



CONCERNING THE IOTC PROVISIONAL IUU VESSELS LIST

Prepared by IOTC Secretariat, 19 April, 2015

In accordance with Paragraph 8 of IOTC Resolution 11/03 *On establishing a list of vessels presumed to have carried out illegal, unregulated and unreported fishing in the IOTC Area*, CPCs and Non-Contracting Parties may at any time submit to the IOTC Executive Secretary any additional information, which might be relevant to the establishment of the IUU Vessels List.

Additional information which has been received from the United Kingdom (OT) and Sri Lanka, on the 16th and 17 April 2015, respectively, is provided for the consideration of the Compliance Committee at its 12th Session.

Mr Rondolph Payet
Executive Secretary
Indian Ocean Tuna Commission
Mahe
Seychelles

16 April 2015

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 - Vessels flagged to Sri Lanka

In conformity with paragraph 8 of IOTC Resolution 11/03 this letter contains additional information to that submitted by the BIOT Administration to the Secretariat on 6th February 2015 that is relevant to the establishment of the IUU vessels list. We provide additional information in relation to the cases that had not been concluded by the BIOT Administration on 6th February, and our analysis of the actions taken by Sri Lanka provided in bilateral exchanges in order to provide our recommendations to the Compliance Committee.

Table 1 provides updated summary details for each vessel, including our recommendation.

Table 2 provides updated details of the correspondence between BIOT Administration and the Sri Lankan Authorities. Copies of the BIOT correspondence are included in the Provisional IUU list (IOTC Circular 2015-039). Sri Lanka provided no formal response to the draft IUU list by the 12 April 2015 deadline. However they did respond to the Draft Compliance Report for Sri Lanka. (IOTC-2015-COC12-CR26(E)) and copied those details to BIOT (see Table 4, re compliance with paragraph 4 of Resolution 11/03).

Table 3 provides summary details for each vessel including details such as repeat offenders, prohibited species on board

For clarity and to assist the deliberations of the Compliance Committee,

Table 4 provides a checklist of conformity with the requirements of Resolution 11/03.

Table 5 provides a decision matrix for recommending IUU listing or otherwise.

With reference to the interpretation of Tables 3 and 4 by the reader, we note that in respect of Resolution 11/03 some of the requirements are either met or not (e.g. the deadline for submission of evidence) whilst paragraph 10b requires the Compliance Committee to make a judgement as to whether *effective action* has been taken by the flag State including *inter-alia* prosecution and imposition of sanctions of *adequate severity*ⁱ.

We also draw to the attention of the Compliance Committee the evidence presented in IOTC-2015-CoC-12-08b (Reporting of vessels in transit through BIOT waters for potential breach of IOTC Conservation and Management Measures (CMMs)) that highlights that in addition to being in breach of BIOT law, these vessels were also in breach of a number of other IOTC CMMs. This is an additional factor that should be taken into consideration with respect to the IUU vessel list.

We are grateful to the Sri Lankan Authorities who have cooperated fully with the BIOT Administration to address these cases through our bilateral arrangement. However, we remind the Compliance Committee that BIOT has raised the issue of IUU fishing by Sri Lankan vessels with the Compliance Committee for several years, and through this Committee and bilateral relations with the Sri Lankan authorities has actively sought measures to combat this threat. This has included recommendations made by this Committee requiring Sri Lanka to provide monthly reports, and the implementation of a 'Roadmap' of activities. The Recommendations of CoC11 included:

57. The CoC **RECOMMENDED** that Sri Lanka continues to provide monthly reports for vessels found guilty of IUU activities in UK(OT) waters over the past 3 years (i.e. since 2011).

58. The CoC **RECOMMENDED** that in November 2014, Sri Lanka provides to the IOTC Secretariat for circulation to the Commission, a further six monthly update on the implementation of their Roadmap of activities for combating IUU fishing. Details, such as copies of the amended High Seas Fishing Act, should be made available immediately.

We understand from the update of the roadmap provided by Sri Lanka on 24th February (IOTC Circular 2015-020) that progress has been made by Sri Lanka with the Fisheries Act and Regulations and the VMS but that the full VMS has still yet to be implemented with only 39 out of 50 vessels in a pilot having had transponders installed. Of the 39 vessels in the pilot only 23 are multipurpose vessels which compares with over 3000 vessels on the IOTC authorised fishing vessel list. The implementation of the Sri Lankan observer programme is again only at a pilot phase with only 20 observers trained and 3 pilot trips undertaken in 2014. It is clear from the large number of multipurpose vessels illegally fishing in BIOT waters that:

- Sri Lanka is not able at this time to exercise flag State control over its fleet;
- With reference to the Compliance Questionnaire submitted by Sri Lanka (IOTC-2015-CoC12-CQ26[E]-Sri Lanka) that Sri Lanka is not correct in its reporting requirements by claiming in 5.1. that no nationals were identified in IUU activities in either 2013 or 2014 and they have thus indicated that they have neither taken nor reported on actions and measures taken.

