition	Indicate
a	Current Name of Vessel (Previous names)	Lakshi Duwa 5
b	Current Flag (previous flag)	Sri Lanka
c	Date first included on IOTC IUU Vessel List	n/a
d	Lloyds IMO Number/IMUL/IOTC number	
e	Photographs	
f	Call Sign (previous call sign)	n/a
g	Owner / Beneficial Owners	Mr Manawadulge Krishan Harajith Fernando
h	Operator (previous operators)	
i	Date of Activities	21/02/2013
j	Position of Activities	07° 42.10S 071° 23.56E
k	Summary of IUU Activities	Fishing without a licence, possession of prohibited gear
l	Summary of Actions Taken	Vessel arrested, court case held 5 th March 2013. Skipper pleaded guilty to fishing in BIOT waters. All fishing gear confiscated. Fine £16,000; Court Costs £700. Total £16,700.
m	Outcome of Actions Taken	Fine not paid. Vessel impounded and crew deported to Sri Lanka

B. Details of IOTC Resolution Elements Contravened

(Indicate with a "X" the individual elements of IOTC Resolution 11/03 contravened, and provide relevant details including date, location, source of information. Extra information can be provided in an attachment if necessary.)

Item	Definition	Indicate
a	Harvest tunas and tuna-like species in the IOTC Area and are not registered on the IOTC Record of Vessels authorised to fish for tuna and tuna-like species in the IOTC area	
b	Harvest tuna and tuna-like species in the IOTC Area, whose flag state is without quotas, catch limit or effort allocation under IOTC conservation and management measures where appropriate	
c	Do not record or report their catches made in the IOTC Area, or make false reports	
d	Take or land undersized fish in contravention of IOTC conservation measures	
e	Fish during closed fishing periods or in closed areas in contravention of IOTC conservation measures,	
f	Use prohibited fishing gear in contravention of IOTC conservation measures	x
g	Tranship with, or participate in joint operations such as re-supplying or re-fuelling vessels included in the IUU Vessels List,	
h	Harvest tuna or tuna-like species in the waters under the national jurisdiction of a coastal State in the IOTC Area without authorisation and/or infringes its laws and regulations, without prejudice to the sovereign rights of coastal States to take measures against such vessels	X
i	Are without nationality and harvest tunas or tuna-like species in the IOTC Area	
j	Engage in fishing activities contrary to any other IOTC conservation and management measures	

C. Associated Documents

Appendix 1) Inspection report; Appendix 2) Record of Court Proceedings

D. Recommended Actions

Recommended Actions		Please Indicate
a	Notification to IOTC Secretariat only. No further action is recommended.	X
B	Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag state.	
c	Recommended for inclusion on IOTC IUU list	

Note : ce qui suit est la traduction d'un courrier en Anglais reçu par le Secrétariat. Pour plus de détails, se reporter à l'original.

Lettre du Royaume-Uni



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M Rondolph Payet
Secrétaire exécutif
Commission des thons de l'océan Indien
Mahe
Seychelles

15 mai 2013

Cc. M. Herminio Tembe, président du Comité d'application ; M. Hosea Gonza Mbilinyi, vice-président du CdA

Cher Rondolph,

Résolution 11/03. Résolution 11/03 Visant à l'établissement d'une liste de navires présumés avoir exercé des activités de pêche illégales, non déclarées et non réglementées dans la zone de la convention ; Laksha Duwa.

Veuillez trouver ci-jointes, comme requis par la résolution 11/03, des informations sur un navire battant pavillon du Sri Lanka engagé dans des activités de pêche INN dans les eaux du BIOT. Le navire n'a pas payé l'amende et a été mis en fourrière. Aucune autre action n'est requise. Les autorités sri-lankaises ont été informées des mesures prises.

Merci de bien vouloir diffuser ces informations au Comité d'application.

Cordialement,

A handwritten signature in black ink, appearing to read 'C.C. Mees'.

Dr C.C. Mees
Chef de la délégation du Royaume-Uni près la CTOI

Note : ce qui suit est la traduction d'un courrier en Anglais reçu par le Secrétariat. Pour plus de détails, se reporter à l'original.

Formulaire CTOI de déclaration d'activité illégale

En rapport avec la Résolution 11/03 visant à l'établissement d'une liste de navires présumés avoir exercé des activités de pêche illégale, non réglementée et non déclarée dans la zone de compétence de la CTOI, veuillez trouver ci-dessous des informations sur des activités illégales observées XXX.

