

## **Report on illegal fishing in BIOT waters by the Taiwan flagged vessel Maan Yih Feng**

### **11<sup>th</sup> IOTC Compliance Committee Meeting, 2014**

#### **1. Introduction**

This report is supplementary to the 'IOTC Reporting Form For Illegal Activity' (Resolution 11/03) for the Taiwanese vessel Maan Yih Feng submitted by the BIOT Administration to the IOTC Compliance Committee. Here we summarise the events and set out our case for recommending inclusion of this vessel on the IOTC IUU list.

On the 10th June 2013 the BIOT Patrol Vessel (BPV) detected the Taiwan flagged vessel Maan Yih Feng (IOTC No. 900042377) hauling its lines approximately 3nm within the BIOT MPA. Despite repeated requests the vessel refused to stop and allow the Senior Fisheries Protection Officer (SFPO) to board. Initially the vessel cut its line and waited outside the MPA boundary but was observed attempting to recover the line throughout the night. Eventually it abandoned the gear and left the scene. The gear was subsequently recovered by the BPV.

The BIOT Administration immediately notified the Taiwanese Authorities, and close correspondence, including meetings at a diplomatic level, was maintained with the Taiwanese Authorities throughout the proceedings in an attempt to achieve a satisfactory outcome, which at the time of writing, 70 days prior to the Compliance Committee has not yet occurred, although we wish to thank the Taiwanese Authorities for their cooperation in securing the vessel while this is in progress.

The vessel was ordered to return to port in Donggang by the Fisheries Agency of Taiwan arriving on 7th July 2013. A summons was issued by the BIOT Administration (BIOTA) for the vessel Master to appear in the BIOT Magistrates court on 11th August 2013. The trial was eventually held on 22nd October 2013. Neither the captain nor owner was present, but the owner produced a signed statement which was read out in court. The vessel (owner) was found guilty of:

- fishing without a license in BIOT waters;
- failure to cooperate with SFPO; and,
- abandoning fishing gear.

A fine of £195,000 plus £5,000 costs was imposed for fishing without a licence with 21 days to pay. The owner appealed the level of the fine but not the charge of illegal fishing. A payment of £30,000 was offered in settlement which was rejected after review through the appropriate judicial process. A full timeline of the events is given in Section 2; we provide a commentary in section 3; and, our recommendation to the Compliance Committee in section 4.

## 2. Timeline of events

DATE	EVENT
10 June 2013 19:56	Longliner Maan Yih Feng sighted allegedly fishing in BIOT waters at position 03°54.3'S, 075°15.5'E by the BIOT Patrol Vessel (BPV)
10 – 11 June 21:06 – 06:15	Hot pursuit of fishing vessel which remained unresponsive to repeated contacts. It was later observed recovering fishing gear, hauling it from outside the MPA.
11 June 07:20 – 17:25	Gear eventually abandoned by vessel and recovered by BPV, consisted of 8,700 m of monofilament main line containing 174 hooks, 36 plastic buoys and 2 transponder buoys. Gear was unmarked.
12 June	Report of actions taken submitted to authorities on Diego Garcia.
13 June	Letter sent to Mr. Liu of the Fisheries agency of Taiwan informing him of the suspected illegal fishing in BIOT waters of the Maan Yih Feng. Requests are made for VMS data prior to and around the date of the incident (12 <sup>th</sup> May 2013 to 12 June 2013). It is also requested that the vessel be instructed to return to BIOT to present itself to the BPV for arrest or that it is arrested by the Taiwan port authorities when it returns to Taiwan.
14 June	E-mail response to letter from Mr Liu requesting further evidence for their own investigation and stating that a report of the investigation would be provided to the BIOT Administration when the investigation is completed.
20 June	BPV returns to port (Diego Garcia) and BIOT Police commence investigation. Gear recovered as evidence is unloaded and photographed.
25 June	Statements of Evidence from SFPO and vessel officers forwarded to Fisheries Agency of Taiwan and a request made for progress report on actions taken.
28 June	Response to request for progress report received giving owner of the vessel as Liang, Ji-Ping and the vessel captain as Chern, Jia-Her. Instructions issued for vessel to return to port when investigation would begin with the results being sent to the BIOT Administration.
7 July	Vessel returns to Donggang port, Taiwan. Investigation by the Fisheries Agency of Taiwan begins.
10 July	BIOT Director of Fisheries and Administrator directs the Clerk of the Court to issue summons to owner of vessel, summons prepared by BIOT Legal Advisor demanding that the vessel owner appear in the BIOT Magistrates court on 11 <sup>th</sup> August 2013.
19 July	Summons dispatched to vessel owner via Singapore Fedex.
29 July	Response from Taiwan to the Summons stating it had been forwarded on to the owner and that a vessel inspection had already been conducted when the vessel returned to port, the results of this and any further investigation would be forwarded onto the BIOT Administration.
30 July	Clerk of the Court receives email from Secretary of the Overseas Fisheries