Having reviewed the evidence provided to date two categories of case arise:

1. BIOT case concluded (Guilty of IUU in BIOT and fine outstanding); Sri Lanka has initiated legal proceedings against the owners, not yet concluded: Recommend retaining on Provisional IUU list pending the conclusion of the relevant cases (Sulara 2; Imasha 2, Niroda Putha, Thiwanka 5; Otto 2; Kavidya Duwa).

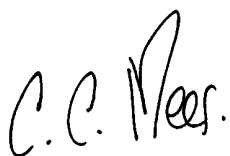
2. BIOT finds sufficient evidence to prosecute the owners for IUU but the BIOT case not yet concluded: Recommend retaining on the provisional IUU list pending conclusion of the case and subsequent flag State response (Dulari; FV Jane; Stef Ania Duwa)

We propose that the Compliance Committee presents these nine vessels on the Provisional IOTC list to the Commission and that it recommends retaining all nine vessels on the Provisional IUU List until the cases are satisfactorily concluded.

Sri Lanka should also provide a detailed explanation of how it will implement control over its fleet including full implementation of VMS. Further we propose that the Compliance Committee recommends that Sri Lanka continues to provide monthly reports for vessels found guilty of IUU activities in UK(OT) waters over the past 3 years; and, that Sri Lanka provides 6 monthly updates on the implementation of their Roadmap of activities for combating IUU fishing.

I would be grateful if you could circulate this material for the information of the Compliance Committee. Thank you.

Yours sincerely



Dr C.C. Mees
Head of UK(OT) Delegation to IOTC

ⁱ The BIOT administration has applied the following principles in evaluating ‘adequate severity’ that are reflected in our analysis presented in Table 1 and subsequent recommendation.

- To be considered adequate, actions taken must fulfil all other requirements of Resolution 11/03 (e.g. paras 4, 5, 6) Resolution 07/01 and any other IOTC Conservation Management Measure that may apply in a particular case.
- Effective action is required in respect of controlling the vessel AND any natural or legal persons engaged in IUU (Resolution 07/01 para 1.i; 1.ii) which will include *inter alia* the vessel owner AND the vessel Master.
- Where a vessel owner and / or Master has respected the decision of the BIOT Court and satisfied any sanctions set by that court then the types of administrative penalties typically imposed by Sri Lanka are likely to be adequate, subject to each individual circumstance. We would not anticipate that the owner would necessarily be prosecuted under Sri Lankan law but we would like to be informed of any actions taken in respect of both the owner and the Master (for example the vessel Seawish).
- Where a vessel owner and/or Master has not respected the decision of the BIOT Court and has not satisfied any sanctions set by that court (for example Imasha 2) then we require evidence that Sri Lanka has prosecuted the vessel owner and / or Master as appropriate, and that sanctions of equivalent severity to those imposed by the BIOT Court have been applied and satisfied. In seeking equivalence, we note that each case may differ and, for example, *inter alia* where a vessel / master is a repeat offender, or where prohibited species are found on board (e.g. thresher sharks) sanctions of greater severity may be expected to apply. We would like to be informed of any actions taken in respect of both the owner and the Master.

Table 1: Updated details of the Sri Lankan Vessels arrested in BIOT waters for presentation to IOTC under Resolution 11/03 since the 11th Compliance Committee Meeting held in Sri Lanka in 2014.