A. Détails des navires.

(Décrire le(s) incident(s) dans le tableau ci-dessous)

Item	Définition	Détails
a.	Nom du navire et nom(s) précédent(s) si applicable.	Lakshi Duwa 5
b.	Pavillon du navire et pavillon(s) précédent(s) si applicable.	Sri Lanka
c.	Date de première inscription du navire sur la Liste de navires INN de la CTOI.	
d.	Numéro Lloyds/IMO ou numéro d'immatriculation national.	
e.	Photos du navire, si disponibles.	
f.	Indicatif d'appel radio et indicatif d'appel radio(s) précédent(s) si applicable.	n/a
g.	Armateur(s) du navire et armateur(s) précédent(s), y compris les propriétaires en équité, si applicable.	M. Manawadulge Krishan Harajith Fernando
h.	Opérateur(s) du navire et opérateur(s) précédent(s) si applicable.	
i.	Date des activités INN	21/02/2013
j.	Localisation des activités INN	07° 42.10S 071° 23.56E
k.	Résumé des activités INN.	Pêche sans licence, détention d'engin de pêche prohibé
l.	Résumé des actions prises	Navire arrêté, affaire jugée le 5 mars 2013. Le capitaine a plaidé coupable de pêche dans les eaux du BIOT. Tous les engins de pêche ont été confisqués. Amende : 16 000€ ; frais de justice : 700€ ; Total : 16700€
m.	Résultat des actions prises	L'amende n'a pas été payée. Le navire a été mis en fourrière et l'équipage a été expulsé vers le Sri Lanka.

B. Détails des clauses de la résolution de la CTOI violées.

(Indiquer d'un « X » les clauses de la résolution 2011/03 concernées et fournir des détails pertinents, y compris la date, le lieu, la source de l'information. Des informations supplémentaires peuvent être fournies en pièce jointe si nécessaire).

Item	Clause	Concernée
a.	pêchent des thons et des thonidés dans la zone de compétence de la CTOI et ne sont pas inscrit au Registre CTOI des navires autorisés à pêcher dans la zone de compétence de la CTOI	
b.	pêchent des thons et des thonidés dans la zone de compétence de la CTOI et que leur État de pavillon n'a pas de quota de captures, de limites de prises ou d'allocation d'effort au titre des mesures de conservation et de gestion de la CTOI, si applicable	
c.	n'enregistrent ou ne déclarent pas leurs prises réalisées dans la zone de compétence de la CTOI selon les conditions de déclaration de la CTOI, ou falsifient leurs déclarations	
d.	capturent ou débarquent du poisson en contravention des mesures de conservation et de gestion de la CTOI	
e.	pêchent durant une période de clôture de la pêche ou dans des zones fermées, en contravention des mesures de conservation et de gestion de la CTOI, ou	
f.	utilisent des engins prohibés en contravention des mesures de conservation et de gestion de la CTOI	X
g.	transbordent vers, ou participent à des opérations (telles que réapprovisionnement ou ravitaillement) avec, des navires inscrits sur la liste des navires INN	
h.	pêchent des thons et des thonidés dans les eaux territoriales d'un état côtier de la zone de compétence de la CTOI sans autorisation ou en contravention des lois et règlements nationaux (sans porter atteinte aux droits souverains des États côtiers de prendre des mesures contre lesdits navires)	X
i.	n'ont pas de pavillon et pêchent des thons et des thonidés dans la zone de compétence de la CTOI	
j.	se livrent à des activités de pêche contraires à toute autre mesure de conservation et de gestion de la CTOI	

C. Documents associés

Annexe 1) Rapport d'inspection

Annexe 2) Compte-rendu du jugement

D. Actions recommandées

(Indiquer d'un « X » les actions concernées)

Item	Actions recommandées	Concernée
a	Notification uniquement au Secrétariat. Pas d'autre action recommandée.	X
b	Notification au Secrétariat. Notification recommandée à l'État du pavillon.	
c	Recommandation d'inclusion sur la Liste INN de la CTOI	

BOARDING REPORT

DATE: 21st February 2013
VESSEL: LAKSHI DUWA 5
CALL SIGN: N/A
IMO N°: NA
IMUL N°: IMUL- A-
MASTER: Mr CRISHAN FERNANDO

1. SFPO: Robert Clark

II. BOARDING PURPOSE: Sailing away from Pitt Bank under suspicious circumstances.

1. Introduction

On the 21st February 2013 the BIOT patrol vessel "Pacific Marlin" (BPV) was conducting a routine fisheries patrol, (BIOT 395) in Inner Sector 5. The BPV had departed Diego Garcia at 18:00hrs on the 20th February 2013.