DATE	EVENT
	Development Council of Taiwan. Conveys request from owner of the possibility of an out of court settlement due to the difficulties associated with travelling to Diego Garcia. This was refused as there is no such remedy available in BIOT law.
2 August	BIOT Police report received by BIOT Administration.
22 October	Court case held. Mann Yih Feng charged with fishing without a license in BIOT waters, failing to cooperate with the Senior Fishery Protection Officer (SFPO) and abandoning fishing gear. The magistrate ruled guilty on all three charges. Owner did not appear in court but owner's statement read out giving the costs of the vessel, expenditure and the weight and value of catches on board. Reveals vessel had left port on 11 <sup>th</sup> November 2012 and returned on 7 <sup>th</sup> July 2013 (270 days), total catch on board was recorded as 13,269kg.
25 October	Fine set at £195,000 for fishing without a licence in BIOT waters, owner also ordered to pay additional costs of £5,000, payment to be made within 21 days. Level of the fine is appealed but not the verdict.
15 November	After review through the appropriate judicial process the appeal was rejected by the Commissioner.
18 February	Meeting in Taipei between FCO representatives and Taiwanese Authorities. The request for VMS information prior to and around the date of the incident (12 <sup>th</sup> May 2013 to 12 June 2013) was reiterated, and the request was extended to include the period between detection and arrival in port (i.e. up to 7 July 2013) in order to rule out the possibility that the vessel had transhipped at sea before arriving in port.
24 February 2014	To investigate the possibility of the vessel transhipping at sea a request was made to the IOTC Secretariat for data held on the transshipment ROP database.
28 February	Request to release transshipment information sent by IOTC Secretariat to Fisheries Agency of Taiwan Additional request for information on port visits and possible transshipments sent to the Thai Authorities, as vessel is known to have visited ports in Thailand in 2012 and 2013.

### 3. Commentary

The captain of the vessel Maan Yih Feng failed to cooperate with the BIOT Senior Fisheries Protection Officer and did not permit his vessel to be boarded. It was not possible to arrest the vessel. Neither the Captain nor the owner appeared in court. The defendant provided very limited information (see witness statement, Appendix 12 of the 'IOTC Reporting Form For Illegal Activity' which included a sales receipt for the catch).

Some of the statements appear inconsistent. Paragraph 2 of the witness statement (Appendix 12) indicates an average catch of 233 Kg per day in May and June (say 9,553 kg for 41 days 1 May-10 June) whilst paragraph 4 of the statement indicates that the total catch for the voyage of 270 days was only 13,269 kg (the vessel left port on 11 November 2012), i.e. equivalent to 15.5 kg per day for

the 239 days prior to May. These catch rates are not credible for a commercial longliner. Furthermore the composition of the catch sold at port in Donggang is consistent with the vessel having transhipped prior to arrival in port – only lower value species remained in the catch and high value tuna species (yellowfin, albacore and skipjack) only amounted to only 1,200kg.

The Authorities in Taiwan have not yet been able to provide VMS records as requested, or details from the vessel logbook with respect to catch and effort.

The level of the fine set by the BIOT court is considered to be reasonable for a commercial longline vessel. The evidence provided during the appeal did not justify a change in fine. Furthermore, the appeal has prompted further questions specifically with respect to the transshipment activity of the vessel – did this occur between detection in BIOT waters on 10 June 2013 and arrival in port on 7 July? What transshipment occurred between 11 November 2012 and 7 July 2013 – a total catch of 13,269 kg for this period as claimed in the witness statement is not credible.

At the time of writing, 70 days prior to the Compliance Committee Meeting we have not yet received the following requested information that will further inform this case (to verify not only the extent of the potential fishing effort within the BIOT MPA but also whether any transshipments or port visits have been made):

- From the Taiwanese Authorities: VMS information between 12<sup>th</sup> May 2013 and 7 July 2013.
- From the IOTC Secretariat (pending permission from the Taiwanese Authorities): Data on at sea transshipments by the vessel Maan Yih Feng between 11 November 2012 and 7 July 2013.
- From the Thai Authorities: Information on any port visits and transshipments made by the vessel Maan Yih Feng between 11 November 2012 and 7 July 2013.

#### **4. For the attention of the Compliance Committee**

The BIOT Administration propose that the Compliance Committee recommend to the Commission that the Taiwanese longline vessel Maan Yih Feng is included on the IUU list.

- The vessel (owner) was tried and found guilty under BIOT law of:
    - fishing without a license in BIOT waters;
    - failure to cooperate with SFPO; and,
    - abandoning fishing gear.
- and was fined £195,000 plus £5,000 costs;
- At the time of writing settlement of the fine has not yet been received.

Furthermore:

- No VMS data has been provided – it is possible that the vessel is in contravention of IOTC Resolution 06/03;
- The transshipment history of the vessel is unclear – it is possible that the vessel is in contravention of IOTC Resolution 12/03.