N o.	Vessel Name	Identification Number Date of Incident	Outcome – (see A.I and Appendices of 11/03 IOTC Report)	Response and action by Flag State Authorities (See A.I and Section C of 11/03 Report)	Adequate Severity? Measures to promote compliance with IOTC Conservation and Management Measures?	Recommendation for IUU listing
1	Seawish	IMUL- A-0608-KLT (Sri Lanka) 4/10/2014	Fixed Penalty notice issued. Fine paid	<p>Initial actions</p> <ul style="list-style-type: none"> Detained in Beruwala harbour on return to Sri Lanka. Released and granted fishing only within the EEZ of Sri Lanka after payment of the fine and completion of gear marking. Supporting evidence for gear marking provided. <p>Legal proceedings None</p>	<p>(Fine to BIOT Court paid in full).</p> <p>Pending. Sri Lanka has taken appropriate administrative action with respect to the owner. However at this stage we recommend (b) pending the provision of formal supporting evidence of the actions taken against the owner (e.g. notification to local authorities of cancellation licence; to IOTC of removal from AFV list; of revised licence permitting fishing in internal waters only, etc). Furthermore we request details of any actions taken against the Master to deter IUU and promote compliance with IOTC CMMs.</p>	<p>Not presented on draft IUU list.</p> <p>b. Notification of illegal activity to IOTC Secretariat and to flag State.</p>
2	Sulara 2	IMUL- A-0341-KLT (Sri Lanka) 18/03/2014	Guilty in BIOT Court and fined. Fine not paid	<p>Initial Actions.</p> <ul style="list-style-type: none"> Deregistered by flag State. Suspension of high seas operation licence. Prohibition of use of the vessel for fishing by the owner. Deregistered from IOTC authorised fishing vessel list. Owner called to the DFAR and conducted an inquiry. The owner made aware on the international laws and the obligations of high seas fishing and the consequence of being listed in IUU vessels list of IOTC. Owner informed to take actions to pay the fine imposed by the Courts of BIOT courts at earliest. <p>Legal proceedings Pending: outcome of proceedings initiated by Sri Lanka under FARA No. 35 of 2013 and the High Seas Fishing Regulations</p>	<p>(Fine to BIOT court outstanding).</p> <p>Pending: Administrative penalties (initial actions) taken by Sri Lanka insufficient. Recommend (c) pending a review of the outcome of any legal proceedings and other actions taken by Sri Lanka against the owner and master.</p> <p>Outcome of Sri Lankan case still pending</p>	<p>By default line 2 of Table 5 applies pending the conclusion of the Sri Lankan case</p> <p>Recommend retaining on the provisional IOTC IUU list</p>

N o.	Vessel Name	Identification Number Date of Incident	Outcome – (see A.I and Appendices of 11/03 IOTC Report)	Response and action by Flag State Authorities (See A.I and Section C of 11/03 Report)	Adequate Severity? Measures to promote compliance with IOTC Conservation and Management Measures?	Recommendation for IUU listing
3	Imasha 2	IMUL- A-0352-KLT (Sri Lanka) 18/04/2014	Guilty in BIOT Court and fined. Fine not paid	Initial Actions <ul style="list-style-type: none"> Detained in Beruwala harbour on return to Sri Lanka. Deregistered by flag State. Suspension of high seas operation licence. Prohibition of use of the vessel for fishing by the owner. Deregistered from IOTC authorised fishing vessel list. Owner called to the DFAR and conducted an inquiry. The owner made aware on the international laws and the obligations of high seas fishing and the consequence of being listed in IUU vessels list of IOTC. Further he has been informed to take actions to pay the fine imposed by the Courts of BIOT courts at earliest. Legal Proceedings Pending: outcome of proceedings initiated by Sri Lanka under FARA No. 35 of 2013 and the High Seas Fishing Regulations	(Fine to BIOT court outstanding). Pending: Administrative penalties (initial actions) taken by Sri Lanka insufficient. Recommend (c) pending a review of the outcome of any legal proceedings and other actions taken by Sri Lanka against the owner and master. Outcome of Sri Lankan case still pending	By default line 2 of Table 5 applies pending the conclusion of the Sri Lankan case Recommend retaining on the provisional IOTC IUU list
4	Niroda Putha	IMUL-A-0543-KLT (Sri Lanka) 15/06/2014	Guilty in BIOT Court and fined. Fine not paid	Initial Actions <ul style="list-style-type: none"> Detained in Beruwala harbour on return to Sri Lanka. Vessel deregistered. High seas operation licence suspended as of 01/09/2014. IOTC requested to remove vessel from the Authorised Fishing Vessels list. Owner called into DFAR and made aware of responsibilities and consequence of IUU listing. Legal Proceedings Pending: outcome of proceedings initiated by Sri Lanka under FARA No. 35 of 2013 and the High Seas Fishing Regulations	(Fine to BIOT court outstanding). Pending: Administrative penalties (initial actions) taken by Sri Lanka insufficient. Recommend (c) pending a review of the outcome of any legal proceedings and other actions taken by Sri Lanka against the owner and master. Outcome of Sri Lankan case still pending	By default line 2 of Table 5 applies pending the conclusion of the Sri Lankan case Recommend retaining on the provisional IOTC IUU list