19:11 Mr Pilapil the Officer of the Watch (OOW) called the Senior Fisheries Protection Officer (SFPO) Mr Clark to the bridge when a suspected radar contact was noted. The SFPO observed the target and confirmed that a possible target vessel had been acquired on radar with the following details;

Position 07° 42.10S 071° 23.56E

Course 212°

Range 7.85nmls

Bearing 311°

Speed 4.2kts

The suspect vessel was placed under remote observation as the position at which the vessel signature was acquired, was noted to be approximately 160nmls from the nearest exit from the EFZ and inside British Indian Ocean Territory (BIOT) jurisdiction, by radar and its actions monitored. It was noted that the behaviour of the fishing vessel altered on a number of occasions in the following circumstances.

19:15 suspected Fishing Vessel (FV) observed to alter course to 180° and lift its speed to 5kts. This course was directly towards the BPV.

19:25 suspected FV was observed to alter its course to 090° and lifted speed to 7kts. It is believed that the FV had sighted the BPV at this point.

Based upon its altered behaviour and uplift in speed the SFPO requested that the Fast Reaction Craft (FRC) be launched at a distance of 4nmls from the FV so that the FV could be brought to a halt before last light.

The general characteristics of the day were of part cloudy skies, calm seas, low wind at between 0 and 2ms setting sun but clear visibility.

19:35 FRC1 launched with SFPO Clark and Fisheries Protection Officer (FPO) Perris, who would act as interpreter for the boarding.

2. Boarding Details

19:42 The FRC arrived at the FV and circled the vessel two times. During these passes it was noted that the vessel had the name painted to her port and starboard bows in Signalise, to the starboard and English to the Port and it read LAKSHI DUWA 5.

19:44 boarding party on decks at position **07° 44.183S 071° 26.173E** and were met by 4 men. Through the interpreter FPO Perris the SFPO asked the skipper to identify himself and Mr **Crishuan Fernando, DOB 29th June 1977** came forward. The balance of crew was requested to muster to the forward bow, which they did. For

the remainder of the boarding the SFPO asked all questions and received all responses through FPO Perris acting as translator.

The SFPO noted upon boarding the vessel that it had fishing flags and gear propped against the main mast with lines attached, in a position ready to deploy. This would be unusual for a vessel simply in transit as they would normally pack all fishing poles by lashing them to the main mast. It was more consistent with a fishing vessel that was ready to start fishing.

The SFPO requested Mr Fernando to open all holds and to remove the black plastic cover from his long line bin. This request was followed without any delay.

Mr Fernando was asked the following questions relating to his behaviour.

Where are you heading? He replied, Sri Lanka we are going home because one man has an injury and he is in bed.

What is his injury? He replied, shark teeth on the foot.

When did this happen? He replied, a few days ago.

Have you been fishing today? He replied, no.

When did you last fish? He replied, about 8 days ago near to Somalia.

What course do you need to sail to reach Sri Lanka from this place? He replied, don't know.

The SFPO made a radio call to the BPV and requested a course for Sri Lanka from that position. He was advised that the course would be between 75 and 80°.

The SFPO then continued with his questioning.

Why if you are heading to Sri Lanka were you on a course of 212° when we first observed your vessel when Sri Lanka is approximately 75 to 80° from here? He replied, had fallen asleep and only woke up when seen ship.

Ok when you woke up what course did you change to? He replied; don't know just started sailing away.

I will tell you that you changed to 180° and then 90° and neither of these courses would take you to Sri Lanka from here. He replied, sorry.

Why are you sorry? He replied, please give one chance sir.

At this point the SFPO requested that the top fish from each hold be brought up and placed upon the deck.

This was done and two Silvertip sharks were placed onto the decks. Both were showing signs of recently being caught, clear eyes, and stiff flesh with blood running freely from the gutted carcass onto the decks. As both of these fish were Silvertip Sharks, a species known to inhabit drop offs, reefs, lagoons and other shallow water areas the SFPO asked where they had been caught. Mr Fernando replied, 8S 67E.

SFPO Clark made a radio call to the BPV and asked for details of that area and it was replied that the position was outside the BIOT EFZ and was deep water showing between 2500m and 3000m in depth. This was therefore inconsistent with the habitat known for this shark.

The SFPO continued to question Mr Fernando.

Do you know where you are? He replied, no.

I put it to you Mr Fernando that these sharks were caught recently, within the last 48 hours and inside these waters as they are a species that is known to inhabit reefs and shallow areas. Do you have anything to say? He replied, no sir, please give chance.

SFPO Clark then looked inside the line bin and found that it was fully loaded with hooks and all were attached to wire trace.

