

Dr Chris O'Brien  
Executive Secretary  
Indian Ocean Tuna Commission  
Mahe  
Seychelles

28 March 2019

cc. Mr Hosea Gonza Mbilyni, Chair of the Compliance Committee;  
Ms Anne-France Mattlet, Vice Chair;  
Mr Kumara, and Mrs K Hewapathirana, DFAR, Sri Lanka

Dear Dr O'Brien,

**Resolution 18/03 On establishing a list of vessels presumed to have carried out IUU fishing in the IOTC Area of Competence: Sri Lankan Flagged Vessel IMULA 0293 KLT**

As required in paragraphs 5 and 6 of Resolution 18/03 please find attached a completed IOTC Reporting form for Illegal Activity and accompanying evidence supporting IUU fishing activity for the Sri Lankan flagged vessel IMULA 0293 KLT. Under the bilateral arrangement established between UKOT and Sri Lanka in order to combat IUU, this vessel was reported to the Sri Lankan Authorities who have taken action against the owner/master under the provisions of national fisheries legislation (FARA 1996/2016).

The attached evidence shows that

- At the time of the incident, the vessel was on the IOTC Record of Authorised Vessels, IOTC011091
- The vessel had no stern markings
- VMS was switched off or not working and had no tamper-proof seal
- The vessel was equipped with gill nets and longlines; There were no gear markings
- The vessel had tuna and tuna like species on board - Swordfish; blue shark.
- The vessel was fishing within the waters of the British Indian Ocean Territory without a license;
- Sri Lanka has not provided sufficient information to enable the conclusion that sanctions of adequate severity have yet or shall be taken in respect of the owner of this vessel.
- The actions taken in respect of the skipper are inadequate but we note that such administrative powers that are currently available to deal with the skippers of IUU vessels have been applied.

We submit this vessel to IOTC Compliance Committee with recommendation c) 'Recommended for inclusion on IOTC IUU list'. We will review this recommendation before the meeting in light of any additional information provided by Sri Lanka pursuant to paragraphs 10 and 12 of Resolution 18/03.

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

Thank you.

Yours sincerely



Dr C.C. Mees  
Head of UK(OT) Delegation to IOTC  
Enclosed: IOTC Reporting form for Illegal Activity, IMULA 0293 KLT



### IOTC Reporting form for Illegal Activity

Recalling IOTC Resolution 18/03 On establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC Area, attached are details of illegal activity recorded by UK(OT) in British Indian Ocean Territory.

#### A. Details of Vessel

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

Item	Definition	Indicate
a	Current Name of Vessel (Previous name/s, if any)	IMULA0293KLT
b	Current Flag (previous flag/s, if any)	Sri Lanka
c	Date first included on IOTC IUU Vessel List (if applicable)	N/A
d	Lloyds IMO Number, if available	N/A
e	Photo	Yes, See Appendix 1
f	Call Sign (previous call sign, if any)	4SF2969
g	Owner (previous owner/s, if any)	MJM Yoosuff Owner address: 6/18C, 1 <sup>st</sup> Lane, Katukurunda, Kalutara/S
h	Operator (previous operator/s, if any) and Master/Fishing Master	Not known
i	Date of alleged IUU fishing activities	22/10/2018
j	Position of alleged IUU fishing activities	04° 25.765-S; 072° 47.221'E
k	Summary of alleged IUU activities (see section B for more detail)	Fishing without a licence in BIOT water. Fishing with, and possession of, prohibited fishing gear (wire trace) in BIOT water. No flag state issued fishing license or logbook presented during the inspection (although it was noted it was on the IOTC record of currently authorised vessels – IOTC011091). Fishing gear observed on-board did not have vessel markings or identification. The vessel stern had no vessel markings or identification. VMS system was present on board but appeared to be switched off or not working. No tamperproof seal.

		There was an estimated total of 1.5T onboard including swordfish, as well as blue and other unidentified shark species.
l	Summary of any Actions known to have been Taken in respect of the alleged IUU fishing activities	The vessel was approached, photographed and boarded.
m	Outcome of Actions taken	Following approach and boarding the vessel was detained and escorted to Diego Garcia.

**B. Details of IOTC Resolution Elements Contravened**

*(Indicate with a “X” the individual elements of IOTC Resolution 17/03 contravened, and provide relevant details including date, location, source of information. Extra information can be provided in an attachment if necessary.)*

That a vessel has, within the IOTC Area and in relation to species covered by the IOTC Agreement or by IOTC Conservation and Management Measures:

Item	Definition	Indicate
a	Engaged in fishing or fishing related activities and is neither registered on the IOTC Record of Authorised Vessels in accordance with Resolution 15/04, nor recorded in the Active list of vessels; or	<input checked="" type="checkbox"/>
b	Engaged in fishing or fishing related activities when its flag State is without quota, catch limit, or effort allocation under IOTC Conservation and Management Measures where applicable; or	<input type="checkbox"/>
c	Failed to record or report its catches in accordance with IOTC Conservation and Management Measures or has made false reports; or	<input checked="" type="checkbox"/>
d	Taken or landed undersized fish in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
e	Engaged in fishing or fishing related activities during closed fishing periods or in closed areas in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
f	Used prohibited fishing gear in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
g	Transhipped fish to, or otherwise participated in joint operations with, support or re-supply vessels that are not included on the IOTC Record of Authorised Vessels or not on the Record of Vessels Authorised to receive transshipments at-sea in the IOTC Area or	<input type="checkbox"/>
h	Engaged in fishing or fishing related activities in waters that are under the national jurisdiction of a coastal State without the permission or authorisation of that State or in contravention of the laws and regulations of that State (without prejudice to the sovereign rights of the State concerned to undertake enforcement measures against such a vessel); or	<input checked="" type="checkbox"/>
i	Engaged in fishing or fishing related activities whilst being without nationality; or	<input type="checkbox"/>
j	Engaged in fishing or fishing related activities having intentionally falsified or concealed its markings, identity or registration; or	<input checked="" type="checkbox"/>
k	Engaged in fishing or fishing related activities in contravention of any other binding IOTC Conservation and Management Measures;	<input checked="" type="checkbox"/>

**C. Associated Documents**

*(List here the associated documents that are appended e.g. boarding reports, court proceedings and photographs)*

Appendix I – Photographs.

Appendix II – Inspection Report

Appendix III – Notification of Investigation and Request for Cooperation

**D. Recommended Actions**

Recommended Actions	Indicate
a Notification to IOTC Secretariat only. No further action is recommended.	<input type="checkbox"/>
b Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State.	<input type="checkbox"/>
c Recommended for inclusion on IOTC IUU list	<input checked="" type="checkbox"/>

Appendix I – Photographs.



Figure 1: Vessel photo, portside



Figure 2: Vessel photo starboard side, with vessel name and registration number



Figure 3: Vessel stern with no vessel name or identification

## INSPECTION REPORT – SPB 002

## 1 Summary

<b>Date of boarding</b>	22 October 2018
<b>Patrol type and number</b>	FIPA 52
<b>Vessel name</b>	IMUL-A-0293-KLT
<b>Vessel type</b>	Multi-purpose longline and gill net fishing vessel
<b>Vessel flag and home port</b>	Sri Lanka
<b>Vessel identification number</b>	IMUL-A-0293-KLT
<b>Vessel identification type</b>	4SF2969
<b>IOTC# (if registered)</b>	IOTC011091 (valid until 31/12/2018)
<b>Vessel Master name</b>	Name not legible on photo copy of the ID card. Sri Lankan Skipper Licence Number SK0712KLT
<b>SFPO</b>	Simon Browning
<b>FPO / FPOs</b>	Andy Watson
<b>Outcome of boarding</b>	Vessel detained and escorted to Diego Garcia

## 2 Initial sighting details

<b>Date and time of first sighting</b>	21/10/2018 at 22:11 hours	(DD/MM/YY HH:MM)
<b>Sighted by</b>	Grampian Frontier James	Radar x Visual x
<b>Position of target 1</b>	04° 25.765S 72° 47.221E	
<b>Course</b>	207°	
<b>Speed</b>	5.3 knots	
<b>Range</b>	5.7 n miles	
<b>Bearing</b>	180°	
Comments: A light was seen coming from the ship and a radar image was noted. The vessel was traveling at 5.3 knots and then slowed and stopped and then when the Grampian Frontier was within 0.5 n mile the fishing vessel increased speed to 6.7 knots heading away from the Grampian Frontier. The SFPO directed the Grampian Frontier to increase the speed to 10 knots and with two engine. The fishing vessel then slowed and eventually stopped.		
<b>Fisheries Pennant and Sierra Quebec Three Raised</b>	Raise during day light hours on 22 October 2018 at 07:00	(DD/MM/YY HH:MM)
<b>Target requested to stop and prepare for boarding.</b>	No VHF communications established. Grampian Frontier came within 200m of the fishing vessel and two spot lights were trained onto the vessel and the SFPO went onto the deck and spoke through a load hailer. The vessel had stopped by 21 October 2018 at 23:59 hrs	(DD/MM/YY HH:MM)
<b>Response to request for boarding</b>	No VHF communications were established. On approach in the RHIB Daughter Craft there was no resistance to boarding	

## 3 Launching of workboat

<b>Time workboat launched</b>	22 October 2018 at 07:00hrs	(DD/MM/YY HH:MM)
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<b>Workboat crew</b>	Donald Steve	
<b>Comments on the approach to the FV:</b> The RHIB conducted a 360° of the fishing vessel. The fishing boat was stationary and the crew anticipating a boarding. The boarding was safely conducted with no resistance.		
<b>Photographic Evidence Collected (See Annex 1).</b>	<b>Port</b>	Yes
	<b>Starboard</b>	Yes
	<b>Stern</b>	Yes
	<b>Fishing gear</b>	Yes
	<b>Other</b>	Fishing in hold

#### 4 Boarding details

<b>Date and time vessel boarded</b>	22 October 2018 at 07:20 hours	
<b>Position vessel boarded</b>	04° 28.823 S 072° 44.162 E	
<b>Boarding party team</b>	Simon Browning and Andrew Watson	
<b>Language spoken</b>	One crew member could speak some English.	
<b>Interpreter needed (Y/N)?</b>	Name	None available

##### 4.1 Crew details

<i>Vessel Master name</i>	Name on the ID card was not legible	
<i>Vessel Master nationality</i>	Sri Lankan	
<i>Vessel Master address</i>	Idalketihena, Mawatta, Mathugama	
<i>Vessel Master D.o.B</i>	20 Dec 1981	(DD/MM/YY)
<i>Number of crew</i>	4	
<i>Vessel crew nationality</i>	Sri Lankan	
<b>Are any crew under 18 (Y/N), if 'Y' provide details below.</b>	No	
<b>Do any crew have health issues (Y/N), if 'Y' provide details below.</b>	No	
<b>Observations:</b> All crew looked healthy with no injuries. The skipper had a minor cut on the right foot.		
<b>Photographic Evidence Collected (See Annex 1).</b>	<b>Captain ID</b>	Photo copy Sri Lankan Skipper Licence
	<b>Other crew id</b>	Passport and photo copy of ID cards

##### 4.2 Vessel registration and paperwork

<b>Fishing licence present (y/n) and number if relevant</b>	None seen during the inspection. On the boat departure form issued by the Beruwala Fisheries Operations Officer on the 10 October 2018 the form states that the vessel only has a Local Operation License and no High Sea Operation License
<b>Fishing licence date of issue, expiry and issuing authority</b>	No seen
<b>FV owner name (as per licence)</b>	No license seen
<b>FV owner details (as per licence)</b>	No license seen



<b>Fishing logbook present (y/n) and number if relevant</b>	No license seen	
<b>Issuing authority</b>	No license seen	
<b>Date of last entry</b>	No license seen	
<b>Position of last entry</b>	No license seen	
<b>Other paperwork:</b> Boat Departure Form FM/BD dated 10 October 2018		
<b>Photographic Evidence Collected (See Annex 1).</b>	Licence	No not seen during inspection
	Logbook	No not seen during inspection
	Other	Yes ID cards and Boat Departure Form

### 4.3 Interview with Captain

<b>Time of interview</b>	07:20 hrs (HH:MM)
<b>Captain's rights read and understood?</b>	I did not read the Captains rights and the Captain was spoken to but not interviewed. The Captains understanding of English was very poor. It was difficult to communicate. One member of the crew spoke English and through this person I was able to communicate with the Captain to an acceptable level.
<b>FV Port of departure</b>	Beruwala
<b>Date of departure</b>	10/10/2018 (DD/MM/YY)
<b>Travelling to or from fishing grounds?</b>	Beruwala
<b>Amount of fish onboard (t)</b>	It was not possible to estimate the total weight of fish on the vessel. The third storage hold had a bag of sharks fins and whole sharks. I did not get the sharks out of the hold onto the deck. I did get a bag of shark fins and I took samples out to take photos.
<b>If fish onboard where caught?</b>	Yes
<b>If fish onboard when caught?</b>	Between 6 to 10 hours. The sharks' fins were bloody red and dripping. The blood had not clotted. The whole shark seen in the hold was bloody and oozing fluid.
<b>If fish onboard how caught?</b>	Long-line and gill net
<b>Destination</b>	Beruwala
<b>Port of return</b>	Beruwala
<b>Anticipated date of return</b>	Not known (DD/MM/YY)
<b>Comments:</b> On inspecting the vessel it was obvious that the net stowage area was empty, I asked the crew member who spoke English where were the nets, he said out at sea pointing in the general directing of the vessels original location at 23:59 on 21 October 2018. I then stated that they must collect their fishing lines, the skipper agreed and set sail towards the location of the fishing vessel DAN marker buoys.	

#### 4.4 Vessel inspection

<b>Fishing gear type</b>		Wire trace, longline and gill nets	
<b>Comments:</b> The gill nets were set at sea and hauled in by the crew once we had located the position, it had been soaking overnight and marked with DAN marker buoys. This was reported by the crew to be 1.5km in length. It took from 09:48 hours until 12:17 hours to haul in the net. The Longline wire trace fishing gear was also set in the water and hauled in by the fishing vessel crew, this was reported by the crew to be 5.5km in length. Hauling of the longlie took from 12:20 hours until 13:42 hours.			
<b>Catch onboard (estimated t)</b>		1.5 tonnes	
<b>IOTC species onboard (Y/N)</b>	Yes Sharks	<b>Endangered species onboard (Y/N)</b>	Shark species undetermined (a shore side examination will help identify species found on the vessel).
<b>Description of catch:</b> Shark fins and whole shark and Swordfish cut into small chunks and salted. Undetermined fish or shark fins were in a barrel on the wheel house deck. This appeared to have been processed. There was processed Swordfish in the Forward storage hold, salted and cut into chunks.			
<b>Comments:</b> The crew were cooperative throughout the inspection offering freely the fact that their gill nets were set and the longlines with wire trace. The skipper sailed the fishing boat to where the fishing gear was set in the water and the crew hauled in the nets without me requesting that they do so. I asked where the fishing gear was noting on the deck inspection that the storage hold was empty. The crew freely offered the information that the nets were set at sea as were the longlines and wire trace. The fishing gear recovered was the same as the longlines and wire trace remaining on the fishing vessel. The DAN marker buoys recovered were the same design as those recovered from the setting lines. The crew never disputed that the fishing gear in the sea were the fishing vessels.			
<b>Photographic Evidence Collected (See Annex 1).</b>	<b>Gear</b>	Yes	
	<b>Catch</b>	Yes	
	<b>Hold</b>	Yes	

### 5 List of violations<sup>1</sup>

#### 5.1 BIOT ordinance violations

<b>Fishing without a licence</b>	Yes
<b>Fishing with prohibited fishing gear</b>	Yes
<b>Possession of prohibited fishing gear</b>	Yes
<b>Obstruction of a fisheries patrol officer</b>	No the crew were cooperative
<b>Possession of sea cucumbers or molluscs</b>	No
<b>Traversing or landing on an SNR</b>	No
<b>Comments:</b> Exact species and quality by weight was difficult to estimate due to hull size and limited deck space.	

#### 5.2 IOTC CMM violations

<b>Vessel not marked with name or callsign</b>	Vessel had call signed marked on the hull and IMULA number.
<b>Fishing gear not marked with name or callsign</b>	Fishing gear was not marked.

<b>No VMS</b>	VMS was on the fishing boat inside the wheel house. The crew stated that this was not working due to a problem with the Sri Lankan authorities.
<b>VMS not tamperproof</b>	The VMS set did not have a visible tamper seal.
<b>No state issued logbook</b>	No logbook was seen during the inspection.
<b>No state issued licence</b>	The Boat Departure Form issued by the Beruwala High Seas Unit state that the vessel does not have a High Seas Operation License
<b>Possession of drift net over 2.5km.</b>	No the net was 1.5km
<b>Not on the IOTC authorised list</b>	The vessel is listed on the IOTC list IOTC011091 valid until 31/12/2018
<b>Not on the IOTC Record Active Tuna / Swordfish</b>	The crew stated that Swordfish had been caught and was in the Forward hold 4 <sup>th</sup> of 4 storage holds.
<b>No turtle de hooker on board</b>	No turtle was seen on board during the inspection.
Comments	

## 6 SFPO actions<sup>2</sup>

Vessel and Master detained and escorted to DG	Yes
FPN issued and catch and gear seized	No
IOTC Reporting Form to be completed (Res: 11/03)	Yes
Master given verbal warning and released	No
No further action, vessel released	N/A
Comments (when detained / escorted):	
<p>The skipper was informed that his vessel was to proceed to Diego Garcia following the <i>Grampian Frontier</i>. He was informed that British Officers would be there to meet him and talk to him through an interpreter. I issued a Boarding Receipt Form at 14:05 hours and at that point informed him that the vessel and crew were detained and to be escorted to Diego Garcia.</p>	

## 7 Disembarkation and recovery

<b>Time FV disembarked</b>	22 October 2018 at (HH:MM) 14:10 hours
<b>Time Workboat recovered to the BPV</b>	22 October 2018 at (HH:MM) 14:20 hours
<b>Comments:</b> The fishing vessel followed the Grampian Frontier keeping to the stern as a speed of 4.5 to 5 knots.	

## 8 Vessel records and history

<b>Vessel on IOTC register (Y/N)</b>	Yes	<b>IOTC number</b>	IOTC011091
<b>Vessel on IOTC Record Active Tuna / Swordfish (Y/N)</b>			Yes Swordfish
<b>Version of IOTC database referenced:</b>			IOTC positive list-2018-08-02
<b>Vessel previously boarded (Y/N)</b>	No	<b>Inspection report ID</b>	No
<b>Master previously boarded (Y/N)</b>	Not known	<b>Inspection report ID</b>	Not known
<b>Owner previously boarded (Y/N)</b>	Not known	<b>Inspection report ID</b>	Not known
<b>Crew previously boarded (Y/N)</b>	Not known	<b>Inspection report ID</b>	Not known
Comments:			

**Simon Browning**  
**BIOT Senior Fisheries Protection**  
**Officer 22 October 2018**

## Appendix III – Notification of Investigation and Request for Cooperation



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London  
W1J 5PN  
United Kingdom

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E-Mail: [enquiry@mrag.co.uk](mailto:enquiry@mrag.co.uk)  
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Geethamali Chandrasiri  
Assistant Director  
Department of Fisheries and Natural Resources  
No. 10 New Secretariat  
Maligawatta, Colombo 10

22 October 2018

E-Mail: Geethamali Chandrasiri [ip@fisheriesdept.gov.lk](mailto:ip@fisheriesdept.gov.lk)

Cc: Director General [mclfenando@gmail.com](mailto:mclfenando@gmail.com);  
Nuwan Gunawardana [nuwan54@gmail.com](mailto:nuwan54@gmail.com);  
Kalyani Hewapathirana [hewakal2012@gmail.com](mailto:hewakal2012@gmail.com)

Dear Dr Chandrasiri,

### Request for Confirmation of Ownership of the Sri Lankan vessel IMUL-A-0293-KLT

The Sri Lankan flagged vessel **IMUL-A-0293-KLT**, (IOTC11091 (current record expires 31/12/2018)) is currently the subject of a criminal investigation into suspected illegal fishing activity. In order to complete the investigation, the BIOT Administration needs to be clear as to the accurate details of the registered owner before a final decision on any course of action can be taken. At this stage our investigations into the possible activities of this vessel are preliminary, no finding has been made by the Administration of any such activity.

According to the best information available to the Administration the owner's name and address are as follows;

Source	Owner Name / Address
IOTC Record of Active Vessels	<b>MJM YOOSUFF</b> 6/18C, 1ST LANE, KATUKURUNDA, KALUTARA/S

Please can you confirm the ownership details for the vessel? We would be grateful for a formal signed response with a DFAR letterhead, which can be scanned and sent by email as soon as possible.

The vessel has a VMS unit onboard, but this has been reported to be switched off. If possible, please could you supply any VMS records for the recent trip that could provide information in relation to the vessel's movements.

The vessel, being escorted by the BIOT Patrol vessel, is currently estimated to arrive into Diego Garcia on the 22<sup>nd</sup> October. We would be grateful for an early indication of whether you plan to request that Sri Lankan authorities deal with the vessel if it is confirmed that it is in violation of the fisheries regulations of Sri Lanka.

Thank you for your cooperation.

Yours sincerely

Linsey Billing  
BIOT Administrator

Dr Christopher Mees  
Head of UK Delegation to IOTC

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MRAG Ltd  
Registered Company no. 291 2982  
VAT Registration No 877 7013 92

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Telephone (3 lines)



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Office of Director General 449170  
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තொலை நகல் 449170  
Fax No.

මගේ අංකය  
எனது இல. DFAR/DFO/IUU/BIOT/2018  
My No.

ඔබේ අංකය  
உமது இல.  
Your No.