N o.	Vessel Name	Identification Number Date of Incident	Outcome – (see A.I and Appendices of 11/03 IOTC Report)	Response and action by Flag State Authorities (See A.I and Section C of 11/03 Report)	Adequate Severity? Measures to promote compliance with IOTC Conservation and Management Measures?	Recommendation for IUU listing
5	Thiwanka 5	IMUL-A-0086-MTR IOTC: 011479 23/05/2014 – 22/06/2014.	Guilty in BIOT Court and fined. Fine not paid	Initial Actions <ul style="list-style-type: none"> Detained in Beruwala harbour on return to Sri Lanka. Harbour managers have been informed to avoid to deploy the accused skippers in other boats and notices are displayed on the harbours and fisheries offices warning vessel owners not to deploy employing these skippers in their fishing vessels. Owner instructed to comply with BIOT Court Legal Proceedings Pending: outcome of proceedings initiated by Sri Lanka under FARA No. 35 of 2013 and the High Seas Fishing Regulations	(Fine to BIOT court outstanding). Pending: Administrative penalties (initial actions) taken by Sri Lanka insufficient. Recommend (c) pending a review of the outcome of any legal proceedings and other actions taken by Sri Lanka against the owner and master. Outcome of Sri Lankan case still pending	By default line 2 of Table 5 applies pending the conclusion of the Sri Lankan case Recommend retaining on the provisional IOTC IUU list
6	DULARI	n/a 07/09/2014 (Suspected repeat offender)	New trial date set for 19th May 2015.	Initial Actions <ul style="list-style-type: none"> Detained in Beruwala harbour on return to Sri Lanka. The Skipper and the owner of the vessel attended an inquiry in the DFAR Head office immediately after the arrival of the vessel. Vessel registration and the suspension of fishing vessel "Dulari" will be informed to the relevant parties once the vessel reach Sri Lanka. Harbour managers have been informed to avoid to deploy the accused skipper in other boats and notices are displayed on the harbours and fisheries offices warning vessel owners not to employing this skipper in their fishing vessels. Legal Proceedings Pending: any proceedings by Sri Lanka under FARA No. 35 of 2013 and the High Seas Fishing Regulations as may be appropriate - Response to draft compliance report (8/4/15) indicates 'DFAR has initiated the process of filing cases against the vessel'	(BIOT case not yet concluded). Pending: Supporting evidence for administrative penalties (initial actions) taken by Sri Lanka required. Any evidence of Legal proceedings initiated by Sri Lanka following BIOT outcome?	Line 6 of Table 5 applies pending the conclusion of the BIOT case Recommend retaining on the provisional IOTC IUU list

N o.	Vessel Name	Identification Number Date of Incident	Outcome – (see A.I and Appendices of 11/03 IOTC Report)	Response and action by Flag State Authorities (See A.I and Section C of 11/03 Report)	Adequate Severity? Measures to promote compliance with IOTC Conservation and Management Measures?	Recommendation for IUU listing
7	Otto 2	IMUL-A-0523-KLT (IOTC No. 014364) 6/11/2014	Guilty in BIOT Court and fined. Representations from owners received. BIOT Court found no grounds to re-open or set aside previous judgement. Fines and costs NOT paid. Letter sent to Sri Lanka on 9/4/15 (see Table 2 and Circular 2015-039)	Initial Actions <ul style="list-style-type: none"> Detained in Beruwala harbour on return to Sri Lanka. Owner summoned for an inquiry on 19th January to the head office and statements recorded. Owner made aware on the high seas fishing conditions and the consequence of been listed in IUU fishing and informed to respect the decision of the courts of BIOT. Informed of the proceedings under the provisions of Fisheries Act No.35 of 2013. Legal Proceedings Pending: Response to draft compliance report (8/4/15) indicates 'DFAR has initiated the process of filing cases against the vessel' by Sri Lanka under FARA No. 35 of 2013 and the High Seas Fishing Regulations – no further details seen	(Fine to BIOT court is outstanding). Pending: Supporting evidence for administrative penalties (initial actions) taken by Sri Lanka required. Recommend (c) pending outcome of fine payment and a review of any legal proceedings and other actions taken by Sri Lanka against the owner and master.	By default line 2 of Table 5 applies pending the conclusion of the Sri Lankan case Recommend retaining on the provisional IOTC IUU list
8	Kavida Duwa	IMUL-A-0155-KLT (IOTC No. 12322). 6/11/2014	Guilty in BIOT Court and fined. Representations from owners received. BIOT Court found no grounds to re-open or set aside previous judgement. Fines and costs NOT paid. Letter sent to Sri Lanka on 9/4/15 (see Table 2 and Circular 2015-039)	Initial Actions <ul style="list-style-type: none"> Detained in Beruwala harbour on return to Sri Lanka. Owner summoned for an inquiry on 19th January to the head office and statements recorded. Owner made aware on the high seas fishing conditions and the consequence of been listed in IUU fishing and informed to respect the decision of the courts of BIOT. Informed of the proceedings under the provisions of Fisheries Act No.35 of 2013. Legal Proceedings Pending: Response to draft compliance report (8/4/15) indicates 'DFAR has initiated the process of filing cases against the vessel' by Sri Lanka under FARA No. 35 of 2013 and the High Seas Fishing Regulations – no further details seen.	(Fine to BIOT court is outstanding.) Pending: Supporting evidence for administrative penalties (initial actions) taken by Sri Lanka required. Recommend (c) pending outcome of fine payment and a review of any legal proceedings and other actions taken by Sri Lanka against the owner and master.	By default line 2 of Table 5 applies pending the conclusion of the Sri Lankan case Recommend retaining on the provisional IOTC IUU list

