

IUU fishing in BIOT waters by fishing vessels flagged in Sri Lanka.

10th IOTC Compliance Committee Meeting, 2013

1. Introduction

At the 9th IOTC Compliance Committee Meeting in 2012 UK(BIOT) presented a note outlining a history of persistent IUU fishing in BIOT waters by Sri Lankan flagged fishing vessels over many years (IOTC-2012-CoC09-08b[E]). That note raised concerns about the ability of the Sri Lankan Competent Authorities to meet international obligations including IOTC Conservation Management Measures (CMMs) and sought commitments on a way forward to address this issue.

The UK(BIOT) and Sri Lankan Authorities established a bilateral mechanism for exchanging information on IUU vessels during 2011 further reinforced following the discussions held in Freemantle in 2012. This mechanism has been working well and closer collaboration with the Sri Lankan authorities is welcomed in order to combat IUU.

This note summarises details of IUU fishing in BIOT waters by Sri Lankan fishing vessels submitted to IOTC since the 9th Compliance Committee meeting in April 2012 (April 2012-March 2013). Whilst we indicate continuing IUU activity in BIOT waters, we also note that the Sri Lankan Authorities have taken steps to build capacity and address some of the issues raised last year. The aim of this paper is to highlight particular areas of concern that remain to be addressed, and to encourage continued support for action by Sri Lanka to combat IUU.

2. IUU by Sri Lankan fishing vessels in BIOT Waters

The Report of the Sixteenth session of the IOTC, Freemantle, 22-26 April, 2012 indicates:

53. The Commission REQUESTS Sri Lanka provide monthly reports including evidences of the actions it had taken against IUU vessels in a standardised format into the future, irrespective of whether new information had become available, for each of the vessels reported to IOTC for IUU fishing.

54. The Commission REQUESTS that Sri Lanka provide information on their schedule (road map) for the implementation of the vessel monitoring scheme, and regular updates on the passage of new domestic requirements for a high-seas licensing regime, to the Secretariat for circulation to the Commission.

59. The Commission AGREED to retain the Speed Bird 3 on the Provisional IOTC IUU Vessels List, as permitted under Resolution 11/03 para. 14, until legal proceedings against the vessel have been finalised, and the outcomes communicated to the Commission via the Secretariat. The Commission will then undertake the intersessional decision process established in Resolution 11/03 para.14, with a view to taking a final decision on the vessel.

60. The Commission AGREED to retain the Muthukumari on the Provisional IOTC IUU Vessels List, as permitted under Resolution 11/03 para. 14, until actions against the vessel have been finalised, and the outcomes communicated to the Commission via the Secretariat. The Commission will then undertake the intersessional decision process established in Resolution 11/03 para. 20-24, with a view to taking a final decision on the vessel.

We note that in accordance with the requirements of the Sixteenth session of the IOTC set out above a total of 11 monthly reports have been submitted by Sri Lanka (IOTC Circulars 2012-50; 59; 65; 80; 83; 86; 89; 92 and 2013-08; 2013-22, and a letter dated 28/03/13 yet to be circulated). Details of the requested 'roadmap' were provided in Circular 2012-55.

Table 1 summarises the details for the two vessels Speed Bird 3 and Muthu Kumari retained on the provisional IUU list. Sri Lanka requested their removal from the Provisional IUU list on 15/03/13 initiating an intersessional process (Resolution 11/03) that was not fully resolved by the deadline for submission of this paper (IOTC Circular 2013-32). We note that Paragraph 14 of Resolution 11/03 (cited in paras 59/60 of S16) relates to adding vessels to the IUU list. Paragraphs 20-24 of Resolution 11/03 relate to removing vessels from the IUU list but do not explicitly refer to the procedure for removal from the Provisional IUU list.