## ධීවර හා ජලජ සම්පත් දෙපාර්තමේන්තුව

கடற்பொழில், நீரியல் வளத்துறை திணைக்களம்

DEPARTMENT OF FISHERIES & AQUATIC RESOURCES

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නව මහලක්කම් කාර්යාලය, මැලිගාවත්ත, කොළඹ 10  
புதிய செயலகம், மாலிகாவத்த, கொழும்பு 10.  
New Secretariat, Maligawatta, Colombo 10.

දිනය  
திகதி 30.10.2018  
Date

Ms. Linsey Biling  
BIOT Administrator

Dr. C. Mees  
Head of UK Delegate to IOTC

### Request for Confirmation of Ownership of the Sri Lanka Fishing Vessel IMUL-A 0293KLT

This is reference to your letter dated 22.10. 2018 on the above and to the confirmation of the ownership of the Sri Lanka Fishing Vessel IMUL-A 0293KLT by the Director Operation of this Department by e-mail dated 25.10.2018.

As per our investigations this vessel has VMS onboard and authorized to operate in High seas. However the boat operator has violated the high seas fishing conditions of the fishing license by power-off the VMS on board.

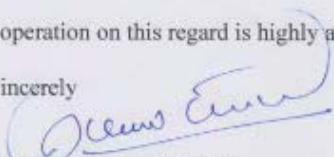
I would like to inform you that the DFAR will take legal actions against the vessel owner/s as per the FARA Act no 2 of 1996 amended 2016 by receiving confirmed evidence of violation of the fisheries regulations of Sri Lanka by this vessel. For this purpose please send the reports of investigations to this Department with statements they produced at the investigation conducted by BIOT authorities.

The officials of investigation unit of DFAR will question based on those reports and if they accept guilty legal actions will take as per the section 52 (B) of FARA Act No. 2 as amended in 2016 for the first offense. However if they not accepted guilty a case will be filed against the vessel owner and during the trials the prosecuting officer will directly request evidence from your authority.

I would oblige you to release the vessel allowing this Department to take legal actions once this vessel arrived to Sri Lanka. We will take actions to apprehend the vessel on arrival to Sri Lanka in the Port of call to legal actions to be conducted.

Your cooperation on this regard is highly appreciated.

Yours Sincerely

  
Ginige Prasanna Janaka Kumara  
Director General

# Vessel Registration Certificate

Boat Registration No **IMUL-A-0293KLT**

Certificate Serial No **13538**

Date of First Registration **02-Oct-06**

Vessel Material **FRP**

Year of Manufacture **2005**

Length **38.5 Feet**

Engine No **SP33-027198** Engine Type **Other**

Horse Power **90**

Boat Yard **PRASANNA MARINE** Boat Yard No. **38/PM 63**

## Owner Details

Name	Address	National ID	Effective Date
NANDANA KAD	86B/13, MUNHENA, MAGGONA, KALUTARA	642290371V	31-Aug-18
LAKSHAN KKDT	-, ANANDAGAMA, MINHENA, MAGGONA	993031348V	31-Aug-18

Insurance No **PDOSHH 000167** Insurance Date **04-Apr-08**

1. Port Name **Beruwala Harbour**  
2. Port Name **Not available**

Date \_\_\_\_\_ For Director General  
Department of Fisheries and Aquatic Resources

Registration Certificate recieved \_\_\_\_\_

Signature of Applicant \_\_\_\_\_

Management Division - Vessel Registry Unit  
Thursley, October 25, 2018

Geethamali Chandrasiri  
Assistant Director  
Department of Fisheries and Natural Resources  
No. 10 New Secretariat  
Maligawatta, Colombo 10

05 November 2018

E-Mail: Geethamali Chandrasiri [ip@fisheriesdept.gov.lk](mailto:ip@fisheriesdept.gov.lk)  
Cc: Director General [dgdgar@gmail.com](mailto:dgdgar@gmail.com)  
Janak Pushpakumara [kumara84janaka@gmail.com](mailto:kumara84janaka@gmail.com)  
Nuwan Gunawardana [nuwan54@gmail.com](mailto:nuwan54@gmail.com)  
Kalyani Hewapathirana [hewakal2012@gmail.com](mailto:hewakal2012@gmail.com)

Dear Ms Chandrasiri,

**Release of the Sri Lankan vessel (IMUL-A-0293-KLT)**

Thank you for your letter dated 30 October 2018 confirming the proposed actions you intend to take against the Sri Lankan flagged vessel identified as IMUL-A-0293-KLT.

This vessel was boarded and inspected, in accordance with BIOT laws, by the BIOT Fisheries Protection Officer on the 22<sup>nd</sup> October 2018.

It was suspected of being involved in illegal fishing activities in BIOT waters. Fresh fish, including shark species were seen and photographed on the vessel as was an amount of longline and gillnet gear that had been set and was seen being hauled in. The vessel had a VMS on board it was not switched on. Please find attached the Fishery Protection Officers Inspection report which fully details the boarding and inspection of the vessel.

On Saturday the 24<sup>th</sup> October 2018 a Criminal Prosecution, for fishing without a licence and possession of illegal fishing gear, was commenced against the Master. Having heard from both the Prosecution and Master of the vessel the Magistrate Ordered the destruction of the catch that had been seized from the vessel.

On 31<sup>st</sup> October 2018 the criminal prosecution was stopped and the Master and crew were served with removal orders, issued by the Principal Immigration Officer in accordance with BIOT Immigration law.

The Master was instructed to leave BIOT waters directly and return to his home port in Sri Lanka. The vessel was released at approximately 18:25 hours on 31<sup>st</sup> October 2018.

We would like to request that as well as taking action against the owner of this vessel, DFAR take such action as they can against the Master of the vessel so as to discourage him and others Masters from entering BIOT waters and engaging in illegal fishing activity.

In respect of our bilateral cooperation to combat illegal fishing BIOT waters we would kindly request the assistance of DFAR, and request notification of any actions taken by DFAR in conducting a regulatory investigation into the activities of the vessel. Previous actions carried out by DFAR in order to meet the requirements of IOTC Resolution 10/11 on Port State Measures (para 17.4) have included the following:

- Recall the vessel to port immediately;
- Notify the relevant port authorities to detain the vessel on arrival;
- Suspension of the licence of the vessel and other relevant flag State actions;
- Notification of the owner / master to comply with any FPN or court order that may arise from the BIOT



authorities; and,

- Pending further action by Sri Lankan authorities we would request that the vessel is detained in port.

As the vessel was presumed IUU and fishing in BIOT waters the BIOT Administration will submit an IOTC IUU Reporting Form to the Compliance Committee in 2019 in respect of this vessel.

We would like to thank Sri Lanka as flag State for the continued bilateral assistance in combatting the threat of IUU fishing in the Indian Ocean.

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrags.co.uk](mailto:c.mees@mrags.co.uk)) or John Pearce ([j.pearce@mrags.co.uk](mailto:j.pearce@mrags.co.uk)). We look forward to your continued cooperation.

Yours Sincerely



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

Ginigie Prasanna Janaka Kumara  
Director General  
Department of Fisheries and Natural Resources  
No. 10 New Secretariat  
Maligawatta, Colombo 10

04 March 2019

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Nuwan Gunawardana [nuwan54@gmail.com](mailto:nuwan54@gmail.com)

Dear Mr. Ginigie Prasanna Janaka Kumara,

**Reporting presumed IUU vessels to the IOTC Compliance Committee (CoC)**

I refer to an email of 20/01/2019 from Kalyani Hewapathirana to Denise Bradshaw, BIOT Principal Legal Advisor, with attached table: 'Update on the actions taken in respect of Sri Lankan vessels reported on IUU in BIOT waters during 2017 and 2018', copied to me. As you know it is necessary to inform IOTC of presumed IUU by a deadline of 70 days before the Compliance Committee. Ahead of submitting any reports, we have a number of questions on the historic cases previously submitted to IOTC and the new vessels that we will report this year.

We note the actions taken against a number of vessels boarded and inspected in BIOT (in your table, those numbered 1, 2, 3, 5, 7, 8, 9, 10, and 12). We will continue to provide similar inspection reports as you have requested. These vessels will not be separately reported to IOTC although they will be included in any information paper we may produce as in previous years 'Reporting of vessels in transit through BIOT waters for potential breach of IOTC Conservation and Management Measures'. We further note your letter dated 20/07/2018 on 'Implementation of VMS to the multiday fishing vessels operate within the EEZ of Sri Lanka'. We welcome the extension of the VMS programme to include all multi day vessels, not just those authorised to fish on the high seas, and note the delays in implementing this. We would be grateful if you can keep us informed of progress.

The remainder of this letter relates to vessels where the inspection by the BIOT Senior Fisheries Protection Officer indicated fishing activity in BIOT waters and presumed IUU, and so may be reported to IOTC. As you are aware Paragraph 14d of IOTC Resolution 17/03 requires the flag State to provide information that demonstrates that:

- (1) effective action has been taken in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity to be effective in securing compliance and deterring further infringements. And,
- (2) Every CPC shall report any actions and measures that it has taken in accordance with Resolution 07/01, in order to promote compliance with IOTC Conservation and Management Measures by vessels that fly its flag.' (i.e. to investigate the engagement of natural or legal persons engaged in IUU)

We note that the table of actions you have provided largely covers the first element (i.e. prosecution and sanctions imposed; other flag State actions such as detention of the vessel, installation of VMS, revised licensing conditions etc.). We further note that these actions largely relate to the vessel owner. However, there is limited information provided that relates to the second element of 14d, the actions taken against those engaged in IUU. Here we particularly refer to the Master (or Skipper) of the vessel rather than the crew,

although for the latter we would be interested if any action was taken e.g. to better educate them about IUU.

As soon as possible, and no later than 21<sup>st</sup> March (noting BIOT will be making its submission to IOTC on 28<sup>th</sup> March) we would be grateful to receive additional information, including supporting evidence, from you as set out below.

#### **A. Vessels previously reported to IOTC**

At the time of submission to CoC, BIOT's recommendation for the following vessels was: '*(b) Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State*'. This recommendation is subject to the submission of evidence of the actions taken by Sri Lanka to the Compliance Committee, and we reserve the option of changing our recommendation to '*(c) Recommended for inclusion on IOTC IUU list*' should this not be forthcoming.' Hence these vessels were not included in the draft IUU vessel list and were for information only.

We would like to close these cases as far as IOTC reporting is concerned, and so would appreciate your response to the following which, we trust, should enable us to do so.

##### **(4) Superfresh 02 – IMUL-A-0128 GLE (presented to IOTC in 2017)**

This vessel was prosecuted and fined in the BIOT Court on Diego Garcia, but has not paid the fine. We note the actions taken by Sri Lanka against the owner of the vessel, indicated in the table the provided, and that the vessel is currently anchored in Beruwala harbour and cannot fish due to non-payment of fines.

With respect to the Master/Skipper your letter DFAR/FM/K/IUU/2017 dated 01/03/2017 indicates that the skipper and crew were detained. Your letter with the same reference dated 03/05/2017 to the IOTC Executive Secretary provided an update on the case relating to this vessel, but provided no further information on the actions taken against the Master. No details are provided of the actions taken against the Master/Skipper in the table provided on 20/01/2019.

Please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper

##### **(6) Lakshi Duwa 06 – IMUL-A-0398-KLT (presented to IOTC in 2018)**

We note the actions taken by Sri Lanka against the owner of the vessel, indicated in the table provided, and that the vessel is currently anchored in Beruwala harbour and cannot fish due to non-payment of fines.

With respect to the Master/Skipper your letter dated 26/04/2018 to Dr CC Mees includes an annexed letter dated 03/10/2017 to the Assistant Director, Kalutra District Fisheries Office, which gives instructions that an inquiry should be conducted before releasing the skipper and the crew, and that the fishing operation licence of the skipper should be suspended. No details are provided of the actions taken against the Master/Skipper in the table provided on 20/01/2019.

Please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper confirming whether these instructions and any other actions were carried out.

#### **B. Vessels to be reported to IOTC in 2019**

##### **(11) Seneka 07 IMUL 0142 PTM**

We note the actions taken against the owner, and that due to non-payment of fine the vessel is anchored in Beruwala harbour. We have no details of any actions intended, or taken in respect of the Master/Skipper.

Please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper

**(13) IMUL A 0030 GLE; (14) IMUL0207 GLE; and (15) IMUL 0293 KLT**

All three vessels have recent or pending court cases 25 March; 20 February; and 5 February respectively (we assume 2019, the Table indicates 2018). The BIOT Director of Fisheries has asked for clarification of what approval from the Minister has been sought.

For all three vessels, please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper. Please provide details of the outcome of the court cases against the owners, and also any settlements made by the owner.

**(16) IMUL 0728 KLT.**

We note that no action has been taken against the owner of the vessel to date. It is not clear if the vessel has been released to continue fishing, or is still detained in port. We note that the Master's/Skipper's licence was cancelled for 12 months. This vessel was on the IOTC Authorised fishing vessel list and equipped with VMS. We refer to our letter dated 30 October 2018 in which we request VMS records for this vessel in order to provide information on its movements.

Please note that the BIOT Administration may provide you with additional information in respect of this vessel. In the meantime:

Please provide the VMS record for this vessel for the relevant time period.

Please clarify if the vessel is still detained?

Please clarify whether the owner of the vessel will be prosecuted?

Please indicate if any further action was taken in respect of the skipper?

We would like to thank Sri Lanka as flag State for the continued bilateral assistance in combatting the threat of IUU fishing in the Indian Ocean. We look forward to receiving your responses to the above.

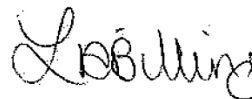
Yours sincerely

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrag.co.uk](mailto:c.mees@mrag.co.uk)) or James Muir Clark ([j.clark@mrag.co.uk](mailto:j.clark@mrag.co.uk)). We look forward to your continued cooperation.

Yours Sincerely



Dr C.C. Mees  
Head of UK(OT) Delegation to IOTC  
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Linsey Billing  
BIOT Administration, Director of

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**கடற்றொழில், நீரியல் வளத்துறை திணைக்களம்**

**DEPARTMENT OF FISHERIES & AQUATIC RESOURCES**

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දිනය } 21 .03.2019  
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**Reporting presumed IUU vessels to the IOTC Compliance Committee**

This is reference to your letter dated 04<sup>th</sup> March 2019 on the above. Please find the following clarifications on your queries.

Para (ii) - Implementation of VMS to the multiday fishing vessels operating within EEZ of Sri Lanka.

As you are aware Ministry of Fisheries and Aquatic Resources Development Sri Lanka is not in a position to call another tender for purchasing of VMS for the vessels operating within EEZ until the Fundamental Right case filed by one of the bided Company is finalized. However as the chief Administrative body responsible on Monitoring of fishing vessels of Sri Lanka, Dept. Fisheries and Aquatic Resources (DFAR) highlighted the fact that the importance of installing of Vessel Monitoring Devices (VMDs) on board of all multiday fishing vessels , as Sri Lanka bound by international resolutions on prevent deter and elimination of IUU fishing in the region.

Further recent past incidents of deploying of fishing vessels for non- fishing activities such as human trafficking and drug trafficking by organized groups of people is another menace which further aggravated the requirement of VMDs on board of fishing vessels.

As such DFAR sought legal advice from Attorney General Dept. to find the possibility of settling the court case by conducting several meetings with the participation of relevant parties. The party who files the FR case agreed to withdraw the court case if they have been offered the tender. As a

result the Senior State Counselor appearing for the case has instructed DFAR by a letter dated to award the tender to the party who filed the FR case by put forwarding a Cabinet Paper to the Cabinet of Ministers of the Parliament. However due to the prevailed political uncertainty in the country caused a delayed in the process and the MFARD is currently proceed on this matter. As such we see a green light of installation of VMDs within EEZ vessels very soon.

#### **Sri Lanka Vessels inspected by BIOT SFPO**

Para (iv) -Sri Lanka still find lack in legal provisions to take legal actions against the vessel operator (skipper) those who engaged in IUU fishing. As such preliminary arrangements have made to bring amendment to the current Fisheries Act to incorporate provisions to take actions against the vessel operator (Skipper).

However, there is a special arrangement in the investigation division to send the skippers those violate High seas regulations, for a compulsory two-day consultation on the obligations of High Seas fishing. Such skippers are not allowed to operate a fishing vessel if they do not attend these sessions. This is an administrative measure implemented until the period of new legal provisions come in to enforce. In addition, the training unit conducts the regular awareness programs in all Districts in a rotation manner.

With regard to your inquiries for vessels previously reported to the IOTC,

- (4) Super Fresh 02 – IMUL-A-0128 GLE (2017)
- (5) Lakshiduwa -IMUL-A- 0398 KLT (2018)
- (11) Senaka 07 IMUL 0142 PTM (2019)
- (13) IMUL-A- 0030GLE, IMUL-A- 0207GLE, IMUL-A- 0297KLT – As per the provision in the DFAR Act No. 02 of 1996 section 52(1) for the compounding (1st time convicted and admit guilty) approval of the Minister of Fisheries and Aquatic Resources Development is required. As such the file has been forwarded to the Minister.

Due to non-availability of legal provisions to take actions against the skipper, the skippers of the vessels given in above four bullet points were released by making them compulsory to attend the two day consultation on the obligations of High Seas fishing.

(16) IMUL- A- 0728 KLT

I draw your attention to your letter dated 15<sup>th</sup> November 2018. With respect to investigation findings you have reported in the paragraph 3 the skipper of the vessel IMUL- A- 0728 KLT has

been obstructed to the duties of SFPO of BIOT. We take this matter into our serious consideration and decided to cancel the skipper license for one year.

I would say that in the FARA Act No 35 of Sri Lanka also has provisions to take legal actions for obstructing to the authorized officers.

However the wordings in the paragraph (v) of the letter dated 15th November 2018 has misled the investigation officers of Sri Lanka that the entering of this vessel in to BIOT waters is due to an engine failure, which it was tally with the statements given by them after arrival to Sri Lanka.

In the Inspection Report – ARW01, under IOTC CMM violations we noted that the fishing gears are not marked, No VMS, VMS not tampered, No State issued log book and no state issued license is marked. However DFAR can confirm that the vessel had Log book and the Operation licence and operating VMS on board during the departure from the home port. The departure form of the vessel is attached for your information. We noted that the gear marking has not been checked by the harbor officials during the departure.

- The Vessel Monitoring Device showed that it was in good working order during the departure. However re-configuration of VMS transponders is going on under new International Maritime Satellite (INMARSAT) C service due to the change of the previous INMARSAT C service provider. Therefore DFAR is experiencing failure of Vessel monitoring system in some of the vessels the above vessel also one of such and therefore VMS record is not available.
- The vessel is permitted for H.S. Fishing
- The owner has not persecuted.
- With the information provided by you on 15<sup>th</sup> of March there is a potential DFAR to take further action in respect of the skipper. We hope to execute the legal provisions available in the prevailing Act with the assistance of the evidence provided by BIOT in future.

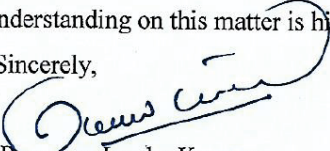
I would say that DFAR is hardly managing to take some legal actions against the fishers due to some economic and social hardships faced by them. However we are not retrograde to take legal actions against the IUU fishing activities keeping our commitment to prevent IUU fishing in the region.

Your understanding on this matter is highly appreciated.

Yours Sincerely,

Ginige Prasanna Janaka Kumara

Director General

  
Ginige Prasanna Janaka Kumara  
Director General  
Department of Fisheries & Aquatic Resources

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26 March 2019

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Dear Mr. Kumara,

**Reporting presumed IUU vessels to the IOTC Compliance Committee (CoC)**

Thank you for your letter dated 21 March 2019 which has helpfully answered some of the questions raised in our earlier correspondence of 4 March and 15 March 2019.

**1. VMS on multiday fishing vessels operating within the EEZ of Sri Lanka**

We note the updated details regarding installation of VMS on multiday fishing vessels operating within the EEZ of Sri Lanka and are encouraged that this will occur 'very soon'. *We would be grateful for an update on the status of installation in due course.*

**2. Action taken against fishing skippers**

We note and support the plans to amend the Fisheries Act in order to enable legal action to be taken against the vessel operator (skipper) and nationals engaged in IUU Fishing which will enable Sri Lanka to apply the provisions of IOTC Resolution 07/01. *We would be grateful for an update on the timeline for change in due course.*

We appreciate that you have used such administrative powers that you have available to deal with the skippers of these vessels.

The skipper of IMUL 0728 KLT had his licence cancelled for one year, whereas the skippers of IMUL-A-0128 GLE; IMUL-A-0398-KLT; IMUL 0142 PTM; IMUL A 0030 GLE; IMUL0207 GLE; and IMUL 0293 KLT each attended a 2 day consultation *It would be useful to understand if there is any further information that BIOTA or the Principal Legal Advisor can provide which would allow you to suspend the licences of skippers suspected of IUU fishing ahead of the proposed changes to legislation?*

**3. IOTC IUU vessel listing**

**A. Vessels previously reported to IOTC**

**Superfresh 02 – IMUL-A-0128 GLE (presented to IOTC in 2017) and Lakshi Duwa 06 – IMUL-A-0398-KLT (presented to IOTC in 2018)**

We are satisfied that sanctions of adequate severity have been taken in respect of the owners of these vessels. We consider the actions taken in respect of the skippers to be inadequate but note the current limitations of the



Fisheries Act and that this will be updated. We will therefore not be re-notifying these vessels to IOTC Compliance Committee in 2019.