N o.	Vessel Name	Identificat- ion Number Date of Incident	Outcome – (see A.I and Appendices of 11/03 IOTC Report)	Response and action by Flag State Authorities (See A.I and Section C of 11/03 Report)	Adequate Severity? Measures to promote compliance with IOTC Conservation and Management Measures?	Recommend- ation for IUU listing
9	FV Jane	IMUL-A- 0524-KLT IOTC No. IOTC001436 5 1/12/2014	Summons issued and trial date set for 19 th May 2015.	Initial Actions <ul style="list-style-type: none"> Detained in Beruwala harbour on return to Sri Lanka. Legal Proceedings Pending: any proceedings by Sri Lanka under FARA No. 35 of 2013 and the High Seas Fishing Regulations as may be appropriate	(BIOT case not yet concluded. The BIOT Principal Legal Adviser has determined at this time that there is sufficient evidence to prosecute the owner for IUU). Pending: Any evidence of Legal proceedings initiated by Sri Lanka following BIOT outcome?	Line 6 of Table 5 applies pending the conclusion of the BIOT case Recommend retaining on the provisional IOTC IUU list
10	Stef Ania Duwa	IMULA0374- KLT IOTC: 10130 21/06/2014	Date for BIOT court case not yet set	Initial Actions <ul style="list-style-type: none"> Detained in Beruwala harbour on return to Sri Lanka. Harbour managers have been informed to avoid to deploy the accused skippers in other boats and notices are displayed on the harbours and fisheries offices warning vessel owners not to deploy employing these skippers in their fishing vessels. Owner instructed to comply with BIOT Court Legal Proceedings Pending: any proceedings by Sri Lanka under FARA No. 35 of 2013 and the High Seas Fishing Regulations as may be appropriate	(BIOT case not yet concluded. The BIOT Principal Legal Adviser is considering whether there is sufficient evidence to prosecute the owners for IUU). Pending: Any evidence of Legal proceedings initiated by Sri Lanka following BIOT outcome?	Line 6 of Table 5 applies pending the conclusion of the BIOT case Recommend retaining on the provisional IOTC IUU list

Table 2: Details of the Correspondence from BIOT to Sri Lanka since the submission of details included in the Draft IUU list sent to the Secretariat on 6 February 2015

Date	Subject / contents	Copied to Secretariat
24/2/15	Kaviya Duwa, informing Sri Lanka that owner has not paid fine and seeking details of corresponding flag State action.	Yes, on 27/2/15
09/04/15	Otto 2 and Kavidya Duwa, informing Sri Lanka that following representations the verdicts stand, owners have not paid fines.	Yes, on 10/04/15

Correspondence received from Sri Lanka, directly to UK(OT)

Date	Subject / contents	Copied to Secretariat
10/3/15	Sulara 2; Imasha 2, Thiwanka 5, Niroda Putha Attorney General's office seeks certified copies of certain BIOT documents	No
8/4/15	Sri Lanka's response to the Draft Compliance Report for Sri Lanka. (IOTC-2015-COC12-CR26(E)) listing actions taken against the Sri Lankan vessels on the draft IUU list, and including an appeal from the owners. All 9 IUU vessels remain anchored at Beruwala Harbour	Yes, 8/4/15

Table 3: Summary details on each vessel (IUU case) taken into account to determine BIOT penalty and to assess the flag State actions