Table 2 provides details of IUU activity in BIOT waters by Sri Lankan flagged vessels arrested and or reported to IOTC since April 2012. We draw attention to the fact that Chandra Kala had previously been guilty of IUU fishing in BIOT waters and was already included in monthly reports by Sri Lanka. Circular 2012-50 with the monthly report of 28 May 2012 indicated that this vessel had been sold to a new owner and was operating under the close supervision of DFAR. On 21 June 2012 the same vessel with the same skipper was arrested in BIOT again. We are alarmed therefore that the same skipper guilty of IUU remained with the vessel under new ownership. It draws into question what the 'close supervision of DFAR' entails? It demonstrates that new ownership is not an adequate response to address IUU.

Table 3 indicates details of three Sri Lankan vessels observed in BIOT waters by the Greenpeace vessel Rainbow Warrior including alleged IUU and the subsequent response of the Sri Lankan Authorities. When notified of the vessel sightings the BIOT Patrol Vessel was already on another mission but diverted to investigate the alleged IUU. Rainbow Warrior did not shadow the Sri Lankan vessels and did not provide their course or speed. No vessels were detected at or around the position given by the time the patrol vessel arrived and no further action was taken. The details recorded by Greenpeace, however, serve to highlight a number of similar issues to those reported by the BIOT Authorities.

A summary of the issues raised by these cases includes:

- Due process to remove the two vessels Muthukumari and Speed Bird 3 from the Provisional IUU list intersessionally was initiated after Sri Lanka had already provided a high seas licence to Muthu Kumari.
- A number of Sri Lankan flagged and registered vessels continue to fish outside the Sri Lankan EEZ although they have no local authorisation to do so and are not on the IOTC AFV list.

- Vessels authorised by the Sri Lankan Authorities to fish outside their EEZ, and on the IOTC AFV list, continue to fish illegally in BIOT waters – The Sri Lankan Authorities are failing to maintain control over their authorised fishing fleet.
- Actions taken by the Sri Lankan Authorities against IUU vessel owners include deregistering them, removing them from the IOTC AFV list, and permitting the vessel to be sold on. It is not clear whether vessels sold on to new owners and re-registered in Sri Lanka are permitted to fish outside the Sri Lankan EEZ – this would appear to be the case from details relating to Muthu Kumari. However, this is contrary to what was reported by Sri Lanka in 2011 (new owners can only ‘obtain an operational licence for the vessel to operate in the EEZ of Sri Lanka’ (letter from the Sri Lankan authorities, 31.5.11, Circular IOTC 2011-46)). The monthly reports do not provide details of any IOTC registration numbers on the AFV list.
- DFAR permit vessels to be sold and to continue fishing under their supervision but it is not clear that supervision is effective:
 - Chandra Kala under new ownership was permitted to continue fishing with the same skipper guilty of IUU
 - Chandra Kala under “close supervision of DFAR” reoffended in BIOT waters
 - It is not clear what steps are taken, and how regularly, to verify that vessels that have been deregistered remain anchored in port and are no longer fishing.
- Vessel markings are inconsistent and do not adhere to international standards. A number of vessels displayed more than one registration number (IMUL number)
- There was no VMS on board any of the vessels
- There was no Sri Lankan logbook equivalent to the minimum IOTC standards required on board any of the vessels. No fishing operation licences were found on board any arrested vessels.

Thus based on experience of vessels arrested in BIOT we remain concerned about the capacity of DFAR to fully implement its international obligations and exert full flag state control over its very large fleet.

Table 1: Details of vessels on the provisional IUU list since CoC 9.