#### **B. Vessels to be reported to IOTC in 2019**

##### **Seneka 07 IMUL 0142 PTM**

We are satisfied that sanctions of adequate severity have been taken in respect of the owner of this vessel. We consider the actions taken in respect of the skipper to be inadequate but note the current limitations of the Fisheries Act and that this will be updated. We will notify this vessel to IOTC Compliance Committee in 2019 with recommendation b) 'Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State'.

##### **IMUL A 0030 GLE; IMUL0207 GLE; and IMUL 0293 KLT**

Thank you for indicating that these cases have been referred to the Minister. It is still not clear to us why this is the case. *Could you please provide a more detailed explanation of what that means?* We also note that the dates for court cases for these vessels have passed (25 March; 20 February; and 5 February respectively). *Is DFAR intending that any of the owners of these vessels is to be prosecuted?*

At the time of writing, we are NOT satisfied that sanctions of adequate severity have been taken in respect of the owners of these vessels. We consider the actions taken in respect of the skippers to be inadequate but note the current limitations of the Fisheries Act and that this will be updated.

As we are unable to conclude on the information currently provided that actions of adequate severity have or shall be taken, we have concluded that the only correct course of action for us to take is to notify these vessels to IOTC Compliance Committee in 2019 with recommendation c) 'Recommended for inclusion on IOTC IUU list'. We note that Sri Lanka has until 15 days before the Compliance Committee Meeting to provide additional information which we will review at that time before deciding whether to pursue IUU listing during the meeting.

##### **IMUL 0728 KLT.**

This vessel is on the IOTC Authorised fishing vessel list. We understand that no action has been taken against the owner of the vessel nor is intended. The vessel has now been released. We note that the Master's/Skipper's licence was cancelled for 12 months. Whilst the VMS was working when the vessel left port reconfiguration of VMS transponders means there are no vessel tracks for the period in question, which we consider to be inadequate. *It would be helpful to us when deciding how to request this vessel is to be dealt with by the IOTC if we could understand why this owner has not been prosecuted. Is there a specific reason why this action could not take place in this case compared to others.*

At the time of writing, we are NOT satisfied that sanctions of adequate severity have been taken in respect of the owner of this vessel. We consider the action taken in respect of the skipper to be adequate.

As we are unable to conclude on the information currently provided that actions of adequate severity have or shall be taken, we have concluded that the only correct course of action for us to take is to notify this vessel to IOTC Compliance Committee in 2019 with recommendation c) 'Recommended for inclusion on IOTC IUU list'. We note that Sri Lanka has until 15 days before the Compliance Committee Meeting to provide additional information which we will review at that time before deciding whether to pursue IUU listing during the meeting.



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We would like to thank Sri Lanka as flag State for the continued bilateral assistance in combatting the threat of IUU fishing in the Indian Ocean. We look forward to receiving your responses to the above.

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrags.co.uk](mailto:c.mees@mrags.co.uk)) or James Muir Clark ([j.clark@mrags.co.uk](mailto:j.clark@mrags.co.uk)). We look forward to your continued cooperation.

Yours Sincerely

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

Linsey Billing  
BIOT Administration, Director of Fisheries

Dr Chris O'Brien  
Executive Secretary  
Indian Ocean Tuna Commission  
Mahe  
Seychelles

28 March 2019

cc. Mr Hosea Gonza Mbilinyi, Chair of the Compliance Committee;  
Ms Anne-France Mattlet, Vice Chair;  
Mr Kumara, and Ms K Hewapathirana, DFAR, Sri Lanka

Dear Dr O'Brien,

**Resolution 18/03 On establishing a list of vessels presumed to have carried out IUU fishing in the IOTC Area of Competence: Sri Lankan Flagged Vessel IMULA 0030 GLE**

As required in paragraphs 5 and 6 of Resolution 18/03 please find attached a completed IOTC Reporting form for Illegal Activity and accompanying evidence supporting IUU fishing activity for the Sri Lankan flagged vessel IMULA 0030 GLE. Under the bilateral arrangement established between UKOT and Sri Lanka in order to combat IUU, this vessel was reported to the Sri Lankan Authorities who have taken action against the owner/master under the provisions of national fisheries legislation (FARA 1996/2016).

The attached evidence shows that

- The vessel was not on the current IOTC Record of Authorised Vessels
- The vessel had no stern markings
- No VMS was installed
- The vessel was equipped with gill nets and longlines; There were no gear markings
- Wire trace (illegal in BIOT) was not stowed and fishing gear were set for fishing
- The vessel was presumed IUU fishing within the waters of the British Indian Ocean Territory without a license;
- Sri Lanka has not provided sufficient information to enable the conclusion that sanctions of adequate severity have yet or shall be taken in respect of the owner of this vessel.
- The actions taken in respect of the skipper are inadequate but we note that such administrative powers that are currently available to deal with the skippers of IUU vessels have been applied.

We submit this vessel to IOTC Compliance Committee with recommendation c) 'Recommended for inclusion on IOTC IUU list'. We will review this recommendation before the meeting in light of any additional information provided by Sri Lanka pursuant to paragraphs 10 and 12 of Resolution 18/03.

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

Thank you.

Yours sincerely



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

Enclosed: IOTC Reporting form for Illegal Activity, IMULA 0030 GLE



### IOTC Reporting form for Illegal Activity

Recalling IOTC Resolution 18/03 On establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC Area, attached are details of illegal activity recorded by UK(OT) in British Indian Ocean Territory.

#### A. Details of Vessel

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

Item	Definition	Indicate
a	Current Name of Vessel (Previous name/s, if any)	IIMULA0030GLE
b	Current Flag (previous flag/s, if any)	Sri Lanka
c	Date first included on IOTC IUU Vessel List (if applicable)	N/A
d	Lloyds IMO Number, if available	N/A
e	Photo	Yes, See Appendix 1
f	Call Sign (previous call sign, if any)	N/A
g	Owner (previous owner/s, if any)	P.K.D. Dumidhula Susantha, of: Kekunu Udumulla, Kajuduwa Rd., Dodangoda
h	Operator (previous operator/s, if any) and Master/Fishing Master	Not known
i	Date of alleged IUU fishing activities	29/10/2018
j	Position of alleged IUU fishing activities	05° 40.4' S 072° 36.0' E
k	Summary of alleged IUU activities (see section B for more detail)	The vessel was in possession of fishing gear (wire trace), which is prohibited within BIOT waters. Gear was set and ready for fishing. The vessel was not on the IOTC record of authorized vessels. The vessel did not have an applicable license issued by the flag state. The license shown was only applicable for the Sri Lankan EEZ. Fishing gear observed on-board did not have vessel markings. The vessel stern had no identification. No VMS system was present on board.

l	Summary of any Actions known to have been Taken in respect of the alleged IUU fishing activities	The vessel was approached, photographed and boarded.
m	Outcome of Actions taken	Following approach and boarding the vessel was detained and escorted to Diego Garcia.

**B. Details of IOTC Resolution Elements Contravened**

*(Indicate with a “X” the individual elements of IOTC Resolution 17/03 contravened, and provide relevant details including date, location, source of information. Extra information can be provided in an attachment if necessary.)*

That a vessel has, within the IOTC Area and in relation to species covered by the IOTC Agreement or by IOTC Conservation and Management Measures:

Item	Definition	Indicate
a	Engaged in fishing or fishing related activities and is neither registered on the IOTC Record of Authorised Vessels in accordance with Resolution 15/04, nor recorded in the Active list of vessels; or	<input checked="" type="checkbox"/>
b	Engaged in fishing or fishing related activities when its flag State is without quota, catch limit, or effort allocation under IOTC Conservation and Management Measures where applicable; or	<input type="checkbox"/>
c	Failed to record or report its catches in accordance with IOTC Conservation and Management Measures or has made false reports; or	<input type="checkbox"/>
d	Taken or landed undersized fish in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
e	Engaged in fishing or fishing related activities during closed fishing periods or in closed areas in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
f	Used prohibited fishing gear in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
g	Transhipped fish to, or otherwise participated in joint operations with, support or re-supply vessels that are not included on the IOTC Record of Authorised Vessels or not on the Record of Vessels Authorised to receive transshipments at-sea in the IOTC Area or	<input type="checkbox"/>
h	Engaged in fishing or fishing related activities in waters that are under the national jurisdiction of a coastal State without the permission or authorisation of that State or in contravention of the laws and regulations of that State (without prejudice to the sovereign rights of the State concerned to undertake enforcement measures against such a vessel); or	<input checked="" type="checkbox"/>
i	Engaged in fishing or fishing related activities whilst being without nationality; or	<input type="checkbox"/>
j	Engaged in fishing or fishing related activities having intentionally falsified or concealed its markings, identity or registration; or	<input checked="" type="checkbox"/>
k	Engaged in fishing or fishing related activities in contravention of any other binding IOTC Conservation and Management Measures;	<input checked="" type="checkbox"/>

**C. Associated Documents**

*(List here the associated documents that are appended e.g. boarding reports, court proceedings and photographs)*

Appendix I – Photographs.

Appendix II – Inspection Report

Appendix III – Notification of Investigation and Request for Cooperation

#### D. Recommended Actions

Recommended Actions		Indicate
a	Notification to IOTC Secretariat only. No further action is recommended.	<input type="checkbox"/>
b	Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State.	<input type="checkbox"/>
c	Recommended for inclusion on IOTC IUU list	<input checked="" type="checkbox"/>



Appendix I – Photographs.



Figure 1: Vessel starboard, showing name and identification



Figure 2: Vessel photo starboard. Note the unmarked buoys on the bridge head.



Figure 3: Vessel stern with no vessel name or identification

## INSPECTION REPORT – ARW02

## 1 Summary

Date of boarding	29/10/18
Patrol type and number	FIPA 53
Vessel name	IMUL-A-0030-GLE
Vessel type	FV <25m, Longline and gillnets
Vessel flag and home port	Sri Lanka
Vessel identification number	IMULA-0030-GLE
Vessel identification type	Multipurpose
IOTC# (if registered)	
Vessel Master name	B.R.C. Fernando
SFPO	Andrew Watson
FPO / FPOs	
Outcome of boarding	Vessel detained and escorted to Diego Garcia

## 2 Initial sighting details (from Grampian Frontier only)

Date and time of first sighting	29/10/18 02:00	(DD/MM/YY HH:MM)
Sighted by	Grampian Frontier, Lukasz	Radar Y Visual N
Position of target 1	Target 01 at 05°40.4'S 072°36.0'E	
Course	087°	
Speed	2.7KN	
Range	7.3Nm	
Bearing	007°	
<p>Comments: The target was one of two targets detected by radar. The other target was in position 05°40.3'S 072°38.3'E. Both targets moving slowly. As BIOT Patrol Vessel approached, the targets increased speed and headed northwards away from the BPV. The BPV increased speed in pursuit. VHF communication was attempted on three occasions by SFPO at start of pursuit to no reply. AIS was switched on. Vessels changed direction and increased speed. At 03:00hrs, target 01 split in to two targets, these became target 01 and 03. Target 03 continued to move away from the BPV. The SFPO and bridge crew thought the vessel had dropped something floating in the sea which had become target 01. The vessel moving away from the BIOT Patrol Vessel, Grampian Frontier was now target 03. ECDIS screen shots taken at intervals during pursuit. Pennants were raised at 04:00hrs, prior to interception of Target 03. BPV DC launched at 05:03hrs to remain with vessel now identified as IMUL-A-0030-GLE. BPV continued to Pursue target 02.</p>		
Fisheries Pennant and Sierra Quebec Three Raised	29/10/18 04:00	(DD/MM/YY HH:MM)
Target requested to stop and prepare for boarding.	<p>Stopped at 29/10/18 at 04:35. SFPO addressed crew of vessel and informed them they are in British Indian Ocean Territory Waters by loudhailer from the bow of the BPV. SFPO then attempted communication via VHF CH 16. No response. The BPV DC RHIB was launched at 05:03. Verbal request to stay in position was made by the</p>	(DD/MM/YY HH:MM)

	Captain of the Grampian Frontier, James Ward who was now in the FPV DC RHIB. No boarding took place until later in the day, after the SFPO had boarded the Sri Lankan fishing vessel, IMULA-0728-KLT. The SFPO and 2 <sup>nd</sup> Officer boarded the vessel for inspection 29/10/18 at 14:15
Response to request for boarding	Captain was happy for the SFPO and 2 <sup>nd</sup> Officer Lukasz Kasielewski to board. No issues.

### 3 Launching of workboat

Time workboat launched	29/10/18 14:09 (DD/MM/YY HH:MM)	
Workboat crew	Coxwain Donald MacFarlane, 2 <sup>nd</sup> Officer Lukasz Kasielewski.	
Comments on the approach to the FV: The vessel was circled twice and photos to confirm identification were taken. Vessel identified as IMUL-A-0030-GLE.		
Photographic Evidence Collected (See Annex 1).	Port	Yes
	Starboard	Yes
	Stern	Yes
	Fishing gear	Yes
	Other	SSB Radiotelephone, GPS, automatic antenna tuner.

### 4 Boarding details

Date and time vessel boarded	29/10/18 14:15 (DD/MM/YY HH:MM)
Position vessel boarded	05°37.26'S 072°26.62'E
Boarding party team	SFPO Andrew Watson, 2 <sup>nd</sup> Officer Lukasz Kasielewski
Language spoken	English
Interpreter needed (Y/N)?	Name None available

#### 4.1 Crew details

Vessel Master name	B.R.C. Fernando
Vessel Master nationality	Sri Lankan
Vessel Master address	Pussalamulla, Kalavila Kanda, Beruwala
Vessel Master D.o.B	13/09/1994 (DD/MM/YY)
Number of crew	4 + 1 (captain)
Vessel crew nationality	Sri Lankan
Are any crew under 18 (Y/N), if 'Y' provide details below.	N
Do any crew have health issues (Y/N), if 'Y' provide details below.	N
Observations: All crew appeared to be healthy.	

Photographic Evidence Collected (See Annex	Captain ID	Yes. ID card retained by SFPO.
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1).	Other crew id	Photos taken of crew ID and of crew.
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## 4.2 Vessel registration and paperwork

Fishing licence present (y/n) and number if relevant	Yes	
Fishing licence date of issue, expiry and issuing authority	01/01/18 to 31/12/18 (DD/MM/YY) Dept. of Fisheries and Aquatic Resources, Colombo, Sri Lanka.	
FV owner name (as per licence)	P.K.D. Dumidhulal Susantha	
FV owner details (as per licence)	Kekunu Udumulla, Kajuduwa Rd., Dodangoda	
Fishing logbook present (y/n) and number if relevant	Yes, LB-17 4326	
Issuing authority	Dept. of Fisheries and Aquatic Resources Sri Lanka	
Date of last entry	21/09/18 (DD/MM/YY)	
Position of last entry	Unable to verify figures.	
Other paperwork: The Captain gave all relevant paperwork to the SFPO including certificate of insurance, vessel registration, boat departure forms and fishing licences.		
Photographic Evidence Collected (See Annex 1).	Licence	Yes
	Logbook	Yes
	Other	Crew identification papers and crew photographs. Boat departure form, .

## 4.3 Interview with Captain

Time of interview	14:20 (HH:MM)
Captain's rights read and understood?	I did not read the Captain his rights. The captain was asked questions but not under interview. The Captains understanding of English sufficient for him to understand instructions.
FV Port of departure	Unable to read.
Date of departure	14/10/2018 (DD/MM/YY)
Travelling to or from fishing grounds?	To EEZ
Amount of fish onboard (t)	Unknown. Dried fish in roof locker. Small quantity.
If fish onboard where caught?	Unknown
If fish onboard when caught?	Unknown
If fish onboard how caught?	Unknown
Destination	Sri Lanka
Port of return	Unknown
Anticipated date of return	Unknown (DD/MM/YY)
Comments: The captain of the vessel was compliant with all requests and provided documentation when asked. He said the Captain of the third vessel was his brother and he was here to tow him because he had broken down. He said his longline gear was for targeting sharks.	

## 4.4 Vessel inspection

Fishing gear type	Longlines with steel traces. Some gillnet present.
-------------------	--

Comments The net hold/box was less than half full of net.			
Catch onboard (estimated t)		Unable to estimate from holds. There did not appear to be fresh fish in the holds.	
IOTC species onboard (Y/N)	None seen	Endangered species onboard (Y/N)	None seen
Description of catch: No catches observed. Holds obscured by ice. It was not deemed appropriate to investigate further at this time.			
Comments: Wire traces were not stowed and were set for fishing.			
Photographic Evidence Collected (See Annex 1).	Gear	Y	
	Catch	N	
	Hold	Y	

## 5 List of violations<sup>1</sup>

### 5.1 BIOT ordinance violations

Fishing without a licence	
Fishing with prohibited fishing gear	
Possession of prohibited fishing gear	X
Obstruction of a fisheries patrol officer	
Possession of sea cucumbers or molluscs	
Traversing or landing on an SNR	
Comments As per above. Wire traces on all longline gear. The gear was accessible and set for fishing on the foredeck.	

### 5.2 IOTC CMM violations

Vessel not marked with name or callsign	
Fishing gear not marked with name or callsign	X
No VMS	X
VMS not tamperproof	
No state issued logbook	
No state issued licence	X No licence to fish the high seas was evident. Licence to fish EEZ only.
Possession of drift net over 2.5km.	
Not on the IOTC authorised list	X
Not on the IOTC Record Active Tuna / Swordfish	X
No turtle de hooker on board	Not seen.
Comments The vessel had no VMS or AIS fitted. No licence for fishing outside the Sri Lankan EEZ was present.	

## 6 SFPO actions<sup>2</sup>

Vessel and Master detained and escorted to DG	X
FPN issued and catch and gear seized	
IOTC Reporting Form to be completed (Res: 11/03)	X
Master given verbal warning and released	

No further action, vessel released	
Comments: The Captain complied with all the SFPO's requests and made no complaint about being escorted to Diego Garcia.	

## 7 Disembarkation and recovery

Time FV disembarked	15:37	29/10/18
Time Workboat recovered to the BPV	18:10	29/10/18
Comments: The SFPO and 2 <sup>nd</sup> Officer disembarked to the BPV DC and made way to the third vessel in position 05°41.7'S 072°27.1E		

## 8 Vessel records and history

Vessel on IOTC register (Y/N)	N	IOTC number	NA
Vessel on IOTC Record Active Tuna / Swordfish (Y/N)			N
Version of IOTC database referenced: IOTC List 2018/08/02			
Vessel previously boarded (Y/N)	N	Inspection report ID	
Master previously boarded (Y/N)	Unknown	Inspection report ID	
Owner previously boarded (Y/N)	Unknown	Inspection report ID	
Crew previously boarded (Y/N)	Unknown	Inspection report ID	
Comments:			

**Andrew Watson**  
**BIOT Senior Fisheries Protection**  
**Officer 30/10/2018**

## Appendix III – Notification of Investigation and Request for Cooperation



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Geethamali Chandrasiri  
Assistant Director  
Department of Fisheries and Natural Resources  
No. 10 New Secretariat  
Maligawatta, Colombo 10

30 October 2018

E-Mail: Geethamali Chandrasiri [ip@fisheriesdept.gov.lk](mailto:ip@fisheriesdept.gov.lk)

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Nuwan Gunawardana [nuwan54@gmail.com](mailto:nuwan54@gmail.com);  
Kalyani Hewapathirana [hewakal2012@gmail.com](mailto:hewakal2012@gmail.com)

Dear Dr Chandrasiri,

### Request for Confirmation of Ownership of the Sri Lankan vessels **IMUL-A-0728-KLT**, **IMUL-A-0207-GLE** and **IMUL-A-0030-GLE**.

The Sri Lankan flagged vessels **IMUL-A-0728-KLT**, (IOTC16120 (current record expires 31/12/2018)) **IMUL-A-0207-GLE**, (IOTC11283 (most recent record expired 13/02/2014)) and **IMUL-A-0030-GLE**, (not on the IOTC Record of Authorised Vessels) are currently the subject of a criminal investigation into suspected illegal fishing activity including possession of illegal fishing gear (IMUL-A-0207-GLE and IMUL-A-0030-GLE) and obstruction of a Fisheries Protection Officer (IMUL-A-0728-KLT). The BIOT Administration needs to be clear as to the accurate details of the registered owners before a final decision on any course of action can be taken. At this stage our investigations into the possible activities of these vessels are preliminary, no finding has been made by the Administration of any such activities.

According to the best information available to the Administration the names and addresses of the owners of these vessels are as follows;

Vessel / Source	Owner Name / Address
IMUL-A-0728-KLT IOTC Record of Authorised Vessels	<b>H.R.D.D. PERERA</b> 42/4, CHAMARA UYANA, AMBEPITIYA, BERUWALA.
IMUL-A-0207-GLE IOTC Record of Authorised Vessels	<b>LL. SAMARASINGHA</b> 175/MATARA ROAD, MAGALLE, GALLE.
IMUL-A-0207-GLE Vessel Documents	<b>MAHABADUGE, PRAMAJ DILSARA</b> <b>FERNANDO JAYASOORIYA</b> NO: 71/8 SIRINIWASA MAWATHA, NALLAHENA, BERUWALA
IMUL-A-0030-GLE No source	NO RECORD

Please can you confirm or provide us with the ownership details for these vessels? We would be grateful for a formal signed response with a DFAR letterhead, which can be scanned and sent by email as soon as possible, ideally by 31<sup>st</sup> October.

Only one vessel, **IMUL-A-0728-KLT**, was seen to have a VMS on board, although according to the captain it wasn't working. However, if possible, please could you supply any VMS records for the recent trip for this vessel, or the other vessels if available, that could provide information in relation to their movements.

---

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They are currently being escorted by the BIOT Patrol vessel and are estimated to arrive into Diego Garcia on the 31<sup>st</sup> October. We would be grateful for an early indication of whether you plan to request that Sri Lankan authorities deal with these vessels if it is confirmed that they are in violation of the fisheries regulations of Sri Lanka.