SFPO Clark asked Mr Fernando, do you know this is illegal here in BIOT? He replied, yes but not using here.

20:04 SFPO Clark cautioned Mr Fernando and placed FV under arrest for suspected illegal fishing and possession of illegal fishing gear.

Upon entering the wheelhouse the SFPO found one man in the lower portside bunk. This man was noted to have a white bandage around his left foot and SFPO Clark asked for the bandage to be removed so he could see the wound.

The Man removed the bandage and 2 cuts were observed to the left foot, all looked fresh and were open with no healing this was consistent with cuts of only a few hours of age.

The SFPO then questioned the man with the wounded foot with the use of interpreter Mr Perris.

How did this happen? He replied, shark teeth.

How long ago? He replied, 8 days.

Were you injured today as these cuts look fresh? He replied, no sir 8 days.

SFPO Clark then turned to the skipper Mr Fernando and continued to process the arrest.

Do you have a fishing logbook? He replied, no.

Do you have any identity cards or fishing licences for you and your crew? He replied, no.

Do you have any weapons on board this vessel? He replied, no.

Do you have any explosives on board this vessel? He replied, no.

Do you have any poisons on board this vessel? He replied, no.

Are there any medical problems? He replied, yes.

Details of the medical problems;

Man with injured foot.

What is his name? Samera Laksan

Other man with abscess on his finger

What is his name? Chamara Kumara

The SFPO then asked. Who is the owner of this vessel? Mr Fernando, replied, Susil Fonseka.

Do you know his address? He replied, can't remember.

What are the names and addresses of your crew?

Name	Address
Mr Crishuan Fernando (skipper)	75/15 Bangerawala, Beruwala
Cuwyn Dawa Fernando	26/21E Massala Bangala Watha Beruwala
Samera Laksan	Banura Watha, Beruwala
Chamara Kumara	27/26 Bandara Watha, Beruwala
Prebep Fonseka	97/14 Senawatha, Aluth Gama

Do you have any infestation on the vessel such as spiders, cockroaches? He replied, we have cockroaches.

Do you have any spiders? He replied, no.

20:10 SFPO recovered two Garmin GPS128 electronic navigation sets from the FV and two radio microphones. Mr Fernando was issued with a VHF radio set to channel 8 and instructed by Mr Perris in its operation.

20:30 SFPO instructed two crew men of the FV to pack their belongings as they would transfer to the BPV.

3. Recovery

20:40 boarding party and 2 fishermen disembarked the FV

20:43 FRC1 recovered to BPV

Robert Samuel Clark / BIOT Senior Fisheries Protection Officer

21st February 2013



Magistrates Court
Diego Garcia
British Indian Ocean Territory

RECORD OF PROCEEDINGS 05 MARCH 2013

Case number: 04/13

Name: MR MANAWADUGE KRISHAN HARAJITH FERNANDO

Employee: Master of FV Lakshi Duwa 5

The above named person appeared in the Magistrates Court on the fifth day of March 2013 on the following charges:

STATEMENT OF OFFENCE

Fishing without a licence in BIOT waters contrary to Sections 7(1) & 7(2)(i) of the Fisheries (Conservation and Management) Ordinance 2007.

Possession Prohibited Fishing Gear contrary to Section 6(2) of the Fisheries (Conservation and Management) Ordinance 2007

PARTICULARS OF OFFENCE

That being the Master of fishing vessel 'Lakshi Duwa 5', did between the 19th day of January 2013 and 22nd day of February 2013 fish within the waters of the British Indian Ocean Territory without a license contrary to Section 7(1) and Section 7(2)(i) of the Fisheries (Conservation and Management) Ordinance 2007.

That being the Master of fishing vessel 'Lakshi Duwa 5', did on the 21st day of February 2013, have in your Possession Prohibited Fishing Gear namely wire trace line in British Indian Ocean Territory waters Contrary to Section 6(2) of the Fisheries (Conservation and Management) Ordinance 2007.

Mr Fernando pleaded guilty to the charges and was sentenced to:

Pay a fine of 10,500 GBP
Pay a fine of 5,500 GBP
Forfeit fishing equipment to the crown
Pay 700 GBP Court costs

All fines must be paid on or before the 5th of April 2013

If you wish to appeal the sentence you can do so by contacting myself or
BIOTAdmin@fco.gsi.gov.uk before 5th of April 2013

K.A.Hope

Mr Kyle Hope
Kyle.Hope.UK@fe.navy.mil
Clerk of the Magistrates Court
British Indian Ocean Territory