Vessel Name	Date of offending	Offences	Repeat Offender (Vessel Master/Owner)	Out of Court Disposal or Court finding or plea	Value of Gear and any order for destruction	Value of fish and any order for destruction	Rare or protected species	Caution of Master	Fine Paid or not
Seawish	2/1/14	Fishing no licence		Out of Court (Fixed Penalty Notice) Offence admitted (£12, 000 fine)	N/A Notice issued at Sea	N/A Notice issued at Sea	N/A	N/A Master Issued with Notice to pass to Owner	In full by 30/10/14
Sulara 2	1/04/14	Fishing no licence. Possession prohibited Gear (wire trace)	Master and Vessel	Tried in absentia. Found Guilty. No Licence fines £9,000. Prohb'd. Gear £700. £300 costs.	SFPO estimate. £3,000. Ordered Destroyed	Estimated weight of Catch. 4,700.00 kg	9 scalloped hammerheads 7 mantas		Outstanding
Imasha 2	23/04/14	Fishing no licence. Possession prohibited Gear (wire trace)		Tried in absentia. Found Guilty. No Licence fines £13,000. Prohb'd. Gear £1,000.	SFPO estimate. £3,000. Ordered Destroyed	Estimated weight of Catch. 1,200.00 kg	200kg Mantas	Master Prosecuted	Outstanding
Thiwanka 5	22/06/14	Fishing no licence. Possession prohibited Gear (wire trace)		Pleaded Guilty No Licence fines £10,500. Prohb'd. Gear £2,000. £200.00 costs	SFPO estimate. £4,100. Ordered Destroyed	Estimated weight of Catch. 950.00 kg	2 Scalloped Hammerheads 4 bags of Manta gills	Simple Police Caution issued to Master Owner Prosecuted.	Outstanding
Niroda Putha	11/07/14	Fishing no licence. Possession prohibited Gear (wire trace)		Tried in absentia. Found Guilty. No Licence fines £10,000. Prohb'd. Gear £2,500.	SFPO estimate. £3,000. Ordered Destroyed	Estimated weight of Catch. 28 kg	None	Simple Police Caution issued to Master Owner Prosecuted.	Outstanding
Dulari	07/09/14	Fishing no licence. Possession prohibited Gear (wire trace)		Tried in absentia. Found Guilty. No Licence fines £32,000. Prohb'd. Gear £2,000. £200.00 costs	Unknown as vessel not brought alongside. Master asserted engine trouble, aborted attempt by BPV to tow vessel to DG. Bowspit broke, vessel refused further help, returned under own steam to Sri Lanka.	See previous column,	None	Owner Prosecuted	Outstanding
Otto 2	6/11/14	Fishing no licence. Possession prohibited Gear (wire trace)		Tried in absentia. Found Guilty. No Licence fines £10,000. Prohb'd. Gear £2,000. £250.00 costs	SFPO estimate. £4,000. Ordered Destroyed	Estimated weight of Catch. 2,200 kg	1 Scalloped Hammerhead 1 Oceanic White Tip	Master, Given police Caution. Owner Prosecuted.	Outstanding
Kavidya Duwa	6/11/14	Fishing no licence. Possession prohibited Gear (wire trace)		tried in absentia. Found Guilty. No Licence fines £10,000. Prohb'd. Gear £2,000. £250.00 costs	SFPO estimate. £2,5000. Ordered Destroyed	Estimated weight of Catch. 2,100 kg	1 Scalloped Hammerhead	Master, Given police Caution. Owner Prosecuted.	Outstanding
Greeshma	4/12/14	Fishing no licence. Possession prohibited Gear (x3) (wire trace)(Harpoon) (Drift Net)		Summons Issued. To be tried in February	SFPO estimate. £8,000.	Estimated weight of Catch. 11.5 tonnes Value of catch £30,000. Aggravating feature fisherman form Thoothoor, specialist shark fishermen.	1 Scalloped Hammerhead 1 Ocean White Tip	Master, Given police Caution. Owner summonsed for Prosecution.	
Bosin	14/12/14	Fishing no licence. Possession prohibited Gear		Summons Issued. To be tried in February	SFPO estimate. £400.	Estimated weight of Catch. 300Kg	None	Master, Given police Caution.	

		(wire trace)				Aggravating feature fisherman form Thoothoor, specialist shark fishermen.		Owner summonsed for Prosecution.	
Jane	10/09/14	Fishing no licence. Possession prohibited Gear (x2) (wire trace)(Harpoon head on wore trace)		Summons issued to be tried 27/02/14	SFPO estimate. £1,900.	Estimated weight of Catch. 1,900Kg	4 Oceanic White Tip 4 Scalloped Hammerheads 5 pairs Giant Manta wings	Master, Given police Caution. Owner summonsed for Prosecution.	
Stef Ania Duwa	21/06/14	Fishing no licence. Possession prohibited Gear (wire trace)		To be summonsed	SFPO estimate. £2,000.	Estimated weight of Catch. 1,600Kg	None	Master, Given police Caution. Owner summonsed for Prosecution.	

Rare or protected species:

- Thresher sharks – Resolution 12/09
- Oceanic whitetip – Resolution 13/06 (also CITES Appendix II)
- Great white, mantas – under the CMS, which Sri Lanka and the UK are signatories to. Mantas were also recently listed under CITES Appendix II
- Scalloped, smooth and great hammerhead sharks – CITES Appendix II listed
- Porbeagle – CITES Appendix II listed

Table 4. Resolution11/03 Checklist for IUU listing a vessel. Numbering in the header columns refers to the paragraph number in Resolution 11/03.