Thank you for your cooperation.

Yours sincerely

Linsey Billing  
BIOT Director of Fisheries

Dr Christopher Mees  
Head of UK Delegation to IOTC



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මගේ අංකය }  
எனது இல. } DFAR/FM/ADG/Innocent Passage-2018  
My No. }

ඔබේ අංකය }  
உமது இல. }  
Your No. }

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கடற்றொழில், நீரியல் வளத்துறை திணைக்களம்

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New Secretariat, Maligawatta, Colombo 10.

දිනය }  
திகதி } 3/ .10.2018  
Date }

Ms. Linsey Billing

BIOT Director of Fisheries

Dr.C.Mees

Head of UK Delegate to IOTC

**Ownerships confirmation of the Sri Lanka Fishing Vessel IMUL-A-0728KLT, IMUL-A-0207GLE, IMUL-A-0030GLE.**

As per the request you have forwarded to this Department, on confirmation of the ownership of above fishing vessels, please find the following details.

Vessel	Owner Name / Address
IMUL-A-0728KLT	H.R.D.DAMAYANTHI 42/4,CHAMARA UYANA AMBEPITIYA BERUWALA.
IMUL-A-0207GLE	M.P.D.F.JAYASOORIYA NO.71/8, SIRINIWASA MAWATHA, NALLAHENA, BERUWALA.
IMUL-A-0030GLE	P.K.D.D.SUSANTHA KAKUNU UDUMULLA, KAJUDUWA ROAD, DUDAMGODA
Source- Vessel Registry - DFAR	

DFAR is willing and would request to take legal actions against the vessels Owners as per the Fisheries and Aquatic Resources Act, Sri Lanka on receipt of confirmed evidence of violations by these vessels.

Ginige Prasanna Janaka Kumara

Director General

Ginige Prasanna Janaka Kumara  
Director General  
Department of Fisheries & Aquatic Resources



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15 November 2018

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Kalyani Hewapathirana [hewakal2012@gmail.com](mailto:hewakal2012@gmail.com)

Dear Mr. Ginigie Prasanna Janaka Kumara,

**Release of the Sri Lankan vessels IMUL-A-0728-KLT, IMUL-A-0207-GLE and IMUL-A-0030-GLE.**

Thank you for your letter dated 31 October 2018 confirming the ownership of each of the above referenced vessels and indicating that DFAR intend to take legal action against the owners of the vessels.

These vessels were boarded and inspected, in accordance with BIOT laws, by the BIOT Fisheries Protection Officer on the 29<sup>th</sup> October 2018. All three vessels were detained upon suspicion of being involved in illegal fishing activity and escorted to Diego Garcia for further investigation.

All three vessels were investigated for illegal fishing activity and additionally, IMUL-A-0207-GLE and IMUL-A-0030-GLE for possession of illegal fishing gear (wire trace), and IMUL-A-0728-KLT for obstruction of a Fisheries Protection Officer. Please find attached the Fishery Protection Officers Inspection report which details the boarding and inspection of the vessels.

On 31<sup>st</sup> October, following the letter from DFAR which confirmed the intention of the Sri Lankan authorities to take legal action against the owners of the vessels, the Director of Fisheries took the decision that the vessels should be returned to Sri Lanka. In light of this decision, no criminal proceedings were commenced in BIOT. A preliminary police investigation was commenced and concluded.

Unfortunately, two of the vessels had engine problems and so all three were kept in Diego Garcia until the vessels could be made sea-worthy.

During this period, the ice in the hold of IMUL-A-0207-GLE had started to melt. Following removal of this ice in efforts to make the vessels sea-worthy a total of 34 sharks were discovered, including 1 Scalloped Hammer Head, 7 Silver tips, 13 silky sharks, 12 Blacktip shark and 1 Short-finned Mako. 21 skipjack tuna and 2 dorado were also found.

In accordance with BIOT legislation, an application was made to the Magistrate to destroy the catch. Having heard from the BIOT Police and Master of the vessel, the Magistrate ordered the destruction of the catch.

On 9<sup>th</sup> November 2018 the Master and crew were served with removal orders, issued by the Principal Immigration Officer in accordance with BIOT Immigration law.

The three vessels were released at approximately 17:00 hours on 9 November 2018 and instructed to leave BIOT waters directly and return to their home ports in Sri Lanka. The estimated date of arrival in Sri Lanka is 19 November.

MRAG Ltd  
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In association with  
Marine Education and Conservation Trust  
Reg. Charity No. 297 193



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We would like to request that as well as taking action against the owners of these vessels, DFAR take such action as they can against the Masters of the vessels so as to discourage them and other Masters from entering BIOT waters and engaging in illegal fishing activity.

We would like to thank Sri Lanka as flag State for the continued bilateral assistance in combatting the threat of IUU fishing in the Indian Ocean and would kindly request notification of any actions taken by DFAR in conducting a regulatory investigation into the activities of these vessels.

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrags.co.uk](mailto:c.mees@mrags.co.uk)) or James Muir Clark ([j.clark@mrags.co.uk](mailto:j.clark@mrags.co.uk)). We look forward to your continued cooperation.

Yours Sincerely

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

Linsey Billing  
BIOT Administration, Director of Fisheries

Ginigie Prasanna Janaka Kumara  
Director General  
Department of Fisheries and Natural Resources  
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04 March 2019

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Nuwan Gunawardana [nuwan54@gmail.com](mailto:nuwan54@gmail.com)

Dear Mr. Ginige Prasanna Janaka Kumara,

**Reporting presumed IUU vessels to the IOTC Compliance Committee (CoC)**

I refer to an email of 20/01/2019 from Kalyani Hewapathirana to Denise Bradshaw, BIOT Principal Legal Advisor, with attached table: 'Update on the actions taken in respect of Sri Lankan vessels reported on IUU in BIOT waters during 2017 and 2018', copied to me. As you know it is necessary to inform IOTC of presumed IUU by a deadline of 70 days before the Compliance Committee. Ahead of submitting any reports, we have a number of questions on the historic cases previously submitted to IOTC and the new vessels that we will report this year.

We note the actions taken against a number of vessels boarded and inspected in BIOT (in your table, those numbered 1, 2, 3, 5, 7, 8, 9, 10, and 12). We will continue to provide similar inspection reports as you have requested. These vessels will not be separately reported to IOTC although they will be included in any information paper we may produce as in previous years 'Reporting of vessels in transit through BIOT waters for potential breach of IOTC Conservation and Management Measures'. We further note your letter dated 20/07/2018 on 'Implementation of VMS to the multiday fishing vessels operate within the EEZ of Sri Lanka'. We welcome the extension of the VMS programme to include all multi day vessels, not just those authorised to fish on the high seas, and note the delays in implementing this. We would be grateful if you can keep us informed of progress.

The remainder of this letter relates to vessels where the inspection by the BIOT Senior Fisheries Protection Officer indicated fishing activity in BIOT waters and presumed IUU, and so may be reported to IOTC. As you are aware Paragraph 14d of IOTC Resolution 17/03 requires the flag State to provide information that demonstrates that:

- (1) effective action has been taken in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity to be effective in securing compliance and deterring further infringements. And,
- (2) Every CPC shall report any actions and measures that it has taken in accordance with Resolution 07/01, in order to promote compliance with IOTC Conservation and Management Measures by vessels that fly its flag.' (i.e. to investigate the engagement of natural or legal persons engaged in IUU)

We note that the table of actions you have provided largely covers the first element (i.e. prosecution and sanctions imposed; other flag State actions such as detention of the vessel, installation of VMS, revised licensing conditions etc.). We further note that these actions largely relate to the vessel owner. However, there is limited information provided that relates to the second element of 14d, the actions taken against those engaged in IUU. Here we particularly refer to the Master (or Skipper) of the vessel rather than the crew,

although for the latter we would be interested if any action was taken e.g. to better educate them about IUU.

As soon as possible, and no later than 21<sup>st</sup> March (noting BIOT will be making its submission to IOTC on 28<sup>th</sup> March) we would be grateful to receive additional information, including supporting evidence, from you as set out below.

#### **A. Vessels previously reported to IOTC**

At the time of submission to CoC, BIOT's recommendation for the following vessels was: '*(b) Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State*'. This recommendation is subject to the submission of evidence of the actions taken by Sri Lanka to the Compliance Committee, and we reserve the option of changing our recommendation to '*(c) Recommended for inclusion on IOTC IUU list*' should this not be forthcoming.' Hence these vessels were not included in the draft IUU vessel list and were for information only.

We would like to close these cases as far as IOTC reporting is concerned, and so would appreciate your response to the following which, we trust, should enable us to do so.

##### **(4) Superfresh 02 – IMUL-A-0128 GLE (presented to IOTC in 2017)**

This vessel was prosecuted and fined in the BIOT Court on Diego Garcia, but has not paid the fine. We note the actions taken by Sri Lanka against the owner of the vessel, indicated in the table the provided, and that the vessel is currently anchored in Beruwala harbour and cannot fish due to non-payment of fines.

With respect to the Master/Skipper your letter DFAR/FM/K/IUU/2017 dated 01/03/2017 indicates that the skipper and crew were detained. Your letter with the same reference dated 03/05/2017 to the IOTC Executive Secretary provided an update on the case relating to this vessel, but provided no further information on the actions taken against the Master. No details are provided of the actions taken against the Master/Skipper in the table provided on 20/01/2019.

Please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper

##### **(6) Lakshi Duwa 06 – IMUL-A-0398-KLT (presented to IOTC in 2018)**

We note the actions taken by Sri Lanka against the owner of the vessel, indicated in the table provided, and that the vessel is currently anchored in Beruwala harbour and cannot fish due to non-payment of fines.

With respect to the Master/Skipper your letter dated 26/04/2018 to Dr CC Mees includes an annexed letter dated 03/10/2017 to the Assistant Director, Kalutra District Fisheries Office, which gives instructions that an inquiry should be conducted before releasing the skipper and the crew, and that the fishing operation licence of the skipper should be suspended. No details are provided of the actions taken against the Master/Skipper in the table provided on 20/01/2019.

Please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper confirming whether these instructions and any other actions were carried out.

#### **B. Vessels to be reported to IOTC in 2019**

##### **(11) Seneka 07 IMUL 0142 PTM**

We note the actions taken against the owner, and that due to non-payment of fine the vessel is anchored in Beruwala harbour. We have no details of any actions intended, or taken in respect of the Master/Skipper.

Please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper

**(13) IMUL A 0030 GLE; (14) IMUL0207 GLE; and (15) IMUL 0293 KLT**

All three vessels have recent or pending court cases 25 March; 20 February; and 5 February respectively (we assume 2019, the Table indicates 2018). The BIOT Director of Fisheries has asked for clarification of what approval from the Minister has been sought.

For all three vessels, please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper. Please provide details of the outcome of the court cases against the owners, and also any settlements made by the owner.

**(16) IMUL 0728 KLT.**

We note that no action has been taken against the owner of the vessel to date. It is not clear if the vessel has been released to continue fishing, or is still detained in port. We note that the Master's/Skipper's licence was cancelled for 12 months. This vessel was on the IOTC Authorised fishing vessel list and equipped with VMS. We refer to our letter dated 30 October 2018 in which we request VMS records for this vessel in order to provide information on its movements.

Please note that the BIOT Administration may provide you with additional information in respect of this vessel. In the meantime:

Please provide the VMS record for this vessel for the relevant time period.

Please clarify if the vessel is still detained?

Please clarify whether the owner of the vessel will be prosecuted?

Please indicate if any further action was taken in respect of the skipper?

We would like to thank Sri Lanka as flag State for the continued bilateral assistance in combatting the threat of IUU fishing in the Indian Ocean. We look forward to receiving your responses to the above.

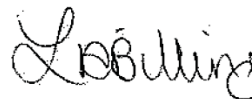
Yours sincerely

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrag.co.uk](mailto:c.mees@mrag.co.uk)) or James Muir Clark ([j.clark@mrag.co.uk](mailto:j.clark@mrag.co.uk)). We look forward to your continued cooperation.

Yours Sincerely



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



Linsey Billing  
BIOT Administration, Director of

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**கடற்றொழில், நீரியல் வளத்துறை திணைக்களம்**

**DEPARTMENT OF FISHERIES & AQUATIC RESOURCES**

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புதிய செயலகம், மாலிகாவத்தி, கொழும்பு 10.  
New Secretariat, Maligawatta, Colombo 10.

දිනය } 21 .03.2019  
திகதி }  
Date }

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**Reporting presumed IUU vessels to the IOTC Compliance Committee**

This is reference to your letter dated 04<sup>th</sup> March 2019 on the above. Please find the following clarifications on your queries.

Para (ii) - Implementation of VMS to the multiday fishing vessels operating within EEZ of Sri Lanka.

As you are aware Ministry of Fisheries and Aquatic Resources Development Sri Lanka is not in a position to call another tender for purchasing of VMS for the vessels operating within EEZ until the Fundamental Right case filed by one of the bided Company is finalized. However as the chief Administrative body responsible on Monitoring of fishing vessels of Sri Lanka, Dept. Fisheries and Aquatic Resources (DFAR) highlighted the fact that the importance of installing of Vessel Monitoring Devices (VMDs) on board of all multiday fishing vessels , as Sri Lanka bound by international resolutions on prevent deter and elimination of IUU fishing in the region.

Further recent past incidents of deploying of fishing vessels for non- fishing activities such as human trafficking and drug trafficking by organized groups of people is another menace which further aggravated the requirement of VMDs on board of fishing vessels.

As such DFAR sought legal advice from Attorney General Dept. to find the possibility of settling the court case by conducting several meetings with the participation of relevant parties. The party who files the FR case agreed to withdraw the court case if they have been offered the tender. As a

result the Senior State Counselor appearing for the case has instructed DFAR by a letter dated to award the tender to the party who filed the FR case by put forwarding a Cabinet Paper to the Cabinet of Ministers of the Parliament. However due to the prevailed political uncertainty in the country caused a delayed in the process and the MFARD is currently proceed on this matter. As such we see a green light of installation of VMDs within EEZ vessels very soon.

#### **Sri Lanka Vessels inspected by BIOT SFPO**

Para (iv) -Sri Lanka still find lack in legal provisions to take legal actions against the vessel operator (skipper) those who engaged in IUU fishing. As such preliminary arrangements have made to bring amendment to the current Fisheries Act to incorporate provisions to take actions against the vessel operator (Skipper).

However, there is a special arrangement in the investigation division to send the skippers those violate High seas regulations, for a compulsory two-day consultation on the obligations of High Seas fishing. Such skippers are not allowed to operate a fishing vessel if they do not attend these sessions. This is an administrative measure implemented until the period of new legal provisions come in to enforce. In addition, the training unit conducts the regular awareness programs in all Districts in a rotation manner.

With regard to your inquiries for vessels previously reported to the IOTC,

- (4) Super Fresh 02 – IMUL-A-0128 GLE (2017)
- (5) Lakshiduwa -IMUL-A- 0398 KLT (2018)
- (11) Senaka 07 IMUL 0142 PTM (2019)
- (13) IMUL-A- 0030GLE, IMUL-A- 0207GLE, IMUL-A- 0297KLT – As per the provision in the DFAR Act No. 02 of 1996 section 52(1) for the compounding (1st time convicted and admit guilty) approval of the Minister of Fisheries and Aquatic Resources Development is required. As such the file has been forwarded to the Minister.

Due to non-availability of legal provisions to take actions against the skipper, the skippers of the vessels given in above four bullet points were released by making them compulsory to attend the two day consultation on the obligations of High Seas fishing.

(16) IMUL- A- 0728 KLT

I draw your attention to your letter dated 15<sup>th</sup> November 2018. With respect to investigation findings you have reported in the paragraph 3 the skipper of the vessel IMUL- A- 0728 KLT has



been obstructed to the duties of SFPO of BIOT. We take this matter into our serious consideration and decided to cancel the skipper license for one year.

I would say that in the FARA Act No 35 of Sri Lanka also has provisions to take legal actions for obstructing to the authorized officers.

However the wordings in the paragraph (v) of the letter dated 15th November 2018 has misled the investigation officers of Sri Lanka that the entering of this vessel in to BIOT waters is due to an engine failure, which it was tally with the statements given by them after arrival to Sri Lanka.

In the Inspection Report – ARW01, under IOTC CMM violations we noted that the fishing gears are not marked, No VMS, VMS not tampered, No State issued log book and no state issued license is marked. However DFAR can confirm that the vessel had Log book and the Operation licence and operating VMS on board during the departure from the home port. The departure form of the vessel is attached for your information. We noted that the gear marking has not been checked by the harbor officials during the departure.

- The Vessel Monitoring Device showed that it was in good working order during the departure. However re-configuration of VMS transponders is going on under new International Maritime Satellite (INMARSAT) C service due to the change of the previous INMARSAT C service provider. Therefore DFAR is experiencing failure of Vessel monitoring system in some of the vessels the above vessel also one of such and therefore VMS record is not available.
- The vessel is permitted for H.S. Fishing
- The owner has not persecuted.
- With the information provided by you on 15<sup>th</sup> of March there is a potential DFAR to take further action in respect of the skipper. We hope to execute the legal provisions available in the prevailing Act with the assistance of the evidence provided by BIOT in future.

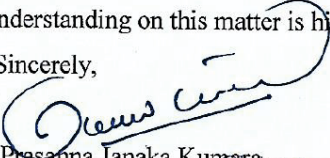
I would say that DFAR is hardly managing to take some legal actions against the fishers due to some economic and social hardships faced by them. However we are not retrograde to take legal actions against the IUU fishing activities keeping our commitment to prevent IUU fishing in the region.

Your understanding on this matter is highly appreciated.

Yours Sincerely,

Ginige Prasanna Janaka Kumara

Director General

  
Ginige Prasanna Janaka Kumara  
Director General  
Department of Fisheries & Aquatic Resources

Ginigie Prasanna Janaka Kumara  
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Department of Fisheries and Natural Resources  
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Maligawatta, Colombo 10

26 March 2019

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Nuwan Gunawardana [nuwan54@gmail.com](mailto:nuwan54@gmail.com)

Dear Mr. Kumara,

**Reporting presumed IUU vessels to the IOTC Compliance Committee (CoC)**

Thank you for your letter dated 21 March 2019 which has helpfully answered some of the questions raised in our earlier correspondence of 4 March and 15 March 2019.

**1. VMS on multiday fishing vessels operating within the EEZ of Sri Lanka**

We note the updated details regarding installation of VMS on multiday fishing vessels operating within the EEZ of Sri Lanka and are encouraged that this will occur 'very soon'. *We would be grateful for an update on the status of installation in due course.*

**2. Action taken against fishing skippers**

We note and support the plans to amend the Fisheries Act in order to enable legal action to be taken against the vessel operator (skipper) and nationals engaged in IUU Fishing which will enable Sri Lanka to apply the provisions of IOTC Resolution 07/01. *We would be grateful for an update on the timeline for change in due course.*

We appreciate that you have used such administrative powers that you have available to deal with the skippers of these vessels.

The skipper of IMUL 0728 KLT had his licence cancelled for one year, whereas the skippers of IMUL-A-0128 GLE; IMUL-A-0398-KLT; IMUL 0142 PTM; IMUL A 0030 GLE; IMUL0207 GLE; and IMUL 0293 KLT each attended a 2 day consultation *It would be useful to understand if there is any further information that BIOTA or the Principal Legal Advisor can provide which would allow you to suspend the licences of skippers suspected of IUU fishing ahead of the proposed changes to legislation?*

**3. IOTC IUU vessel listing**

**A. Vessels previously reported to IOTC**

**Superfresh 02 – IMUL-A-0128 GLE (presented to IOTC in 2017) and Lakshi Duwa 06 – IMUL-A-0398-KLT (presented to IOTC in 2018)**

We are satisfied that sanctions of adequate severity have been taken in respect of the owners of these vessels. We consider the actions taken in respect of the skippers to be inadequate but note the current limitations of the

Fisheries Act and that this will be updated. We will therefore not be re-notifying these vessels to IOTC Compliance Committee in 2019.

#### **B. Vessels to be reported to IOTC in 2019**

##### **Seneka 07 IMUL 0142 PTM**

We are satisfied that sanctions of adequate severity have been taken in respect of the owner of this vessel. We consider the actions taken in respect of the skipper to be inadequate but note the current limitations of the Fisheries Act and that this will be updated. We will notify this vessel to IOTC Compliance Committee in 2019 with recommendation b) 'Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State'.

##### **IMUL A 0030 GLE; IMUL0207 GLE; and IMUL 0293 KLT**

Thank you for indicating that these cases have been referred to the Minister. It is still not clear to us why this is the case. *Could you please provide a more detailed explanation of what that means?* We also note that the dates for court cases for these vessels have passed (25 March; 20 February; and 5 February respectively). *Is DFAR intending that any of the owners of these vessels is to be prosecuted?*

At the time of writing, we are NOT satisfied that sanctions of adequate severity have been taken in respect of the owners of these vessels. We consider the actions taken in respect of the skippers to be inadequate but note the current limitations of the Fisheries Act and that this will be updated.

As we are unable to conclude on the information currently provided that actions of adequate severity have or shall be taken, we have concluded that the only correct course of action for us to take is to notify these vessels to IOTC Compliance Committee in 2019 with recommendation c) 'Recommended for inclusion on IOTC IUU list'. We note that Sri Lanka has until 15 days before the Compliance Committee Meeting to provide additional information which we will review at that time before deciding whether to pursue IUU listing during the meeting.