Vessel Name	Sri Lanka/IOTC Identification Number	Infringement	Date of Arrest	Action by Sri Lankan Authorities since CoC9	Points of clarification required
Speedbird 3	Unknown	Fishing without a licence Possession of wire trace	14/10/2011	<p>Owner fined for not registering vessel; Vessel anchored for 6 months at Beruwala Harbour 11/05/2012 to 11/11/2012 (Monthly report, June 2012, Circular 2012-59.) Since November 4 monthly report circulars have been issued all indicating 'No change' (2012-89; 2012-92; 2013-08; 2013-22).</p> <p>Vessel currently remains anchored at Beruwala Port under DFAR and Sri Lankan Navy supervision (DFAR letter dated 25/03/2013; Circular 2013-32)</p>	At the time of writing this vessel is on the provisional IUU list. A request from the Sri Lankan Authorities was submitted to the Secretariat on 15/03/2013 to remove it. Following clarification requested by UK(BIOT) that the vessel remained in port the Secretariat issued Circular 2013-32 seeking to remove the vessel from the list. This was not confirmed by the deadline for submission of this paper.
Muthu Kumari	New Registration, June 2012 IMUL-A-0583KLT	Fishing without a licence Possession of wire trace	17/10/2011	<p>Vessel deregistered; anchored in port for two months (17/10/11-24/12/11); Vessel sold, re-registered as IMUL-A-0583KLT; operating under DFAR supervision.</p> <p>Affadavit provided dated 21 January 2012 verifying sale of vessel to a new owner with no connection to original owner and that previous owner has no beneficial interest in the vessel.</p> <p>(Monthly report, 28 May 2012, Circular 2012-50.)</p> <p>Operation licence under new ownership permits High Seas fishing (DFAR letter 25/03/2013, Circular 2013-32)</p>	<p>At the time of writing this vessel is on the provisional IUU list. A request from the Sri Lankan Authorities was submitted to the Secretariat on 15/03/2013 to remove it. Following clarification requested by UK(BIOT) that the vessel was licensed for high seas fishing, the Secretariat issued Circular 2013-32 seeking to remove the vessel from the list. This was not confirmed by the deadline for submission of this paper.</p> <p>UK (BIOT) did not object to removal of the vessel from the Provisional IUU list as evidence required under Resolution 07/02 para 5d on beneficial ownership was provided to the Secretariat but we note the vessel was not immediately removed from the AFV list [on the AFV list as IMUL A 0060KLT from Feb 2011 until end 2012 and now listed under the current IMUL registration (IMUL-A-0583KLT and IOTC014449)] and that high seas fishing was permitted BEFORE the vessel was removed from the Provisional IUU list. Sri Lanka introduced its operation licence for High Seas fishing in January 2013.</p>

Table 2: Details of Sri Lankan Vessels arrested in BIOT waters and presented to IOTC under Resolution 11/03 since the 9th Compliance Committee Meeting held in Freemantle in 2012.

No.	Vessel Name	Sri Lanka/IOTC Identification Number	Infringement	Date of Arrest	Outcome	Response and action by Sri Lankan Authorities	Source of verification	Submitted to IOTC	Recommendation
1	Sunju Putha 4	IMUL-A0014KLT/ IOTC01103	Fishing without a licence Possession of wire trace	12/02/2012	Fine paid: vessel released	Cancellation of vessel registration; Cancellation of operation licence; Removed from IOTC AFV list; Anchored until 16/08/12; Sold reregistered IMUL-A-0628KLT; Operating under supervision DFAR	Letter to UK informing of deregistration and cancellation of licence; Circular 2012-80	31/05/2012 (Circular 2012-51)	No further action Clarification sought whether vessel under new registration is on the AFV list?
2	Chandra Kala	IMUL-A-0012-KLT IMUL-A-0537 KLT (Not on IOTC List of Authorised vessel)	Fishing without a licence Possession of wire trace and harpoon This was a second offence by the same vessel and skipper	21/06/2012	Fine paid: vessel released	Deregistered with effect from 16/08/12 (Circular 2012-80 – no subsequent change reported)	Letter to UK informing of deregistration and cancellation of licence	05/09/2012 (Circular 2012-79)	No further action Clarification sought that this vessel is no longer fishing
3	Sulara	IMUL- A-0124-KLT (IOTC011019) and IMUL- 9-7810-KLT	Fishing without a licence and obstructing a fisheries officer in the execution of his duties	29/01/2013	Fine paid: vessel released	Cancel operation licence; deregistered; Vessel to be anchored in port for 6 months from 13/03/2013 (bilateral comms); Removed from AFV list (Circ 2013-22)	Circular 2013-22 and bilateral communication with Annexes, 15/03/13	20/03/2013	No further action
4	Lakshi Duwa 5	None visible (Not on IOTC List of Authorised vessel)	Fishing without a licence Possession of prohibited fishing gear	21/02/2013	Fine issued (5/3/13 have until 5/4/13 to pay)	Fine not paid by the deadline for submission of this report, therefore no bilateral discussions have taken place to date			Recommend notification of activity to flag state. Subsequent reporting to IOTC