	Prior to Compliance Committee meeting								At Compliance Committee Meeting			At Commission Meeting	
Vessel	List of presumed IUU vessels and evidence reported at least 70 days before IOTC (9 February 2015)	Flag State evidence reported at least 15 days before IOTC (12 April 2015)	Additional info, relevant to IUU listing at any time	Flag State actions required	Remove the vessel from the Provisional list if:				Retain the vessel on the provisional IUU list if:	CoC to submit a Provisional IUU list to the Commission recommending IUU listing if:		Commission to adopt IUU vessel list if:	Commission to suspend decision (i.e. retain on a Provisional IUU list) if:
	2, 3 BIOT	4. Flag State	8 BIOT or Flag State	5. Flag State has notified owner of inclusion on draft IUU list	6. Flag state has monitored vessels on the draft IUU list	10a Flag State shows Vessel not committed IUU	10b. Flag State taken effective action: prosecution & sanctions of adequate severity	10b Report actions in accordance with 07/01 - i.e. investigate and take adequate actions against PERSONS (Master and owner) engaged in IUU	11. Flag state evidence provided AFTER 15 day deadline (4)	11. Flag State has provided no evidence	12a. Based on consideration of evidence in 4, 7, 8. [i.e. Evidence does not satisfy 10a, 10b; (and by default 5,6)]	13. It accepts the recommendation of the CoC in the provisional list (12a)	14. Insufficient evidence provided under 2,3,4,7 and 8 (to determine if 10a, 10b satisfied) (or if evidence submitted late inc. at meeting)
Seawish (information only, not on provisional IUU)	Yes, Fine paid	Yes / partial		n/a	Yes	No	Yes	UK(OT) has requested details of actions against Master also	n/a	n/a	n/a	n/a	n/a
Sulara 2	Yes Fine not paid	No to draft IUU list, but Yes in response to draft Compliance report		Yes, and consequences	Yes	No	Administrative, also initiated legal proceedings (not yet concluded)	Yes re owner, No details of actions against master provided			As of 13/04/15 Para 4 partially satisfied; 5, 6 satisfied; 10b yet to be concluded; 10b in respect of Master NOT satisfied. Retain		
Imasha 2	Yes Fine not paid	as above		Yes, and consequences	Yes	No	as above	as above			as above		
Niroda Putha	Yes Fine not paid	as above		Yes, and consequences	Yes	No	as above	as above			as above		
Thiwanka 5	Yes Fine not paid	as above		Yes, and consequences	Yes	No	as above	as above			as above		
DULARI	Yes	as above		Yes, and consequences	Yes	No	Administrative. In process of filing legal case against owner	as above			as above		
Otto 2	Yes	as above	09/04/15 - Fine not paid	Yes, and consequences	Yes	No	as above	as above			as above		
Kavida Duwa	Yes	as above	09/04/15 - Fine not paid	Yes, and consequences	Yes	No	as above	as above			as above		
FV Jane	Yes	as above		Yes, and consequences	Yes	No	as above	as above			as above		
Stef Ania Duwa	Yes	as above		Yes, and consequences	Yes	No	as above	as above			as above		

Table 5: Decision matrix for IUU listing

	Complete BIOT evidence submitted?	Flag State Evidence submitted by 12 April	Flag state evidence relates to both owner and master	Adequate severity	Recommendation prior to meeting	Flag State evidence after 13 April including during meeting	Revised recommendation during meeting
1	Yes	No			Vessel to go on provisional IUU list	No	Vessel to be IUU listed
2	Yes	No			Vessel to go on provisional IUU list	Yes	Vessel to be retained on provisional IUU list inter-sessionally?
3	Yes	Yes	No	By default, 'No' as does not apply to both owner and master	Vessel to go on provisional IUU list		Vessel to be IUU listed
4	Yes	Yes	Yes	No (may differ if fine paid/ not paid and by vessel)	Vessel to go on provisional IUU list		Vessel to be IUU listed
5	Yes	Yes	Yes	Yes (may differ fine paid/not paid and by vessel)	Vessel (on draft IUU list) may be removed from provisional IUU list		Not to be IUU listed
6	No ¹				Vessel to go on provisional IUU list		Vessel to be retained on provisional IUU list inter-sessionally

1. This can be at any point that the BIOT case is not complete, i.e. court case pending (i.e. not heard before the meeting so no supplementary evidence provided as per para 8 of 11/03); had court case, found guilty but fine pending or an appeal made)

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 எனது இல. } DFAR/FM/K/IOTC/2015
 My No.
 உமது இல. }
 Your No.