##### **IMUL 0728 KLT.**

This vessel is on the IOTC Authorised fishing vessel list. We understand that no action has been taken against the owner of the vessel nor is intended. The vessel has now been released. We note that the Master's/Skipper's licence was cancelled for 12 months. Whilst the VMS was working when the vessel left port reconfiguration of VMS transponders means there are no vessel tracks for the period in question, which we consider to be inadequate. *It would be helpful to us when deciding how to request this vessel is to be dealt with by the IOTC if we could understand why this owner has not been prosecuted. Is there a specific reason why this action could not take place in this case compared to others.*

At the time of writing, we are NOT satisfied that sanctions of adequate severity have been taken in respect of the owner of this vessel. We consider the action taken in respect of the skipper to be adequate.

As we are unable to conclude on the information currently provided that actions of adequate severity have or shall be taken, we have concluded that the only correct course of action for us to take is to notify this vessel to IOTC Compliance Committee in 2019 with recommendation c) 'Recommended for inclusion on IOTC IUU list'. We note that Sri Lanka has until 15 days before the Compliance Committee Meeting to provide additional information which we will review at that time before deciding whether to pursue IUU listing during the meeting.



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Internet: [www.mrag.co.uk](http://www.mrag.co.uk)

We would like to thank Sri Lanka as flag State for the continued bilateral assistance in combatting the threat of IUU fishing in the Indian Ocean. We look forward to receiving your responses to the above.

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrag.co.uk](mailto:c.mees@mrag.co.uk)) or James Muir Clark ([j.clark@mrag.co.uk](mailto:j.clark@mrag.co.uk)). We look forward to your continued cooperation.

Yours Sincerely

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

Linsey Billing  
BIOT Administration, Director of Fisheries

Dr Chris O'Brien  
Executive Secretary  
Indian Ocean Tuna Commission  
Mahe  
Seychelles

28 March 2019

cc. Mr Hosea Gonza Mbilinyi, Chair of the Compliance Committee;  
Ms Anne-France Mattlet, Vice Chair;  
Mr Kumara, and Ms K Hewapathirana, DFAR, Sri Lanka

Dear Dr O'Brien,

**Resolution 18/03 On establishing a list of vessels presumed to have carried out IUU fishing in the IOTC Area of Competence: Sri Lankan Flagged Vessel IMULA 0728 KLT**

As required in paragraphs 5 and 6 of Resolution 18/03 please find attached a completed IOTC Reporting form for Illegal Activity and accompanying evidence supporting IUU fishing activity for the Sri Lankan flagged vessel IMULA 0728 KLT. Under the bilateral arrangement established between UKOT and Sri Lanka in order to combat IUU, this vessel was reported to the Sri Lankan Authorities who have taken action against the owner/master under the provisions of national fisheries legislation (FARA 1996/2016).

The attached evidence shows that

- At the time of the incident, the vessel was on the IOTC Record of Authorised Vessels, IOTC016120
- The vessel had no stern markings
- VMS was switched off or not working and had no tamper-proof seal, no VMS tracks were provided by the flag State
- The vessel was equipped with gill nets and longlines; There were no gear markings
- Limited fishing gear was on board and was presumed deployed in BIOT waters
- The vessel was presumed IUU fishing within the waters of the British Indian Ocean Territory without a license;
- The skipper was obstructive; paperwork was hidden on the vessel
- Sri Lanka has not provided sufficient information to enable the conclusion that sanctions of adequate severity have yet or shall be taken in respect of the owner of this vessel.

We submit this vessel to IOTC Compliance Committee with recommendation c) 'Recommended for inclusion on IOTC IUU list'. We will review this recommendation before the meeting in light of any additional information provided by Sri Lanka pursuant to paragraphs 10 and 12 of Resolution 18/03.

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

Thank you.

Yours sincerely



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

Enclosed: IOTC Reporting form for Illegal Activity, IMULA 0728 KLT



### IOTC Reporting form for Illegal Activity

Recalling IOTC Resolution 18/03 On establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC Area, attached are details of illegal activity recorded by UK(OT) in British Indian Ocean Territory.

#### A. Details of Vessel

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

Item	Definition	Indicate
a	Current Name of Vessel (Previous name/s, if any)	IIMULA0728KLT
b	Current Flag (previous flag/s, if any)	Sri Lanka
c	Date first included on IOTC IUU Vessel List (if applicable)	N/A
d	Lloyds IMO Number, if available	N/A
e	Photo	Yes, See Appendix 1
f	Call Sign (previous call sign, if any)	4SF4020
g	Owner (previous owner/s, if any)	H.R.D.D. Perera of: 42/4, Chamara Uyana, Ambepitiya, Beruwala (as per IOTC record).
h	Operator (previous operator/s, if any) and Master/Fishing Master	Not known
i	Date of alleged IUU fishing activities	29/10/2018
j	Position of alleged IUU fishing activities	05° 40.3' S 072° 38.3' E
k	Summary of alleged IUU activities (see section B for more detail)	The vessel master obstructed the Senior Fisheries Protection Officer during the performance of his duties. The vessel did not carry an applicable license or logbook issued by the flag state. Fishing gear observed on-board did not have vessel markings. The VMS system present on board was not apparently working and was not tamperproof.
l	Summary of any Actions known to have been Taken in respect of the alleged IUU fishing activities	The vessel was approached, photographed and boarded.

m	Outcome of Actions taken	Following approach and boarding the vessel was detained and escorted to Diego Garcia.
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## B. Details of IOTC Resolution Elements Contravened

(Indicate with a "X" the individual elements of IOTC Resolution 17/03 contravened, and provide relevant details including date, location, source of information. Extra information can be provided in an attachment if necessary.)

That a vessel has, within the IOTC Area and in relation to species covered by the IOTC Agreement or by IOTC Conservation and Management Measures:

Item	Definition	Indicate
a	Engaged in fishing or fishing related activities and is neither registered on the IOTC Record of Authorised Vessels in accordance with Resolution 15/04, nor recorded in the Active list of vessels; or	<input type="checkbox"/>
b	Engaged in fishing or fishing related activities when its flag State is without quota, catch limit, or effort allocation under IOTC Conservation and Management Measures where applicable; or	<input type="checkbox"/>
c	Failed to record or report its catches in accordance with IOTC Conservation and Management Measures or has made false reports; or	<input type="checkbox"/>
d	Taken or landed undersized fish in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
e	Engaged in fishing or fishing related activities during closed fishing periods or in closed areas in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
f	Used prohibited fishing gear in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
g	Transhipped fish to, or otherwise participated in joint operations with, support or re-supply vessels that are not included on the IOTC Record of Authorised Vessels or not on the Record of Vessels Authorised to receive transshipments at-sea in the IOTC Area or	<input type="checkbox"/>
h	Engaged in fishing or fishing related activities in waters that are under the national jurisdiction of a coastal State without the permission or authorisation of that State or in contravention of the laws and regulations of that State (without prejudice to the sovereign rights of the State concerned to undertake enforcement measures against such a vessel); or	<input checked="" type="checkbox"/>
i	Engaged in fishing or fishing related activities whilst being without nationality; or	<input type="checkbox"/>
j	Engaged in fishing or fishing related activities having intentionally falsified or concealed its markings, identity or registration; or	<input checked="" type="checkbox"/>
k	Engaged in fishing or fishing related activities in contravention of any other binding IOTC Conservation and Management Measures;	<input checked="" type="checkbox"/>



**C. Associated Documents**

*(List here the associated documents that are appended e.g. boarding reports, court proceedings and photographs)*

Appendix I – Photographs.

Appendix II – Inspection Report

Appendix III – Notification of Investigation and Request for Cooperation

#### D. Recommended Actions

Recommended Actions		Indicate
a	Notification to IOTC Secretariat only. No further action is recommended.	<input type="checkbox"/>
b	Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State.	<input type="checkbox"/>
c	Recommended for inclusion on IOTC IUU list	<input checked="" type="checkbox"/>

Appendix I – Photographs.



Figure 1: Vessel starboard



Figure 2: Vessel photo starboard with unmarked stern visible.



Figure 3: Vessel portside

**INSPECTION REPORT – ARW01****1 Summary**

<b>Date of boarding</b>	29/10/18
<b>Patrol type and number</b>	FIPA 53
<b>Vessel name</b>	IMULA-0728-KLT
<b>Vessel type</b>	FV <25m, Longline and gillnets
<b>Vessel flag and home port</b>	Sri Lanka
<b>Vessel identification number</b>	IMULA-0728-KLT
<b>Vessel identification type</b>	Multipurpose
<b>IOTC# (if registered)</b>	IOTC016120
<b>Vessel Master name</b>	Badde Liyanage Don Ivon Priyantha
<b>SFPO</b>	Andrew Watson
<b>FPO / FPOs</b>	Lucasz Kasielewski
<b>Outcome of boarding</b>	Vessel detained and escorted to Diego Garcia

**2 Initial sighting details (from Grampian Frontier only)**

Date and time of first sighting	29/10/18 02:00	(DD/MM/YY HH:MM)
Sighted by	Grampian Frontier, Lukasz	Radar Y Visual N
Position of target 1	Target 02 at 05°40.3'S 072°38.3'E	
Course	256°	
Speed	1.2KN	
Range	7.9Nm	
Bearing	020°	
<p>Comments: The target was one of two targets detected by radar. The other target was in position 05°40.4'S 072°36.0'E. Both targets moving slowly. As BIOT Patrol Vessel approached, the targets increased speed and headed northwards away from the BPV. The BPV increased speed in pursuit. VHF communication was attempted on three occasions by SFPO at start of pursuit to no reply. AIS was switched on. Vessels changed direction and increased speed. At 03:00hrs, target 01 split in to two targets, these became target 01 and 03. Target 03 continued to move away from the BPV. The SFPO and bridge crew thought the vessel had dropped something floating in the sea which had become target 01. ECDIS screen shots taken at intervals during pursuit. Pennants were raised at 04:00hrs, prior to interception of Target 03. BPV DC launched at 05:03hrs to remain with vessel now identified as IMUL-A-0030-GLE. BPV continued to Pursue target 02.</p>		
Fisheries Pennant and Sierra Quebec Three Raised	29/10/18 04:00	(DD/MM/YY HH:MM)
Target requested to stop and prepare for boarding.	No VHF Channel 16 response prior to getting alongside. Verbal request made 29/10/18 07:10	(DD/MM/YY HH:MM)
Response to request for boarding	SFPO tried to establish VHF comms, no reply. Captain agreed by nodding and gesticulating when asked by the SFPO, permission to come aboard. SFPO boarded alone due to range of FRC from BPV. FPO Lukasz Kasielewski boarded later at 12:05, after the vessel made its way back to close by the other intercepted vessel.	

**3 Launching of workboat**

Time workboat launched	29/10/18 07:00	(DD/MM/YY HH:MM)
------------------------	----------------	------------------

Workboat crew	Coxwain William Farquhar, Boatman Donald MacFarlane.	
Comments on the approach to the FV: The FRC was launched at a range of approximately 2.2Nm at 07:00hrs and went in pursuit of the target which had stopped. The BPV headed back to the first vessel that had been intercepted, which now claimed to have engine troubles. The FRC circled the fishing vessel twice to take ID photographs and establish vessel markings and identification. The vessel was identified as IMUL-A-0728-KLT.		
Photographic Evidence Collected (See Annex 1).	Port	Yes
	Starboard	Yes
	Stern	Yes
	Fishing gear	Yes
	Other	VMS (NSSLGlobal GmbH Serial No. VMS-0790), MF/HF Radio, GPS, automatic antenna tuner.

## 4 Boarding details

Date and time vessel boarded	29/10/18 07:15 (DD/MM/YY HH:MM)	
Position vessel boarded	05°14.86'S 072°31.66'E	
Boarding party team	SFPO Andrew Watson, FPO Lukasz Kasielewski	
Language spoken	English	
Interpreter needed (Y/N)?	Name	None available

### 4.1 Crew details

Vessel Master name	Badde Liyanage Don Ivon Priyantha	
Vessel Master nationality	Sri Lankan	
Vessel Master address	Near the Idirilla Bridge, Galle Road, Maggona	
Vessel Master D.o.B	Unknown (DD/MM/YY)	
Number of crew	4 + 1 (captain)	
Vessel crew nationality	Sri Lankan (verbally informed)	
Are any crew under 18 (Y/N), if 'Y' provide details below.	Unknown	
Do any crew have health issues (Y/N), if 'Y' provide details below.	Y	
Observations: One crew member claimed to be ill. No visible symptoms.		
Photographic Evidence Collected (See Annex 1).	Captain ID	No. ID card retained by SFPO.
	Other crew id	Photos taken of crew

### 4.2 Vessel registration and paperwork

Fishing licence present (y/n) and number if relevant	No
Fishing licence date of issue, expiry and issuing authority	No (DD/MM/YY)
FV owner name (as per licence)	No
FV owner details (as per licence)	No
Fishing logbook present (y/n) and number if relevant	No
Issuing authority	Not made available to SFPO
Date of last entry	NA (DD/MM/YY)
Position of last entry	NA

Other paperwork: No paperwork other than the captain's Fisherman's Identity Card was made available to the SFPO despite a number of requests. The Captain said the vessel owner had all the documents but was unable to give any details. No crew identification provided. This was deemed unacceptable and that the Captain was being obstructive to the SFPO.		
Photographic Evidence Collected (See Annex 1).	Licence	Not available
	Logbook	Not available
	Other	Crew photographs taken.

### 4.3 Interview with Captain

Time of interview	(HH:MM)
Captain's rights read and understood?	I did not read the Captain his rights. The captain was asked questions but not under interview. The Captains understanding of English was poor. It was difficult to communicate.
FV Port of departure	No information
Date of departure	Not known (DD/MM/YY)
Travelling to or from fishing grounds?	From Saya de Malha Bank (verbal in English)
Amount of fish onboard (t)	Unknown
If fish onboard where caught?	Unknown
If fish onboard when caught?	Unknown
If fish onboard how caught?	Unknown
Destination	Sri Lanka (verbally told)
Port of return	Unknown
Anticipated date of return	Unknown (DD/MM/YY)
Comments: The Captain was asked to take the vessel back to the position of the first vessel that was intercepted by following the BPV. The FRC accompanied the vessel alongside. Some questions were asked about the GPS and the VMS during this transit. The Captain gave very little to no information when asked questions by the SFPO. The SFPO considered the Captain understood some of what was being asked. He claimed there were no documents on board. This was witnessed by Lukasz Kisielewski, who came aboard at 12:05hrs. The captain was asked where all his fishing gear was as there were no longlines in the holding box on the front deck, only one buoy, and very little net. Almost the entire set of fishing gear normally present was absent. Photos were taken. The Captain said he lost it all on Saya de Malha Bank.	

### 4.4 Vessel inspection

Fishing gear type	Some gillnet present. Longlines absent.		
Comments The net hold/box was relatively empty. Most of the netting appeared absent.			
Catch onboard (estimated t)	Unable to estimate.		
IOTC species onboard (Y/N)	None seen	Endangered species onboard (Y/N)	None seen
Description of catch: No catches observed. Holds obscured by ice. It was not deemed appropriate to investigate further at this time.			
Comments: Some small signs of catches being present in hold 3, blood stains and a tiny section of fin. This was no longer present.			
Photographic Evidence Collected (See Annex 1).	Gear	Y	
	Catch	N	
	Hold	Y	

## 5 List of violations<sup>1</sup>

### 5.1 BIOT ordinance violations

Fishing without a licence	
Fishing with prohibited fishing gear	
Possession of prohibited fishing gear	
Obstruction of a fisheries patrol officer	X
Possession of sea cucumbers or molluscs	
Traversing or landing on an SNR	
Comments Captain was obstructive throughout. Fishing gear was absent without any satisfactory explanation. No VMS operating. No licenses on board. No registration documents present. Presented only his fisherman's ID card when instructed to produce the vessel's documents.	

### 5.2 IOTC CMM violations

Vessel not marked with name or callsign	
Fishing gear not marked with name or callsign	X
No VMS	X
VMS not tamperproof	X
No state issued logbook	X
No state issued licence	X
Possession of drift net over 2.5km.	
Not on the IOTC authorised list	
Not on the IOTC Record Active Tuna / Swordfish	
No turtle de hooker on board	
Comments VMS present but not working. Had a switch attached marked alert button. Photos taken. Model NSSL Global GmbH Serial No. VMS 0790. No markings on fishing gear, only 1 buoy present on deck. No licences or logbooks presented to SFPO when instructed.	

## 6 SFPO actions

Vessel and Master detained and escorted to DG	X
FPN issued and catch and gear seized	
IOTC Reporting Form to be completed (Res: 11/03)	X
Master given verbal warning and released	
No further action, vessel released	
Comments (when detained / escorted) The Captain of the IMUL-A-0728-KLT was considered to be obstructive to the SFPO in not producing documents including certificates of registry, fishing licence, logbooks, passports/identification or any record of any fish caught. The Captain was instructed to stay where he was until further notice when the SFPO would return. The SFPO disembarked the vessel and re-embarked on the morning of 30/12/18 at 07:46hrs. The SFPO issued the Captain with a	

## 7 Disembarkation and recovery

Time FV disembarked	12:35	29/10/18
Time Workboat recovered to the BPV	12:40	29/10/18
Time FV disembarked	07:53	30/10/18

Time Workboat recovered to the BPV	08:23	30/10/18
Comments: The SFPO did not conclude his boarding of this vessel until the following morning of 30/10/18. At this point the boarding receipt was issued.		

## 8 Vessel records and history

Vessel on IOTC register (Y/N)	Y	IOTC number	016120
Vessel on IOTC Record Active Tuna / Swordfish (Y/N)			
Version of IOTC database referenced: IOTC List 2018/08/02			
Vessel previously boarded (Y/N)	N	Inspection report ID	
Master previously boarded (Y/N)	Unknown	Inspection report ID	
Owner previously boarded (Y/N)	Unknown	Inspection report ID	
Crew previously boarded (Y/N)	Unknown	Inspection report ID	
Comments:			

**Andrew Watson**  
**BIOT Senior Fisheries Protection**  
**Officer 30/10/2018**



## Appendix III – Notification of Investigation and Request for Cooperation



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Geethamali Chandrasiri  
Assistant Director  
Department of Fisheries and Natural Resources  
No. 10 New Secretariat  
Maligawatta, Colombo 10

30 October 2018

E-Mail: Geethamali Chandrasiri [ip@fisheriesdept.gov.lk](mailto:ip@fisheriesdept.gov.lk)

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Nuwan Gunawardana [nuwan54@gmail.com](mailto:nuwan54@gmail.com);  
Kalyani Hewapathirana [hewakal2012@gmail.com](mailto:hewakal2012@gmail.com)

Dear Dr Chandrasiri,

### Request for Confirmation of Ownership of the Sri Lankan vessels **IMUL-A-0728-KLT**, **IMUL-A-0207-GLE** and **IMUL-A-0030-GLE**.

The Sri Lankan flagged vessels **IMUL-A-0728-KLT**, (IOTC16120 (current record expires 31/12/2018)) **IMUL-A-0207-GLE**, (IOTC11283 (most recent record expired 13/02/2014)) and **IMUL-A-0030-GLE**, (not on the IOTC Record of Authorised Vessels) are currently the subject of a criminal investigation into suspected illegal fishing activity including possession of illegal fishing gear (IMUL-A-0207-GLE and IMUL-A-0030-GLE) and obstruction of a Fisheries Protection Officer (IMUL-A-0728-KLT). The BIOT Administration needs to be clear as to the accurate details of the registered owners before a final decision on any course of action can be taken. At this stage our investigations into the possible activities of these vessels are preliminary, no finding has been made by the Administration of any such activities.

According to the best information available to the Administration the names and addresses of the owners of these vessels are as follows;

Vessel / Source	Owner Name / Address
IMUL-A-0728-KLT IOTC Record of Authorised Vessels	<b>H.R.D.D. PERERA</b> 42/4, CHAMARA UYANA, AMBEPITIYA, BERUWALA.
IMUL-A-0207-GLE IOTC Record of Authorised Vessels	<b>LL. SAMARASINGHA</b> 175/MATARA ROAD, MAGALLE, GALLE.
IMUL-A-0207-GLE Vessel Documents	<b>MAHABADUGE, PRAMAJ DILSARA</b> <b>FERNANDO JAYASOORIYA</b> NO: 71/8 SIRINIWASA MAWATHA, NALLAHENA, BERUWALA
IMUL-A-0030-GLE No source	NO RECORD

Please can you confirm or provide us with the ownership details for these vessels? We would be grateful for a formal signed response with a DFAR letterhead, which can be scanned and sent by email as soon as possible, ideally by 31<sup>st</sup> October.

Only one vessel, **IMUL-A-0728-KLT**, was seen to have a VMS on board, although according to the captain it wasn't working. However, if possible, please could you supply any VMS records for the recent trip for this vessel, or the other vessels if available, that could provide information in relation to their movements.

---

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They are currently being escorted by the BIOT Patrol vessel and are estimated to arrive into Diego Garcia on the 31<sup>st</sup> October. We would be grateful for an early indication of whether you plan to request that Sri Lankan authorities deal with these vessels if it is confirmed that they are in violation of the fisheries regulations of Sri Lanka.

Thank you for your cooperation.

Yours sincerely

Linsey Billing  
BIOT Director of Fisheries

Dr Christopher Mees  
Head of UK Delegation to IOTC

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தொலை நகல் } 449170  
Fax No. }

මගේ අංකය }  
எனது இல. } DFAR/FM/ADG/Innocent Passage-2018  
My No. }

ඔබේ අංකය }  
உமது இல. }  
Your No. }

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கடற்றொழில், நீரியல் வளத்துறை திணைக்களம்

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දිනය }  
திகதி } 3/ .10.2018  
Date }

Ms. Linsey Billing

BIOT Director of Fisheries

Dr.C.Mees

Head of UK Delegate to IOTC

**Ownerships confirmation of the Sri Lanka Fishing Vessel IMUL-A-0728KLT, IMUL-A-0207GLE, IMUL-A-0030GLE.**

As per the request you have forwarded to this Department, on confirmation of the ownership of above fishing vessels, please find the following details.