Table 3: Vessels detected in BIOT waters as reported by Greenpeace to the UK and Sri Lankan Authorities, two of which subsequently reported to IOTC

No.	Vessel Name	Sri Lanka/IOTC Identification Number	Infringement given by Greenpeace	Date of Observation	Response and action by Sri Lankan Authorities	Source of verification
1	Chejana	IMUL-A-1293MTR (Not on IOTC List of Authorised vessel)	Reported to IOTC. Vessel has been fishing in the IOTC area without being registered in the IOTC vessel registry. Possible fishing activities in the Chagos marine reserve (no conclusive proof).	24/10/2012	Cancellation of operation licence for two months	Letter to IOTC Secretariat 3/12/12 from Sri Lankan authorities
2	(IMASHA02)	IMUL-A-0352KLT (IOTC011501)	Reported to IOTC. Vessel has been fishing in the IOTC area without being registered in the Record of Vessels Authorised to Operate in the IOTC Area*. Having thresher sharks (family Alopiidae) onboard. Possible fishing activities in the Chagos marine reserve (no conclusive proof).	24/10/2012	Cancellation of operation licence for two months	Letter to IOTC Secretariat 3/12/12 from Sri Lankan authorities
3		IMUL-A-0341KLT (IOTC011118)	Not inspected by Greenpeace	24/10	Cancellation of operation licence for two months	Letter to IOTC Secretariat 3/12/12 from Sri Lankan authorities

* A vessel with this IMUL number appears on the IOTC list of Authorised Vessels, IOTC011501

3. Sri Lanka's 'Roadmap' and capacity building

IOTC Circular 2012-55 sets out Sri Lanka's 'Road-map' for fulfilment of IOTC compliance requirements. We note that:

- Updated fisheries legislation incorporating international obligations and a licensing procedure for Sri Lankan vessels on the high seas vessels, including deterrents against IUU, is scheduled for completion in April 2013. In the interim a permit/licensing system was introduced with effect from 2013 complying with the conditions of international conventions, agreements and resolutions. Once the new Fisheries Act is passed this will be incorporated into the regulations. All Sri Lankan vessels on the IOTC/AFV should carry this Operation License on board during each fishing trip.
- It is planned to implement a vessel monitoring system (VMS) from June 2013. We understand that this will initially be on about 1000 vessels increasing over time to cover all the fleet.
- Port sampling will be expanded with the assistance of OFCF. This element of the Roadmap acknowledges that it is mandatory to provide catch data to IOTC but we note however that no reference is made to logbook data in addition to that required through the Regional Observer Programme and port sampling. We have however separately been informed that log book requirements were implemented during 2012 but the format of the logbook will be updated according to IOTC resolution 2012/03 and will be introduced from 2014.

It is anticipated these actions have the potential to address many of the issues raised in this paper and we look forward to their successful implementation during 2013. We fully encourage continued action by Sri Lanka to combat IUU and manage their fleet. We recognise that this is a process and encourage efforts to build capacity within Sri Lanka to fully implement the requirements of the new legislation. We are aware of a number of capacity building exercises, planned or that have taken place, for example:

- DFAR have implemented IUU awareness campaigns amongst fishermen in Sri Lanka.
- The IOTC Executive Secretary undertook a mission to Sri Lanka in 2012 and at the same time took the opportunity to discuss the issues related to IOTC engagement with DFAR.
- The IOTC-OFCF project has worked with the Sri Lankan Authorities in order to update tuna and shark monitoring protocols to IOTC standards. Selected species identification keys and cards have been provided. Support from the OFCF ended, 1st March 2013
 - Support to data collection in 2005-06 (1 year): Funds provided to increase sampling effort; minor improvements to data collection strategy.
 - Support to the development of a Centralized Database System in 2011 (5 months). The database still needs work as the logbooks and NARA database cannot yet be incorporated and the system uses aggregated rather than raw data.
 - Short-term support to data collection in 2012-13 (4 months): Further modified the sampling strategy and database. Sampling effort has increased from 9 to ~41 enumerators. The Pelagos database was modified to incorporate the new data collected (and is being tested. Verification and validation yet to be added.