අධ්‍යක්ෂ ජනරාල් කාර්යාලය
 பணிப்பாளர் நாயகத்தின் அலுவலகம் } 449170
 Office of Director General } 472187
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ඩිවර හා ජලජ සම්පත් දෙපාර්තමේන්තුව

கடற்ஹொழில், நீரியல் வளத்துறை திணைக்களம்

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 New Secretariat, Maligawatta, Colombo 10.

දිනය
 திகதி } 16. 04.2015
 Date

Mr. Rondoph Payet
 Executive Secretary
 Indian Ocean Tuna Commission
 Seychelles

Dear Sir.

Communication submitted by the UK (OT) delegation on establishing a list of vessels presumed to have carried out illegal,unregulated and Unreportrd fishing in the IOTC area-vessels flagged to Sri Lanka.

This refers to the memorandum submitted by UK (OT) delegation to the IOTC16th April 2015 with reference to IOTC Resolution 11/03 and Sri Lanka is pleased to respond to the issues raised therein as follows:

Sri Lanka notes that the decision to include Sri Lankan vessels in the provisional list of IUU vessels has been based on Sri Lanka's management inadequacies in the period prior to the enactment of the Fisheries Amendment Act No, 35 of 2013 and the High Seas Fishing Regulations gazetted in September 2014. These legal measures provide Sri Lanka's Department of Fisheries with the powers required to ensure the effective control and management of Sri Lankan vessels fishing in the high seas. This legislative framework has been further strengthened with the enactment of several other regulations concerning Port State Measures, Vessel Monitoring System and Fisheries Management Center, Marking of Fishing Gear and several other administrative circulars to comply with the Conservation and Management requirements of IOTC and other international conservation and management measures.

There has also been considerable progress in the implementation and enforcement of these legal measures. As a result of these measures the number of authorized high seas fishing vessels has got reduced to 1,615 in 2014 thus leaving Sri Lanka with a more effectively manageable high seas fishing fleet.

The Vessel Monitoring System has been initiated with a pilot project in progress while a programme has commenced for installation of 1,500 transponders fixed on high seas vessels and already 50 units have been delivered and arrangements made to instal the balance 1,450 units. In parallel the log book system and the vessel inspection systems have also been expanded and considerable work has been done to create awareness among all stakeholders of the industry and 1038 boat owners and skippers have been trained under 12 programmes in 2015 alone. The capacity of the officers to deal with high seas fishing violations has been upgraded by providing the officers with training in court prosecutions.

The above would indicate that Sri Lanka has taken adequate measures to exercise Sri Lanka's flag state responsibilities in controlling the activities of its fleet.

The information reported on transit of vessels through BIOT waters provided in table 2 of IOTC/2015/COC/12/08b states that the three Sri Lankan vessels which had transited through BIOT waters were not included in the IOTC authorized list. However Sri Lanka finds that this has been due to normal updating procedures of the IOTC. In this connection the information in the following table may be noted:

Registration No:	IOTC NO;	Date of entry into BIOT area	Date of issue of high seas fishing licence
IMUL A 0299 CHW	IOTC 0015935	21.01.2015	12.01.2015
IMUL A 0691 NBO	IOTC 0015917	26.01.2015	13.01.2015
IMUL A 0699 CHW	IOTC 0016006	19.02.2015	30.01.2015

Sri Lanka also wishes to state that at present no large scale purse seiners (over 24 meters in length) have been authorized to fish in the high seas and the only long liner over 24 meters operates in compliance with all high seas fishing requirements including observers and VMS.

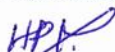
In regard to the comments made in the bullet two of page 2 relating to 5.1 of the compliance questionnaire Sri Lanka wishes to say that the response was made based on a clarification obtained from IOTC technical staff that this refers to nationals working on foreign vessels. It should also be noted that Sri Lanka has already taken necessary steps against Sri Lankan violators and to report such instances to IOTC and BIOT authorities.

As confirmed in the UK (OT) communication Sri Lanka is seriously committed to prosecuting the offenders referred to para 1. However this could not be done expeditiously since there have been some unavoidable delays in obtaining certified copies of court proceedings from BIOT authorities as required by the Attorney General Department of Sri Lanka. Considering these circumstances Sri Lanka wishes to request that any decision to include these vessels in the IUU provisional list be held back until the conclusion of the court proceedings are concluded.

Regarding the vessels under para 2 of page two, since these three cases are still pending before BIOT courts and since documents have been requested from BIOT authorities by the Attorney General's Department Sri Lanka requests that any decision regarding these three vessels too be held back.

Sri Lanka appreciate if the facts given in this communication be used by the commission to assist Sri Lanka in setting the record in a correct context

Thank you
Yours sincerely



Kalyani Hewapathirana
Deputy Director (Fish Biology)
For Director General
Department of Fisheries and Aquatic Resources