Vessel	Owner Name / Address
IMUL-A-0728KLT	H.R.D.DAMAYANTHI 42/4,CHAMARA UYANA AMBEPITIYA BERUWALA.
IMUL-A-0207GLE	M.P.D.F.JAYASOORIYA NO.71/8, SIRINIWASA MAWATHA, NALLAHENA, BERUWALA.
IMUL-A-0030GLE	P.K.D.D.SUSANTHA KAKUNU UDUMULLA, KAJUDUWA ROAD, DUDAMGODA
Source- Vessel Registry - DFAR	

DFAR is willing and would request to take legal actions against the vessels Owners as per the Fisheries and Aquatic Resources Act, Sri Lanka on receipt of confirmed evidence of violations by these vessels.

Ginige Prasanna Janaka Kumara

Director General

Ginige Prasanna Janaka Kumara  
Director General  
Department of Fisheries & Aquatic Resources



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Kalyani Hewapathirana [hewakal2012@gmail.com](mailto:hewakal2012@gmail.com)

Dear Mr. Ginige Prasanna Janaka Kumara,

**Release of the Sri Lankan vessels IMUL-A-0728-KLT, IMUL-A-0207-GLE and IMUL-A-0030-GLE.**

Thank you for your letter dated 31 October 2018 confirming the ownership of each of the above referenced vessels and indicating that DFAR intend to take legal action against the owners of the vessels.

These vessels were boarded and inspected, in accordance with BIOT laws, by the BIOT Fisheries Protection Officer on the 29<sup>th</sup> October 2018. All three vessels were detained upon suspicion of being involved in illegal fishing activity and escorted to Diego Garcia for further investigation.

All three vessels were investigated for illegal fishing activity and additionally, IMUL-A-0207-GLE and IMUL-A-0030-GLE for possession of illegal fishing gear (wire trace), and IMUL-A-0728-KLT for obstruction of a Fisheries Protection Officer. Please find attached the Fishery Protection Officers Inspection report which details the boarding and inspection of the vessels.

On 31<sup>st</sup> October, following the letter from DFAR which confirmed the intention of the Sri Lankan authorities to take legal action against the owners of the vessels, the Director of Fisheries took the decision that the vessels should be returned to Sri Lanka. In light of this decision, no criminal proceedings were commenced in BIOT. A preliminary police investigation was commenced and concluded.

Unfortunately, two of the vessels had engine problems and so all three were kept in Diego Garcia until the vessels could be made sea-worthy.

During this period, the ice in the hold of IMUL-A-0207-GLE had started to melt. Following removal of this ice in efforts to make the vessels sea-worthy a total of 34 sharks were discovered, including 1 Scalloped Hammer Head, 7 Silver tips, 13 silky sharks, 12 Blacktip shark and 1 Short-finned Mako. 21 skipjack tuna and 2 dorado were also found.

In accordance with BIOT legislation, an application was made to the Magistrate to destroy the catch. Having heard from the BIOT Police and Master of the vessel, the Magistrate ordered the destruction of the catch.

On 9<sup>th</sup> November 2018 the Master and crew were served with removal orders, issued by the Principal Immigration Officer in accordance with BIOT Immigration law.

The three vessels were released at approximately 17:00 hours on 9 November 2018 and instructed to leave BIOT waters directly and return to their home ports in Sri Lanka. The estimated date of arrival in Sri Lanka is 19 November.

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In association with  
Marine Education and Conservation Trust  
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We would like to request that as well as taking action against the owners of these vessels, DFAR take such action as they can against the Masters of the vessels so as to discourage them and other Masters from entering BIOT waters and engaging in illegal fishing activity.

We would like to thank Sri Lanka as flag State for the continued bilateral assistance in combatting the threat of IUU fishing in the Indian Ocean and would kindly request notification of any actions taken by DFAR in conducting a regulatory investigation into the activities of these vessels.

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrags.co.uk](mailto:c.mees@mrags.co.uk)) or James Muir Clark ([j.clark@mrags.co.uk](mailto:j.clark@mrags.co.uk)). We look forward to your continued cooperation.

Yours Sincerely

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

Linsey Billing  
BIOT Administration, Director of Fisheries

Ginigie Prasanna Janaka Kumara  
Director General  
Department of Fisheries and Natural Resources  
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04 March 2019

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Dear Mr. Ginige Prasanna Janaka Kumara,

**Reporting presumed IUU vessels to the IOTC Compliance Committee (CoC)**

I refer to an email of 20/01/2019 from Kalyani Hewapathirana to Denise Bradshaw, BIOT Principal Legal Advisor, with attached table: 'Update on the actions taken in respect of Sri Lankan vessels reported on IUU in BIOT waters during 2017 and 2018', copied to me. As you know it is necessary to inform IOTC of presumed IUU by a deadline of 70 days before the Compliance Committee. Ahead of submitting any reports, we have a number of questions on the historic cases previously submitted to IOTC and the new vessels that we will report this year.

We note the actions taken against a number of vessels boarded and inspected in BIOT (in your table, those numbered 1, 2, 3, 5, 7, 8, 9, 10, and 12). We will continue to provide similar inspection reports as you have requested. These vessels will not be separately reported to IOTC although they will be included in any information paper we may produce as in previous years 'Reporting of vessels in transit through BIOT waters for potential breach of IOTC Conservation and Management Measures'. We further note your letter dated 20/07/2018 on 'Implementation of VMS to the multiday fishing vessels operate within the EEZ of Sri Lanka'. We welcome the extension of the VMS programme to include all multi day vessels, not just those authorised to fish on the high seas, and note the delays in implementing this. We would be grateful if you can keep us informed of progress.

The remainder of this letter relates to vessels where the inspection by the BIOT Senior Fisheries Protection Officer indicated fishing activity in BIOT waters and presumed IUU, and so may be reported to IOTC. As you are aware Paragraph 14d of IOTC Resolution 17/03 requires the flag State to provide information that demonstrates that:

- (1) effective action has been taken in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity to be effective in securing compliance and deterring further infringements. And,
- (2) Every CPC shall report any actions and measures that it has taken in accordance with Resolution 07/01, in order to promote compliance with IOTC Conservation and Management Measures by vessels that fly its flag.' (i.e. to investigate the engagement of natural or legal persons engaged in IUU)

We note that the table of actions you have provided largely covers the first element (i.e. prosecution and sanctions imposed; other flag State actions such as detention of the vessel, installation of VMS, revised licensing conditions etc.). We further note that these actions largely relate to the vessel owner. However, there is limited information provided that relates to the second element of 14d, the actions taken against those engaged in IUU. Here we particularly refer to the Master (or Skipper) of the vessel rather than the crew,

although for the latter we would be interested if any action was taken e.g. to better educate them about IUU.

As soon as possible, and no later than 21<sup>st</sup> March (noting BIOT will be making its submission to IOTC on 28<sup>th</sup> March) we would be grateful to receive additional information, including supporting evidence, from you as set out below.

#### **A. Vessels previously reported to IOTC**

At the time of submission to CoC, BIOT's recommendation for the following vessels was: *'(b) Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State'. This recommendation is subject to the submission of evidence of the actions taken by Sri Lanka to the Compliance Committee, and we reserve the option of changing our recommendation to '(c) Recommended for inclusion on IOTC IUU list' should this not be forthcoming.'* Hence these vessels were not included in the draft IUU vessel list and were for information only.

We would like to close these cases as far as IOTC reporting is concerned, and so would appreciate your response to the following which, we trust, should enable us to do so.

##### **(4) Superfresh 02 – IMUL-A-0128 GLE (presented to IOTC in 2017)**

This vessel was prosecuted and fined in the BIOT Court on Diego Garcia, but has not paid the fine. We note the actions taken by Sri Lanka against the owner of the vessel, indicated in the table the provided, and that the vessel is currently anchored in Beruwala harbour and cannot fish due to non-payment of fines.

With respect to the Master/Skipper your letter DFAR/FM/K/IUU/2017 dated 01/03/2017 indicates that the skipper and crew were detained. Your letter with the same reference dated 03/05/2017 to the IOTC Executive Secretary provided an update on the case relating to this vessel, but provided no further information on the actions taken against the Master. No details are provided of the actions taken against the Master/Skipper in the table provided on 20/01/2019.

Please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper

##### **(6) Lakshi Duwa 06 – IMUL-A-0398-KLT (presented to IOTC in 2018)**

We note the actions taken by Sri Lanka against the owner of the vessel, indicated in the table provided, and that the vessel is currently anchored in Beruwala harbour and cannot fish due to non-payment of fines.

With respect to the Master/Skipper your letter dated 26/04/2018 to Dr CC Mees includes an annexed letter dated 03/10/2017 to the Assistant Director, Kalutra District Fisheries Office, which gives instructions that an inquiry should be conducted before releasing the skipper and the crew, and that the fishing operation licence of the skipper should be suspended. No details are provided of the actions taken against the Master/Skipper in the table provided on 20/01/2019.

Please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper confirming whether these instructions and any other actions were carried out.

#### **B. Vessels to be reported to IOTC in 2019**

##### **(11) Seneka 07 IMUL 0142 PTM**

We note the actions taken against the owner, and that due to non-payment of fine the vessel is anchored in Beruwala harbour. We have no details of any actions intended, or taken in respect of the Master/Skipper.

Please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper

**(13) IMUL A 0030 GLE; (14) IMUL0207 GLE; and (15) IMUL 0293 KLT**

All three vessels have recent or pending court cases 25 March; 20 February; and 5 February respectively (we assume 2019, the Table indicates 2018). The BIOT Director of Fisheries has asked for clarification of what approval from the Minister has been sought.

For all three vessels, please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper. Please provide details of the outcome of the court cases against the owners, and also any settlements made by the owner.

**(16) IMUL 0728 KLT.**

We note that no action has been taken against the owner of the vessel to date. It is not clear if the vessel has been released to continue fishing, or is still detained in port. We note that the Master's/Skipper's licence was cancelled for 12 months. This vessel was on the IOTC Authorised fishing vessel list and equipped with VMS. We refer to our letter dated 30 October 2018 in which we request VMS records for this vessel in order to provide information on its movements.

Please note that the BIOT Administration may provide you with additional information in respect of this vessel. In the meantime:

Please provide the VMS record for this vessel for the relevant time period.

Please clarify if the vessel is still detained?

Please clarify whether the owner of the vessel will be prosecuted?

Please indicate if any further action was taken in respect of the skipper?

We would like to thank Sri Lanka as flag State for the continued bilateral assistance in combatting the threat of IUU fishing in the Indian Ocean. We look forward to receiving your responses to the above.

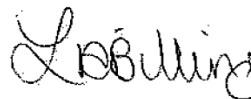
Yours sincerely

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrag.co.uk](mailto:c.mees@mrag.co.uk)) or James Muir Clark ([j.clark@mrag.co.uk](mailto:j.clark@mrag.co.uk)). We look forward to your continued cooperation.

Yours Sincerely



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



Linsey Billing  
BIOT Administration, Director of



Ginigie Prasanna Janaka Kumara  
Director General  
Department of Fisheries and Natural Resources  
No. 10 New Secretariat  
Maligawatta, Colombo 10

15 March 2019

E-Mail: Director General [dgdgar@gmail.com](mailto:dgdgar@gmail.com)  
Cc: Kalyani Hewapathirana [hewakal2012@gmail.com](mailto:hewakal2012@gmail.com)  
Geethamali Chandrasiri [Dear Mr Kumara](mailto:Dear Mr Kumara)  
Janak Pushpakumara [kumara84janaka@gmail.com](mailto:kumara84janaka@gmail.com)  
Nuwan Gunawardana [nuwan54@gmail.com](mailto:nuwan54@gmail.com)

Dear Mr. Ginige Prasanna Janaka Kumara,

**Reporting presumed IUU vessel IMUL A 0728 KLT to the IOTC Compliance Committee (CoC)**

This letter is a follow up to the letter of 04/03/2019 'Reporting presumed IUU vessels to the IOTC Compliance Committee (CoC).' At present BIOTA is not satisfied with the actions taken against this vessel and plan to report it to IOTC on the basis of the details received so far. We would recommend (c), for inclusion on the IUU list. The vessel had apparently set its gear, which was not on board, and the engine had not failed when first detected – the vessel evaded arrest and hot pursuit was required. I reattach the inspection report for reference. You can be provided with copies of evidence collected by the BIOT police during their investigation into this vessel. To do this your prosecutor simply needs to contact the BIOT Principal Legal Adviser and ask for copies of that evidence

Evidence collected by the Scene of Crime Officer (SoCO) once the vessel had been detained indicated that the vessel master had obstructed the SFPO by attempting to hide a number of documents in a mattress. Photographs of these were taken in situ which can be shared with DFAR and the Sri Lankan authorities.

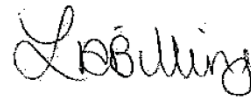
I would be grateful if you can please acknowledge receipt of this and the previous email of 04/03/2019.

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrag.co.uk](mailto:c.mees@mrag.co.uk)) or James Moir Clark ([j.clark@mrag.co.uk](mailto:j.clark@mrag.co.uk)). We look forward to your continued cooperation.

Yours Sincerely



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



Linsey Billing  
BIOT Administration, Director of Fisheries

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த. பெட்டி }  
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දුරකථන } 446183  
தொலைபேசி }  
Telephone } (3 lines)

අධ්‍යක්ෂ ජනරාල් කාර්යාලය } 449170  
பணிப்பாளர் நாயகத்தின் அலுவலகம் }  
Office of Director General } 472187



ෆැක්ස් අංකය } 449170  
தொலை நகல் }  
Fax No. }

මගේ අංකය }  
எனது இல. } DFAR/FM/K/2019  
My No. }

ඔබේ අංකය }  
உமது இல. }  
Your No. }

**ධීවර හා ජලජ සම්පත් දෙපාර්තමේන්තුව**

**கடற்றொழில், நீரியல் வளத்துறை திணைக்களம்**

**DEPARTMENT OF FISHERIES & AQUATIC RESOURCES**

E-mail : depfish@diamond.lanka.net

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නව මහලේකම් කාර්යාලය, මාලිගාවත්ත, කොළඹ 10  
புதிய செயலகம், மாளிகாவத்தி, கொழும்பு 10.  
New Secretariat, Maligawatta, Colombo 10.

දිනය } 21.03.2019  
திகதி }  
Date }

Ms. Linsy Billing  
Director of BIOT Administration  
18, Queens Street  
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Denise Bradshaw (DEBradshaw@gmx.co.uk)-DEBradshaw@gmx.co.uk,  
james@jwoodworld.com" <james@jwoodworld.com>,  
John Pearce -j.pearce@mrag.co.uk,  
Chris C Mees -c.mees@mrag.co.uk,

**Reporting presumed IUU vessels to the IOTC Compliance Committee**

This is reference to your letter dated 04<sup>th</sup> March 2019 on the above. Please find the following clarifications on your queries.

Para (ii) - Implementation of VMS to the multiday fishing vessels operating within EEZ of Sri Lanka.

As you are aware Ministry of Fisheries and Aquatic Resources Development Sri Lanka is not in a position to call another tender for purchasing of VMS for the vessels operating within EEZ until the Fundamental Right case filed by one of the bided Company is finalized. However as the chief Administrative body responsible on Monitoring of fishing vessels of Sri Lanka, Dept. Fisheries and Aquatic Resources (DFAR) highlighted the fact that the importance of installing of Vessel Monitoring Devices (VMDs) on board of all multiday fishing vessels , as Sri Lanka bound by international resolutions on prevent deter and elimination of IUU fishing in the region.

Further recent past incidents of deploying of fishing vessels for non- fishing activities such as human trafficking and drug trafficking by organized groups of people is another menace which further aggravated the requirement of VMDs on board of fishing vessels.

As such DFAR sought legal advice from Attorney General Dept. to find the possibility of settling the court case by conducting several meetings with the participation of relevant parties. The party who files the FR case agreed to withdraw the court case if they have been offered the tender. As a

result the Senior State Counselor appearing for the case has instructed DFAR by a letter dated to award the tender to the party who filed the FR case by put forwarding a Cabinet Paper to the Cabinet of Ministers of the Parliament. However due to the prevailed political uncertainty in the country caused a delayed in the process and the MFARD is currently proceed on this matter. As such we see a green light of installation of VMDs within EEZ vessels very soon.

#### **Sri Lanka Vessels inspected by BIOT SFPO**

Para (iv) -Sri Lanka still find lack in legal provisions to take legal actions against the vessel operator (skipper) those who engaged in IUU fishing. As such preliminary arrangements have made to bring amendment to the current Fisheries Act to incorporate provisions to take actions against the vessel operator (Skipper).

However, there is a special arrangement in the investigation division to send the skippers those violate High seas regulations, for a compulsory two-day consultation on the obligations of High Seas fishing. Such skippers are not allowed to operate a fishing vessel if they do not attend these sessions. This is an administrative measure implemented until the period of new legal provisions come in to enforce. In addition, the training unit conducts the regular awareness programs in all Districts in a rotation manner.

With regard to your inquiries for vessels previously reported to the IOTC,

- (4) Super Fresh 02 – IMUL-A-0128 GLE (2017)
- (5) Lakshiduwa -IMUL-A- 0398 KLT (2018)
- (11) Senaka 07 IMUL 0142 PTM (2019)
- (13) IMUL-A- 0030GLE, IMUL-A- 0207GLE, IMUL-A- 0297KLT – As per the provision in the DFAR Act No. 02 of 1996 section 52(1) for the compounding (1st time convicted and admit guilty) approval of the Minister of Fisheries and Aquatic Resources Development is required. As such the file has been forwarded to the Minister.

Due to non-availability of legal provisions to take actions against the skipper, the skippers of the vessels given in above four bullet points were released by making them compulsory to attend the two day consultation on the obligations of High Seas fishing.

(16) IMUL- A- 0728 KLT

I draw your attention to your letter dated 15<sup>th</sup> November 2018. With respect to investigation findings you have reported in the paragraph 3 the skipper of the vessel IMUL- A- 0728 KLT has

been obstructed to the duties of SFPO of BIOT. We take this matter into our serious consideration and decided to cancel the skipper license for one year.

I would say that in the FARA Act No 35 of Sri Lanka also has provisions to take legal actions for obstructing to the authorized officers.

However the wordings in the paragraph (v) of the letter dated 15th November 2018 has misled the investigation officers of Sri Lanka that the entering of this vessel in to BIOT waters is due to an engine failure, which it was tally with the statements given by them after arrival to Sri Lanka.

In the Inspection Report – ARW01, under IOTC CMM violations we noted that the fishing gears are not marked, No VMS, VMS not tampered, No State issued log book and no state issued license is marked. However DFAR can confirm that the vessel had Log book and the Operation licence and operating VMS on board during the departure from the home port. The departure form of the vessel is attached for your information. We noted that the gear marking has not been checked by the harbor officials during the departure.

- The Vessel Monitoring Device showed that it was in good working order during the departure. However re-configuration of VMS transponders is going on under new International Maritime Satellite (INMARSAT) C service due to the change of the previous INMARSAT C service provider. Therefore DFAR is experiencing failure of Vessel monitoring system in some of the vessels the above vessel also one of such and therefore VMS record is not available.
- The vessel is permitted for H.S. Fishing
- The owner has not persecuted.
- With the information provided by you on 15<sup>th</sup> of March there is a potential DFAR to take further action in respect of the skipper. We hope to execute the legal provisions available in the prevailing Act with the assistance of the evidence provided by BIOT in future.

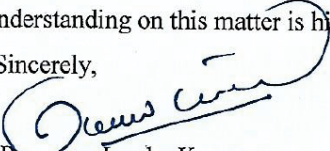
I would say that DFAR is hardly managing to take some legal actions against the fishers due to some economic and social hardships faced by them. However we are not retrograde to take legal actions against the IUU fishing activities keeping our commitment to prevent IUU fishing in the region.

Your understanding on this matter is highly appreciated.

Yours Sincerely,

Ginige Prasanna Janaka Kumara

Director General

  
Ginige Prasanna Janaka Kumara  
Director General  
Department of Fisheries & Aquatic Resources

# Boat Departure Form

FM/BD

For office use only තාර්කාලයීය ප්‍රයෝජනය සඳහා පමණි

### 8. Check list for fishing boat departure

Vessel Registration book යානා ලියාපදිංචි සහතික/සහතික කළ පිටපත	Yes අන	<input checked="" type="checkbox"/>	No නැත	VR.B. No අනු. අංකය
Local Operation License ශ්‍රී ලංකා ජලකීරණේ මෙහෙයුම් බලපත්‍රය	Yes අන	<input checked="" type="checkbox"/>	No නැත	L.O.L.No. බලපත්‍ර අංකය 1363-DML 4139 124
High Sea Operation License ජාත්‍යන්තර මුහුදේ මෙහෙයුම් බලපත්‍රය	Yes අන	<input checked="" type="checkbox"/>	No නැත	H.O.L.No. බලපත්‍ර අංකය 18HS 0182 24
Fishing Log book විවර ලොග් පොත	Yes අන	<input checked="" type="checkbox"/>	No නැත	LBNo. අනු. අංකය 17 0480
Radio Call Sign ගු. ඊ. ආ. සංඥා සංකේත සටහන් කිරීම	Yes අන	<input checked="" type="checkbox"/>	No නැත	Call sign සංකේත අංකය H SF 4020
VMS යානා නිවැසිණ දුරකථන සංචාරකය	Yes අන	<input checked="" type="checkbox"/>	No නැත	
Life jackets නියමිත ජීවිතාරක්ෂක කඩා සංඛාරාභි	Yes අන	<input checked="" type="checkbox"/>	No නැත	
Gear Marking සත්‍ය කලකුණු කිරීම	Yes අන	<input checked="" type="checkbox"/>	No නැත	
Prohibited fishing gear on board සහනව ආම්පන්න	Yes අන	<input type="checkbox"/>	No නැත	<input checked="" type="checkbox"/>
Fire extinguishers ගිනි නිවීමේ උපකරණ	Yes අන	<input checked="" type="checkbox"/>	No නැත	
Line cutter & Dehookers මසුන් නිදහස් කිරීමේ උපකරණ	Yes අන	<input checked="" type="checkbox"/>	No නැත	
Boat Insurance බෝට්ටු වැරදි සහතිකය	Yes අන	<input checked="" type="checkbox"/>	No නැත	



2019/10/31

### 9. Declaration of the Boat Owner

I declare that above information is true and correct ඉහත සඳහන් තොරතුරු සත්‍ය බව ප්‍රකාශ කරමි.