Improvements needed in reliability of data from inspectors (e.g. species identification, sampling strategy to be better randomised and representative).

- The UK DEFRA-Darwin Initiative will fund a 3 year project 2013-17 focussed on elasmobranch fishing (the primary target of IUU vessels in BIOT) by the Sri Lankan multiday fleet that includes capacity building amongst its objectives, specifically:
 - Streamlining data collection protocols and developing sampling strategies.
 - Providing training courses in data sampling and improved monitoring
 - Providing training courses in Monitoring Control and Surveillance.

This project involves a partnership between a number of organisations including¹ the Sri Lankan and BIOT Administrations, and IOTC-OFCF in order to streamline reporting requirements, and avoid any duplication of effort. It will build on and enable some of the work of the IOTC-OFCF to continue, including through BOBLME as a partner on the project.

- The IOTC Secretariat undertook a Compliance Support Mission (CSM) and Port State Measures (PSM) Training in Sri Lanka in February 2013. The CSM's objective was to look at the challenges that Sri Lanka is facing to improve their compliance status and build an action plan to overcome these challenges.
- Fishing industry initiatives exist, for example, 'A model for traceability in the fishing industry: a case study of Sri Lanka' being implemented by Seachill.

4. Actions required

Whilst largely an information paper, these details are brought to the attention of the Compliance Committee for consideration and we seek:

- Muthu Kumari was permitted to fish on the high seas before removal from the Provisional IUU list. In future due process should be followed as set out in Resolution 11/03. We note however that Resolution 11/03 should explicitly allow for the intersessional removal of vessels from the Provisional IUU list as well as from the IUU list;
- Clarification whether vessels sold on and operated under new ownership with DFAR supervision are authorised to fish outside the Sri Lankan EEZ – has the position changed from that stated in 2011? This has been confirmed for Muthu Kumari, but is it the case for all vessels included in the monthly reports to IOTC;
- Continued monthly reporting to IOTC to include, where a vessel has been sold and re-registered, the name of the past and present owner, the name of the past and present fishing skipper, and, details of any IOTC AFV list numbers (if relevant) and the necessary evidence required under Resolution IOTC 07/2² to enable them to be put back on the AFV list – all new cases should be added to the monthly reports;

¹ Sri Lanka, Ministry of Fisheries & Aquatic Resources Development (MFARD) Department of Fisheries and Aquatic Resources (DFAR) and National Aquatic Resources Research and Development Agency (NARA); BIOT Authority; IOTC-OFCF; MRAG Ltd (project managers); Manta Trust; WWF-Pakistan; Bay of Bengal Large Marine Ecosystems Project (BOBLME); RFLP; Shark Specialist Group (SSG) of the International Union for Conservation of Nature (IUCN); and International Seafood Sustainability Foundation (ISSF).

² Resolution 07/02 para 5d indicates the evidence required by the Commission in that case:

d) ensure that their AFVs on the IOTC Record have no history of IUU fishing activities or that, if those vessels have such history, the new owners have provided sufficient evidence demonstrating that the previous owners and

- An intersessional update at the end of October 2013 of the status of implementation of the roadmap, including details of key actions taken to implement the new fisheries legislation. This could also usefully identify gaps in capacity, list existing and planned capacity building exercises, and outline a plan for securing and developing capacity. It could also include progress on the action plan to improve their compliance status developed following the Secretariat's CSM visit.
- Continued support from the Secretariat and the IOTC and wider community to build capacity within Sri Lanka (and the region) to enable fulfilment of compliance requirements.

operators have no legal, beneficial or financial interest in, or control over those vessels, or that having taken into account all relevant facts, their AFVs are not engaged in or associated with IUU fishing;