Name of the boat owner යානා හිමිකරුගේ නම	H.R. Pushpakumara	Signature of Owner යානා හිමිකරුගේ අත්සන	<i>[Signature]</i>
		Date දිනය	2018/10/19

### 10. Certification of the Fisheries Officer

බිමරජු වැවින් මුහුදු ගමන සඳහා අවසර දෙමි.

Name and the Designation of the Fisheries Officer විවර නිලධාරී නම හා තනතුර	<i>[Signature]</i>	Signature and the Rubber Stamp of the Fisheries Officer විවර නිලධාරී අත්සන සහ තිල මුද්‍රාව	U. D. S. PUSHPAKUMARA Fisheries Operation Officer High Seas Fisheries Unit Beruwala
		Date දිනය	18/10/19

### 11. Certification of the Fishery Harbour Officer / විවර වරාය නිලධාරී සහතිකය

Name of the Fisheries Harbour Officer විවර වරාය නිලධාරී නම	<i>[Signature]</i>	Signature and the Rubber Stamp of the Officer අත්සන සහ තිල මුද්‍රාව	REGISTERED CO./T 19 00 2019
		Date දිනය	

### 12. Certification of the Navy/Coastguard Officer

යානාව පරීක්ෂා කළ නාවික හමුදා/වෙරළ ආරක්ෂක නිලධාරී සහතිකය

Name of the Officer නිලධාරී නම	LS HMPW Bandura	Signature and the Rubber Stamp of the Officer අත්සන සහ තිල මුද්‍රාව	C.E.H.C. REGAST A 007 2019/10/19 1825 HRS
		Date දිනය	

Ginigie Prasanna Janaka Kumara  
Director General  
Department of Fisheries and Natural Resources  
No. 10 New Secretariat  
Maligawatta, Colombo 10

26 March 2019

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Cc: Kalyani Hewapathirana [hewakal2012@gmail.com](mailto:hewakal2012@gmail.com)  
Geethamali Chandrasiri [jp@fisheriesdept.gov.lk](mailto:jp@fisheriesdept.gov.lk)  
Janak Pushpakumara [kumara84janaka@gmail.com](mailto:kumara84janaka@gmail.com)  
Nuwan Gunawardana [nuwan54@gmail.com](mailto:nuwan54@gmail.com)

Dear Mr. Kumara,

**Reporting presumed IUU vessels to the IOTC Compliance Committee (CoC)**

Thank you for your letter dated 21 March 2019 which has helpfully answered some of the questions raised in our earlier correspondence of 4 March and 15 March 2019.

**1. VMS on multiday fishing vessels operating within the EEZ of Sri Lanka**

We note the updated details regarding installation of VMS on multiday fishing vessels operating within the EEZ of Sri Lanka and are encouraged that this will occur 'very soon'. *We would be grateful for an update on the status of installation in due course.*

**2. Action taken against fishing skippers**

We note and support the plans to amend the Fisheries Act in order to enable legal action to be taken against the vessel operator (skipper) and nationals engaged in IUU Fishing which will enable Sri Lanka to apply the provisions of IOTC Resolution 07/01. *We would be grateful for an update on the timeline for change in due course.*

We appreciate that you have used such administrative powers that you have available to deal with the skippers of these vessels.

The skipper of IMUL 0728 KLT had his licence cancelled for one year, whereas the skippers of IMUL-A-0128 GLE; IMUL-A-0398-KLT; IMUL 0142 PTM; IMUL A 0030 GLE; IMUL0207 GLE; and IMUL 0293 KLT each attended a 2 day consultation *It would be useful to understand if there is any further information that BIOTA or the Principal Legal Advisor can provide which would allow you to suspend the licences of skippers suspected of IUU fishing ahead of the proposed changes to legislation?*

**3. IOTC IUU vessel listing**

**A. Vessels previously reported to IOTC**

**Superfresh 02 – IMUL-A-0128 GLE (presented to IOTC in 2017) and Lakshi Duwa 06 – IMUL-A-0398-KLT (presented to IOTC in 2018)**

We are satisfied that sanctions of adequate severity have been taken in respect of the owners of these vessels. We consider the actions taken in respect of the skippers to be inadequate but note the current limitations of the

Fisheries Act and that this will be updated. We will therefore not be re-notifying these vessels to IOTC Compliance Committee in 2019.

#### **B. Vessels to be reported to IOTC in 2019**

##### **Seneka 07 IMUL 0142 PTM**

We are satisfied that sanctions of adequate severity have been taken in respect of the owner of this vessel. We consider the actions taken in respect of the skipper to be inadequate but note the current limitations of the Fisheries Act and that this will be updated. We will notify this vessel to IOTC Compliance Committee in 2019 with recommendation b) 'Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State'.

##### **IMUL A 0030 GLE; IMUL0207 GLE; and IMUL 0293 KLT**

Thank you for indicating that these cases have been referred to the Minister. It is still not clear to us why this is the case. *Could you please provide a more detailed explanation of what that means?* We also note that the dates for court cases for these vessels have passed (25 March; 20 February; and 5 February respectively). *Is DFAR intending that any of the owners of these vessels is to be prosecuted?*

At the time of writing, we are NOT satisfied that sanctions of adequate severity have been taken in respect of the owners of these vessels. We consider the actions taken in respect of the skippers to be inadequate but note the current limitations of the Fisheries Act and that this will be updated.

As we are unable to conclude on the information currently provided that actions of adequate severity have or shall be taken, we have concluded that the only correct course of action for us to take is to notify these vessels to IOTC Compliance Committee in 2019 with recommendation c) 'Recommended for inclusion on IOTC IUU list'. We note that Sri Lanka has until 15 days before the Compliance Committee Meeting to provide additional information which we will review at that time before deciding whether to pursue IUU listing during the meeting.

##### **IMUL 0728 KLT.**

This vessel is on the IOTC Authorised fishing vessel list. We understand that no action has been taken against the owner of the vessel nor is intended. The vessel has now been released. We note that the Master's/Skipper's licence was cancelled for 12 months. Whilst the VMS was working when the vessel left port reconfiguration of VMS transponders means there are no vessel tracks for the period in question, which we consider to be inadequate. *It would be helpful to us when deciding how to request this vessel is to be dealt with by the IOTC if we could understand why this owner has not been prosecuted. Is there a specific reason why this action could not take place in this case compared to others.*

At the time of writing, we are NOT satisfied that sanctions of adequate severity have been taken in respect of the owner of this vessel. We consider the action taken in respect of the skipper to be adequate.

As we are unable to conclude on the information currently provided that actions of adequate severity have or shall be taken, we have concluded that the only correct course of action for us to take is to notify this vessel to IOTC Compliance Committee in 2019 with recommendation c) 'Recommended for inclusion on IOTC IUU list'. We note that Sri Lanka has until 15 days before the Compliance Committee Meeting to provide additional information which we will review at that time before deciding whether to pursue IUU listing during the meeting.



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We would like to thank Sri Lanka as flag State for the continued bilateral assistance in combatting the threat of IUU fishing in the Indian Ocean. We look forward to receiving your responses to the above.

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrag.co.uk](mailto:c.mees@mrag.co.uk)) or James Muir Clark ([j.clark@mrag.co.uk](mailto:j.clark@mrag.co.uk)). We look forward to your continued cooperation.

Yours Sincerely

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

Linsey Billing  
BIOT Administration, Director of Fisheries



Dr Chris O'Brien  
Executive Secretary  
Indian Ocean Tuna Commission  
Mahe  
Seychelles

28 March 2019

cc. Mr Hosea Gonza Mbilinyi, Chair of the Compliance Committee;  
Ms Anne-France Mattlet, Vice Chair;  
Mr Kumara, and Ms K Hewapathirana, DFAR, Sri Lanka

Dear Dr O'Brien,

**Resolution 18/03 On establishing a list of vessels presumed to have carried out IUU fishing in the IOTC Area of Competence: Sri Lankan Flagged Vessel IMULA 0207 GLE**

As required in paragraphs 5 and 6 of Resolution 18/03 please find attached a completed IOTC Reporting form for Illegal Activity and accompanying evidence supporting IUU fishing activity for the Sri Lankan flagged vessel IMULA 0207 GLE. Under the bilateral arrangement established between UKOT and Sri Lanka in order to combat IUU, this vessel was reported to the Sri Lankan Authorities who have taken action against the owner/master under the provisions of national fisheries legislation (FARA 1996/2016).

The attached evidence shows that

- The vessel was not on the current IOTC Record of Authorised Vessels
- The vessel had no stern markings
- No VMS was installed
- The vessel was equipped with gill nets and longlines; There were no gear markings
- Wire trace (illegal in BIOT) were not stowed and were set for fishing
- The vessel had tuna and tuna like species on board – Skipjack; several shark species
- The vessel was presumed IUU fishing within the waters of the British Indian Ocean Territory without a license;
- Sri Lanka has not provided sufficient information to enable the conclusion that sanctions of adequate severity have yet or shall be taken in respect of the owner of this vessel.
- The actions taken in respect of the skipper are inadequate but we note that such administrative powers that are currently available to deal with the skippers of IUU vessels have been applied.

We submit this vessel to IOTC Compliance Committee with recommendation c) 'Recommended for inclusion on IOTC IUU list'. We will review this recommendation before the meeting in light of any additional information provided by Sri Lanka pursuant to paragraphs 10 and 12 of Resolution 18/03.

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

Thank you.

Yours sincerely



Dr C.C. Mees

Head of UK(OT) Delegation to IOTC

Enclosed: IOTC Reporting form for Illegal Activity, IMULA 0207 GLE

### IOTC Reporting form for Illegal Activity

Recalling IOTC Resolution 18/03 On establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC Area, attached are details of illegal activity recorded by UK(OT) in British Indian Ocean Territory.

#### A. Details of Vessel

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

Item	Definition	Indicate
a	Current Name of Vessel (Previous name/s, if any)	IIMULA0207GLE
b	Current Flag (previous flag/s, if any)	Sri Lanka
c	Date first included on IOTC IUU Vessel List (if applicable)	N/A
d	Lloyds IMO Number, if available	N/A
e	Photo	Yes, See Appendix 1
f	Call Sign (previous call sign, if any)	N/A
g	Owner (previous owner/s, if any)	Mahabaduge Pramaj Dilsara Fernando Jayasonga of: 71 18 Siriniwasa Mawatha, Nallbesa, Beruwala
h	Operator (previous operator/s, if any) and Master/Fishing Master	Not known
i	Date of alleged IUU fishing activities	29/10/2018
j	Position of alleged IUU fishing activities	05° 39.6' S 072° 29.8' E
k	Summary of alleged IUU activities (see section B for more detail)	<p>The vessel was in possession of fishing gear (wire trace), which is prohibited within BIOT waters, set and ready for fishing.</p> <p>Following further inspection in Diego Garcia, the vessel was found to be in possession of catch that had not been recorded. This included skipjack tuna, as well as several shark species.</p> <p>The vessel was not currently on the IOTC record of authorized vessels with the last register being 13/02/2014. The vessel did not have an applicable license issued by the flag state for high seas fishing.</p> <p>Fishing gear observed on-board did not have vessel markings</p> <p>No VMS system was present on board.</p>

l	Summary of any Actions known to have been Taken in respect of the alleged IUU fishing activities	The vessel was approached, photographed and boarded.
m	Outcome of Actions taken	Following approach and boarding the vessel was detained and escorted to Diego Garcia.

**B. Details of IOTC Resolution Elements Contravened**

*(Indicate with a “X” the individual elements of IOTC Resolution 17/03 contravened, and provide relevant details including date, location, source of information. Extra information can be provided in an attachment if necessary.)*

That a vessel has, within the IOTC Area and in relation to species covered by the IOTC Agreement or by IOTC Conservation and Management Measures:

Item	Definition	Indicate
a	Engaged in fishing or fishing related activities and is neither registered on the IOTC Record of Authorised Vessels in accordance with Resolution 15/04, nor recorded in the Active list of vessels; or	<input checked="" type="checkbox"/>
b	Engaged in fishing or fishing related activities when its flag State is without quota, catch limit, or effort allocation under IOTC Conservation and Management Measures where applicable; or	<input type="checkbox"/>
c	Failed to record or report its catches in accordance with IOTC Conservation and Management Measures or has made false reports; or	<input type="checkbox"/>
d	Taken or landed undersized fish in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
e	Engaged in fishing or fishing related activities during closed fishing periods or in closed areas in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
f	Used prohibited fishing gear in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
g	Transhipped fish to, or otherwise participated in joint operations with, support or re-supply vessels that are not included on the IOTC Record of Authorised Vessels or not on the Record of Vessels Authorised to receive transshipments at-sea in the IOTC Area or	<input type="checkbox"/>
h	Engaged in fishing or fishing related activities in waters that are under the national jurisdiction of a coastal State without the permission or authorisation of that State or in contravention of the laws and regulations of that State (without prejudice to the sovereign rights of the State concerned to undertake enforcement measures against such a vessel); or	<input checked="" type="checkbox"/>
i	Engaged in fishing or fishing related activities whilst being without nationality; or	<input type="checkbox"/>
j	Engaged in fishing or fishing related activities having intentionally falsified or concealed its markings, identity or registration; or	<input checked="" type="checkbox"/>
k	Engaged in fishing or fishing related activities in contravention of any other binding IOTC Conservation and Management Measures;	<input checked="" type="checkbox"/>

**C. Associated Documents**

*(List here the associated documents that are appended e.g. boarding reports, court proceedings and photographs)*

Appendix I – Photographs.

Appendix II – Inspection Report

Appendix III – Notification of Investigation and Request for Cooperation

**D. Recommended Actions**

Recommended Actions	Indicate
a Notification to IOTC Secretariat only. No further action is recommended.	<input type="checkbox"/>
b Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State.	<input type="checkbox"/>
c Recommended for inclusion on IOTC IUU list	<input checked="" type="checkbox"/>

Appendix I – Photographs.



Figure 1: Vessel photo, portside



Figure 2: Vessel stern with no vessel name or identification



Figure 3: Vessel photo, portside

## INSPECTION REPORT – ARW03

## 1 Summary

Date of boarding	29/10/18
Patrol type and number	FIPA 53
Vessel name	IMUL-A-0207-GLE
Vessel type	FV <25m, Longline and gillnets
Vessel flag and home port	Sri Lanka
Vessel identification number	IMUL-A-0207-GLE
Vessel identification type	Multipurpose
IOTC# (if registered)	IOTC011283
Vessel Master name	S.M.A.C. Samarakoon
SFPO	Andrew Watson
FPO / FPOs	
Outcome of boarding	Vessel detained and escorted to Diego Garcia

## 2 Initial sighting details (from Grampian Frontier only)

Date and time of first sighting	29/10/18 10:20	(DD/MM/YY HH:MM)
Sighted by	Grampian Frontier, John Kreuger	Radar   N   Visual   Y
Position of target 1	05°39.6'S 072°29.8'E	
Course	Stationary	
Speed	None	
Range	6.1Nm from BPV	
Bearing	NA	
<p>Comments: The target was located from the bridge of the BIOT Patrol Vessel by the mate, Mr. John Kreuger whilst making way back towards the site where the first intercepted vessel was located. The BPV DC was waiting alongside the vessel IMUL-A-0030-GLE and the SFPO was on board IMUL-A-0728-KLT. The BPV DC was sent to investigate at around 10:25 and intercepted the vessel at 10:37. The vessel reported engine trouble to the Captain of the BPV who was on board the DC. Following crew changes on the FRC and the DC and the transfer of the SFPO and 2<sup>nd</sup> Officer Lukasz Kasielewski on to IMUL-A-0030-GLE for inspection, the SFPO and 2<sup>nd</sup> officer disembarked on to the DC and a way point was set to intercept IMUL-A-0207-GLE.</p>		
Fisheries Pennant and Sierra Quebec Three Raised	29/10/18 04:00	(DD/MM/YY HH:MM)
Target requested to stop and prepare for boarding.	29/10/18 16:00	(DD/MM/YY HH:MM)
Response to request for boarding	Captain was happy for the SFPO and 2 <sup>nd</sup> Officer to board. No issues.	

## 3 Launching of workboat

Time workboat launched	29/10/18 14:09	(DD/MM/YY HH:MM)
Workboat crew	Coxwain Donald MacFarlane, 2 <sup>nd</sup> Officer Lukasz Kasielewski.	

Comments on the approach to the FV: The vessel was circled twice and photos to confirm identification were taken. Vessel identified as IMUL-A-0207-GLE.		
Photographic Evidence Collected (See Annex 1).	Port	Yes
	Starboard	Yes
	Stern	Yes
	Fishing gear	Yes
	Other	SSB Radiotelephone, GPS, automatic antenna tuner.

## 4 Boarding details

Date and time vessel boarded	29/10/18 16:03	(DD/MM/YY HH:MM)
Position vessel boarded	05°41.7'S 072°27.1'E	
Boarding party team	SFPO Andrew Watson, 2 <sup>nd</sup> Officer Lukasz Kasielewski	
Language spoken	English	
Interpreter needed (Y/N)?	Name	None available

### 4.1 Crew details

Vessel Master name	S.M.A.C.	
Vessel Master nationality	Sri Lankan	
Vessel Master address	19/19, Egadawatta, Beruwala	
Vessel Master D.o.B	31/12/86	(DD/MM/YY)
Number of crew	4 + 1 (captain)	
Vessel crew nationality	Sri Lankan	
Are any crew under 18 (Y/N), if 'Y' provide details below.		N
Do any crew have health issues (Y/N), if 'Y' provide details below.		N
Observations: All crew appeared to be healthy.		
Photographic Evidence Collected (See Annex 1).	Captain ID	Yes. Copy of ID card retained by SFPO.
	Other crew id	ID cards retained by SFPO. Camera battery died so was unable to take crew photographs.

### 4.2 Vessel registration and paperwork

Fishing licence present (y/n) and number if relevant	Yes 18EEZIMUL4417KU
Fishing licence date of issue, expiry and issuing authority	29/03/18 to 31/12/18 (DD/MM/YY) Dept. of Fisheries and Aquatic Resources, Colombo, Sri Lanka.
FV owner name (as per licence)	Mahabaduge Pramaj Dilsara Fernando Jayasonga
FV owner details (as per licence)	71 18 Siriniwasa Mawatha, Nallbesa, Beruwala
Fishing logbook present (y/n) and number if relevant	Yes, LB-18 0733
Issuing authority	Dept. of Fisheries and Aquatic Resources Sri Lanka



Date of last entry	26/07/18	(DD/MM/YY)
Position of last entry	Unable to verify figures.	
Other paperwork: The Captain gave all relevant paperwork to the SFPO including certificate of insurance, vessel registration, boat departure forms and fishing licence. These were retained by the SFPO.		
Photographic Evidence Collected (See Annex 1).	Licence	Yes
	Logbook	Yes
	Other	Crew identification papers and crew photographs. Boat departure form.

### 4.3 Interview with Captain

Time of interview	16:05	(HH:MM)
Captain's rights read and understood?	I did not read the Captain his rights. The captain was asked questions but not under interview. The Captains understanding of English sufficient for him to understand instructions.	
FV Port of departure	Unable to read.	
Date of departure	09/10/2018 (difficult to read 09)	(DD/MM/YY)
Travelling to or from fishing grounds?	To EEZ	
Amount of fish onboard (t)	Unknown. Some split and dried Dorado fillets. Captain declared he had about 600kg of shark. Was unable to verify the catches as the holds contained surface quantities of ice.	
If fish onboard where caught?	Unknown	
If fish onboard when caught?	Unknown	
If fish onboard how caught?	Unknown	
Destination	Sri Lanka	
Port of return	Unknown.	
Anticipated date of return	Unknown	(DD/MM/YY)
Comments: The captain of the vessel was compliant with all requests and provided documentation when asked. He complained that he had broken down and showed the SFPO a way-point outside of the EEZ on the GPS of 07°13.757'S 067°03.953'E.		

### 4.4 Vessel inspection

Fishing gear type	Longlines with steel traces. Some gillnet present underneath a lot of loose fishing gear.		
Comments The net hold/box was significantly less than half full of net. The vessel had an electronic hauling system on the fore deck for longline.			
Catch onboard (estimated t)	Unable to estimate from holds. There did not appear to be fresh fish in the holds but too difficult to tell without emptying out the holds.		
IOTC species onboard (Y/N)	None seen	Endangered species onboard (Y/N)	None seen
Description of catch: Some dorado fillets and a very unusual dried product which I was unable to identify.			

Comments: Wire traces were not stowed and were set for fishing. There were not many hooks on board, around 90 hooks and traces. The Captain indicated that he had lost some. The vessel had no VMS on board.		
Photographic Evidence Collected (See Annex 1).	Gear	Y
	Catch	Y
	Hold	Y

## 5 List of violations

### 5.1 BIOT ordinance violations

Fishing without a licence	
Fishing with prohibited fishing gear	
Possession of prohibited fishing gear	X
Obstruction of a fisheries patrol officer	
Possession of sea cucumbers or molluscs	
Traversing or landing on an SNR	
Comments As per above. Wire traces on all longline gear. The gear was accessible and set for fishing on the foredeck.	

### 5.2 IOTC CMM violations

Vessel not marked with name or callsign	Difficult to determine.
Fishing gear not marked with name or callsign	X
No VMS	X
VMS not tamperproof	
No state issued logbook	
No state issued licence	X No licence to fish the high seas was evident. Licence to fish EEZ only.
Possession of drift net over 2.5km.	
Not on the IOTC authorised list	X Last valid date 13/02/14
Not on the IOTC Record Active Tuna / Swordfish	X
No turtle de hooker on board	Not seen.
Comments The vessel had no VMS or AIS fitted. No licence for fishing outside the Sri Lankan EEZ was present.	

## 6 SFPO actions

Vessel and Master detained and escorted to DG	X
FPN issued and catch and gear seized	
IOTC Reporting Form to be completed (Res: 11/03)	X
Master given verbal warning and released	
No further action, vessel released	
Comments: The Captain complied with all the SFPOs requests and made no complaint about being escorted to Diego Garcia.	

## 7 Disembarkation and recovery

Time FV disembarked	17:38	29/10/18
Time Workboat recovered to the BPV	18:10	29/10/18
Comments: The SFPO explained to the Captain that he was to wait in position overnight and he was to be towed by his brother's vessel to Diego Garcia for further questioning by police officers on arrival.		

## 8 Vessel records and history

Vessel on IOTC register (Y/N)	Y	IOTC number	IOTC011283
Vessel on IOTC Record Active Tuna / Swordfish (Y/N)			
Version of IOTC database referenced: IOTC Vessel Updated List 26/03/201			
Vessel previously boarded (Y/N)	N	Inspection report ID	
Master previously boarded (Y/N)	Unknown	Inspection report ID	
Owner previously boarded (Y/N)	Unknown	Inspection report ID	
Crew previously boarded (Y/N)	Unknown	Inspection report ID	
Comments:			

**Andrew Watson**  
**BIOT Senior Fisheries Protection**  
**Officer 30/10/2018**

## Appendix III – Notification of Investigation and Request for Cooperation



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Geethamali Chandrasiri  
Assistant Director  
Department of Fisheries and Natural Resources  
No. 10 New Secretariat  
Maligawatta, Colombo 10

30 October 2018

E-Mail: Geethamali Chandrasiri [ip@fisheriesdept.gov.lk](mailto:ip@fisheriesdept.gov.lk)

Cc: Director General [dqdfar@gmail.com](mailto:dqdfar@gmail.com);  
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Nuwan Gunawardana [nuwan54@gmail.com](mailto:nuwan54@gmail.com);  
Kalyani Hewapathirana [hewakal2012@gmail.com](mailto:hewakal2012@gmail.com)

Dear Dr Chandrasiri,

### Request for Confirmation of Ownership of the Sri Lankan vessels **IMUL-A-0728-KLT**, **IMUL-A-0207-GLE** and **IMUL-A-0030-GLE**.

The Sri Lankan flagged vessels **IMUL-A-0728-KLT**, (IOTC16120 (current record expires 31/12/2018)) **IMUL-A-0207-GLE**, (IOTC11283 (most recent record expired 13/02/2014)) and **IMUL-A-0030-GLE**, (not on the IOTC Record of Authorised Vessels) are currently the subject of a criminal investigation into suspected illegal fishing activity including possession of illegal fishing gear (IMUL-A-0207-GLE and IMUL-A-0030-GLE) and obstruction of a Fisheries Protection Officer (IMUL-A-0728-KLT). The BIOT Administration needs to be clear as to the accurate details of the registered owners before a final decision on any course of action can be taken. At this stage our investigations into the possible activities of these vessels are preliminary, no finding has been made by the Administration of any such activities.

According to the best information available to the Administration the names and addresses of the owners of these vessels are as follows;

Vessel / Source	Owner Name / Address
IMUL-A-0728-KLT IOTC Record of Authorised Vessels	<b>H.R.D.D. PERERA</b> 42/4, CHAMARA UYANA, AMBEPITIYA, BERUWALA.
IMUL-A-0207-GLE IOTC Record of Authorised Vessels	<b>LL. SAMARASINGHA</b> 175/MATARA ROAD, MAGALLE, GALLE.
IMUL-A-0207-GLE Vessel Documents	<b>MAHABADUGE, PRAMAJ DILSARA</b> <b>FERNANDO JAYASOORIYA</b> NO: 71/8 SIRINIWASA MAWATHA, NALLAHENA, BERUWALA
IMUL-A-0030-GLE No source	NO RECORD

Please can you confirm or provide us with the ownership details for these vessels? We would be grateful for a formal signed response with a DFAR letterhead, which can be scanned and sent by email as soon as possible, ideally by 31<sup>st</sup> October.

Only one vessel, **IMUL-A-0728-KLT**, was seen to have a VMS on board, although according to the captain it wasn't working. However, if possible, please could you supply any VMS records for the recent trip for this vessel, or the other vessels if available, that could provide information in relation to their movements.

---

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They are currently being escorted by the BIOT Patrol vessel and are estimated to arrive into Diego Garcia on the 31<sup>st</sup> October. We would be grateful for an early indication of whether you plan to request that Sri Lankan authorities deal with these vessels if it is confirmed that they are in violation of the fisheries regulations of Sri Lanka.

Thank you for your cooperation.

Yours sincerely

Linsey Billing  
BIOT Director of Fisheries

Dr Christopher Mees  
Head of UK Delegation to IOTC

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Office of Director General } 472187



තැන්පත් අංකය }  
தொலை நகல் } 449170  
Fax No. }

මගේ අංකය }  
எனது இல. } DFAR/FM/ADG/Innocent Passage-2018  
My No. }

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உமது இல. }  
Your No. }

ධීවර හා ජලජ සම්පත් දෙපාර්තමේන්තුව

கடற்றொழில், நீரியல் வளத்துறை திணைக்களம்

DEPARTMENT OF FISHERIES & AQUATIC RESOURCES

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දිනය }  
திகதி } 3/ .10.2018  
Date }

Ms. Linsey Billing

BIOT Director of Fisheries

Dr.C.Mees

Head of UK Delegate to IOTC

**Ownerships confirmation of the Sri Lanka Fishing Vessel IMUL-A-0728KLT, IMUL-A-0207GLE, IMUL-A-0030GLE.**

As per the request you have forwarded to this Department, on confirmation of the ownership of above fishing vessels, please find the following details.

Vessel	Owner Name / Address
IMUL-A-0728KLT	H.R.D.DAMAYANTHI 42/4,CHAMARA UYANA AMBEPITIYA BERUWALA.
IMUL-A-0207GLE	M.P.D.F.JAYASOORIYA NO.71/8, SIRINIWASA MAWATHA, NALLAHENA, BERUWALA.
IMUL-A-0030GLE	P.K.D.D.SUSANTHA KAKUNU UDUMULLA, KAJUDUWA ROAD, DUDAMGODA
Source- Vessel Registry - DFAR	

DFAR is willing and would request to take legal actions against the vessels Owners as per the Fisheries and Aquatic Resources Act, Sri Lanka on receipt of confirmed evidence of violations by these vessels.

Ginige Prasanna Janaka Kumara

Director General

Ginige Prasanna Janaka Kumara  
Director General  
Department of Fisheries & Aquatic Resources



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Ginigie Prasanna Janaka Kumara  
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15 November 2018

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Nuwan Gunawardana [nuwan54@gmail.com](mailto:nuwan54@gmail.com)  
Kalyani Hewapathirana [hewakal2012@gmail.com](mailto:hewakal2012@gmail.com)

Dear Mr. Ginigie Prasanna Janaka Kumara,

**Release of the Sri Lankan vessels IMUL-A-0728-KLT, IMUL-A-0207-GLE and IMUL-A-0030-GLE.**

Thank you for your letter dated 31 October 2018 confirming the ownership of each of the above referenced vessels and indicating that DFAR intend to take legal action against the owners of the vessels.

These vessels were boarded and inspected, in accordance with BIOT laws, by the BIOT Fisheries Protection Officer on the 29<sup>th</sup> October 2018. All three vessels were detained upon suspicion of being involved in illegal fishing activity and escorted to Diego Garcia for further investigation.

All three vessels were investigated for illegal fishing activity and additionally, IMUL-A-0207-GLE and IMUL-A-0030-GLE for possession of illegal fishing gear (wire trace), and IMUL-A-0728-KLT for obstruction of a Fisheries Protection Officer. Please find attached the Fishery Protection Officers Inspection report which details the boarding and inspection of the vessels.

On 31<sup>st</sup> October, following the letter from DFAR which confirmed the intention of the Sri Lankan authorities to take legal action against the owners of the vessels, the Director of Fisheries took the decision that the vessels should be returned to Sri Lanka. In light of this decision, no criminal proceedings were commenced in BIOT. A preliminary police investigation was commenced and concluded.

Unfortunately, two of the vessels had engine problems and so all three were kept in Diego Garcia until the vessels could be made sea-worthy.

During this period, the ice in the hold of IMUL-A-0207-GLE had started to melt. Following removal of this ice in efforts to make the vessels sea-worthy a total of 34 sharks were discovered, including 1 Scalloped Hammer Head, 7 Silver tips, 13 silky sharks, 12 Blacktip shark and 1 Short-finned Mako. 21 skipjack tuna and 2 dorado were also found.

In accordance with BIOT legislation, an application was made to the Magistrate to destroy the catch. Having heard from the BIOT Police and Master of the vessel, the Magistrate ordered the destruction of the catch.

On 9<sup>th</sup> November 2018 the Master and crew were served with removal orders, issued by the Principal Immigration Officer in accordance with BIOT Immigration law.

The three vessels were released at approximately 17:00 hours on 9 November 2018 and instructed to leave BIOT waters directly and return to their home ports in Sri Lanka. The estimated date of arrival in Sri Lanka is 19 November.

MRAG Ltd  
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VAT Registration No 877 7013 92

In association with  
Marine Education and Conservation Trust  
Reg. Charity No. 297 193



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We would like to request that as well as taking action against the owners of these vessels, DFAR take such action as they can against the Masters of the vessels so as to discourage them and other Masters from entering BIOT waters and engaging in illegal fishing activity.

We would like to thank Sri Lanka as flag State for the continued bilateral assistance in combatting the threat of IUU fishing in the Indian Ocean and would kindly request notification of any actions taken by DFAR in conducting a regulatory investigation into the activities of these vessels.

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrags.co.uk](mailto:c.mees@mrags.co.uk)) or James Muir Clark ([j.clark@mrags.co.uk](mailto:j.clark@mrags.co.uk)). We look forward to your continued cooperation.

Yours Sincerely

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

Linsey Billing  
BIOT Administration, Director of Fisheries



Ginigie Prasanna Janaka Kumara  
Director General  
Department of Fisheries and Natural Resources  
No. 10 New Secretariat  
Maligawatta, Colombo 10

04 March 2019

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Nuwan Gunawardana [nuwan54@gmail.com](mailto:nuwan54@gmail.com)

Dear Mr. Ginige Prasanna Janaka Kumara,

**Reporting presumed IUU vessels to the IOTC Compliance Committee (CoC)**

I refer to an email of 20/01/2019 from Kalyani Hewapathirana to Denise Bradshaw, BIOT Principal Legal Advisor, with attached table: 'Update on the actions taken in respect of Sri Lankan vessels reported on IUU in BIOT waters during 2017 and 2018', copied to me. As you know it is necessary to inform IOTC of presumed IUU by a deadline of 70 days before the Compliance Committee. Ahead of submitting any reports, we have a number of questions on the historic cases previously submitted to IOTC and the new vessels that we will report this year.

We note the actions taken against a number of vessels boarded and inspected in BIOT (in your table, those numbered 1, 2, 3, 5, 7, 8, 9, 10, and 12). We will continue to provide similar inspection reports as you have requested. These vessels will not be separately reported to IOTC although they will be included in any information paper we may produce as in previous years 'Reporting of vessels in transit through BIOT waters for potential breach of IOTC Conservation and Management Measures'. We further note your letter dated 20/07/2018 on 'Implementation of VMS to the multiday fishing vessels operate within the EEZ of Sri Lanka'. We welcome the extension of the VMS programme to include all multi day vessels, not just those authorised to fish on the high seas, and note the delays in implementing this. We would be grateful if you can keep us informed of progress.

The remainder of this letter relates to vessels where the inspection by the BIOT Senior Fisheries Protection Officer indicated fishing activity in BIOT waters and presumed IUU, and so may be reported to IOTC. As you are aware Paragraph 14d of IOTC Resolution 17/03 requires the flag State to provide information that demonstrates that:

- (1) effective action has been taken in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity to be effective in securing compliance and deterring further infringements. And,
- (2) Every CPC shall report any actions and measures that it has taken in accordance with Resolution 07/01, in order to promote compliance with IOTC Conservation and Management Measures by vessels that fly its flag.' (i.e. to investigate the engagement of natural or legal persons engaged in IUU)

We note that the table of actions you have provided largely covers the first element (i.e. prosecution and sanctions imposed; other flag State actions such as detention of the vessel, installation of VMS, revised licensing conditions etc.). We further note that these actions largely relate to the vessel owner. However, there is limited information provided that relates to the second element of 14d, the actions taken against those engaged in IUU. Here we particularly refer to the Master (or Skipper) of the vessel rather than the crew,

although for the latter we would be interested if any action was taken e.g. to better educate them about IUU.

As soon as possible, and no later than 21<sup>st</sup> March (noting BIOT will be making its submission to IOTC on 28<sup>th</sup> March) we would be grateful to receive additional information, including supporting evidence, from you as set out below.

#### **A. Vessels previously reported to IOTC**

At the time of submission to CoC, BIOT's recommendation for the following vessels was: *'(b) Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State'. This recommendation is subject to the submission of evidence of the actions taken by Sri Lanka to the Compliance Committee, and we reserve the option of changing our recommendation to '(c) Recommended for inclusion on IOTC IUU list' should this not be forthcoming.'* Hence these vessels were not included in the draft IUU vessel list and were for information only.

We would like to close these cases as far as IOTC reporting is concerned, and so would appreciate your response to the following which, we trust, should enable us to do so.

##### **(4) Superfresh 02 – IMUL-A-0128 GLE (presented to IOTC in 2017)**

This vessel was prosecuted and fined in the BIOT Court on Diego Garcia, but has not paid the fine. We note the actions taken by Sri Lanka against the owner of the vessel, indicated in the table the provided, and that the vessel is currently anchored in Beruwala harbour and cannot fish due to non-payment of fines.

With respect to the Master/Skipper your letter DFAR/FM/K/IUU/2017 dated 01/03/2017 indicates that the skipper and crew were detained. Your letter with the same reference dated 03/05/2017 to the IOTC Executive Secretary provided an update on the case relating to this vessel, but provided no further information on the actions taken against the Master. No details are provided of the actions taken against the Master/Skipper in the table provided on 20/01/2019.

Please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper

##### **(6) Lakshi Duwa 06 – IMUL-A-0398-KLT (presented to IOTC in 2018)**

We note the actions taken by Sri Lanka against the owner of the vessel, indicated in the table provided, and that the vessel is currently anchored in Beruwala harbour and cannot fish due to non-payment of fines.

With respect to the Master/Skipper your letter dated 26/04/2018 to Dr CC Mees includes an annexed letter dated 03/10/2017 to the Assistant Director, Kalutra District Fisheries Office, which gives instructions that an inquiry should be conducted before releasing the skipper and the crew, and that the fishing operation licence of the skipper should be suspended. No details are provided of the actions taken against the Master/Skipper in the table provided on 20/01/2019.

Please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper confirming whether these instructions and any other actions were carried out.

#### **B. Vessels to be reported to IOTC in 2019**

##### **(11) Seneka 07 IMUL 0142 PTM**

We note the actions taken against the owner, and that due to non-payment of fine the vessel is anchored in Beruwala harbour. We have no details of any actions intended, or taken in respect of the Master/Skipper.

Please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper

**(13) IMUL A 0030 GLE; (14) IMUL0207 GLE; and (15) IMUL 0293 KLT**

All three vessels have recent or pending court cases 25 March; 20 February; and 5 February respectively (we assume 2019, the Table indicates 2018). The BIOT Director of Fisheries has asked for clarification of what approval from the Minister has been sought.

For all three vessels, please provide details of the actions taken by Sri Lanka in respect of the vessel Master/Skipper. Please provide details of the outcome of the court cases against the owners, and also any settlements made by the owner.

**(16) IMUL 0728 KLT.**

We note that no action has been taken against the owner of the vessel to date. It is not clear if the vessel has been released to continue fishing, or is still detained in port. We note that the Master's/Skipper's licence was cancelled for 12 months. This vessel was on the IOTC Authorised fishing vessel list and equipped with VMS. We refer to our letter dated 30 October 2018 in which we request VMS records for this vessel in order to provide information on its movements.

Please note that the BIOT Administration may provide you with additional information in respect of this vessel. In the meantime:

Please provide the VMS record for this vessel for the relevant time period.

Please clarify if the vessel is still detained?

Please clarify whether the owner of the vessel will be prosecuted?

Please indicate if any further action was taken in respect of the skipper?

We would like to thank Sri Lanka as flag State for the continued bilateral assistance in combatting the threat of IUU fishing in the Indian Ocean. We look forward to receiving your responses to the above.

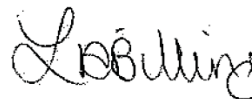
Yours sincerely

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrag.co.uk](mailto:c.mees@mrag.co.uk)) or James Muir Clark ([j.clark@mrag.co.uk](mailto:j.clark@mrag.co.uk)). We look forward to your continued cooperation.

Yours Sincerely



Dr C.C. Mees  
Head of UK(OT) Delegation to IOTC  
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Linsey Billing  
BIOT Administration, Director of

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எனது இல. } DFAR/FM/K/2019  
My No. }

ඔබේ අංකය }  
உமது இல. }  
Your No. }

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**கடற்றொழில், நீரியல் வளத்துறை திணைக்களம்**

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New Secretariat, Maligawatta, Colombo 10.

දිනය } 21 .03.2019  
திகதி }  
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**Reporting presumed IUU vessels to the IOTC Compliance Committee**

This is reference to your letter dated 04<sup>th</sup> March 2019 on the above. Please find the following clarifications on your queries.

Para (ii) - Implementation of VMS to the multiday fishing vessels operating within EEZ of Sri Lanka.

As you are aware Ministry of Fisheries and Aquatic Resources Development Sri Lanka is not in a position to call another tender for purchasing of VMS for the vessels operating within EEZ until the Fundamental Right case filed by one of the bided Company is finalized. However as the chief Administrative body responsible on Monitoring of fishing vessels of Sri Lanka, Dept. Fisheries and Aquatic Resources (DFAR) highlighted the fact that the importance of installing of Vessel Monitoring Devices (VMDs) on board of all multiday fishing vessels , as Sri Lanka bound by international resolutions on prevent deter and elimination of IUU fishing in the region.

Further recent past incidents of deploying of fishing vessels for non- fishing activities such as human trafficking and drug trafficking by organized groups of people is another menace which further aggravated the requirement of VMDs on board of fishing vessels.

As such DFAR sought legal advice from Attorney General Dept. to find the possibility of settling the court case by conducting several meetings with the participation of relevant parties. The party who files the FR case agreed to withdraw the court case if they have been offered the tender. As a

result the Senior State Counselor appearing for the case has instructed DFAR by a letter dated to award the tender to the party who filed the FR case by put forwarding a Cabinet Paper to the Cabinet of Ministers of the Parliament. However due to the prevailed political uncertainty in the country caused a delayed in the process and the MFARD is currently proceed on this matter. As such we see a green light of installation of VMDs within EEZ vessels very soon.

#### **Sri Lanka Vessels inspected by BIOT SFPO**

Para (iv) -Sri Lanka still find lack in legal provisions to take legal actions against the vessel operator (skipper) those who engaged in IUU fishing. As such preliminary arrangements have made to bring amendment to the current Fisheries Act to incorporate provisions to take actions against the vessel operator (Skipper).

However, there is a special arrangement in the investigation division to send the skippers those violate High seas regulations, for a compulsory two-day consultation on the obligations of High Seas fishing. Such skippers are not allowed to operate a fishing vessel if they do not attend these sessions. This is an administrative measure implemented until the period of new legal provisions come in to enforce. In addition, the training unit conducts the regular awareness programs in all Districts in a rotation manner.

With regard to your inquiries for vessels previously reported to the IOTC,

- (4) Super Fresh 02 – IMUL-A-0128 GLE (2017)
- (5) Lakshiduwa -IMUL-A- 0398 KLT (2018)
- (11) Senaka 07 IMUL 0142 PTM (2019)
- (13) IMUL-A- 0030GLE, IMUL-A- 0207GLE, IMUL-A- 0297KLT – As per the provision in the DFAR Act No. 02 of 1996 section 52(1) for the compounding (1st time convicted and admit guilty) approval of the Minister of Fisheries and Aquatic Resources Development is required. As such the file has been forwarded to the Minister.

Due to non-availability of legal provisions to take actions against the skipper, the skippers of the vessels given in above four bullet points were released by making them compulsory to attend the two day consultation on the obligations of High Seas fishing.

(16) IMUL- A- 0728 KLT

I draw your attention to your letter dated 15<sup>th</sup> November 2018. With respect to investigation findings you have reported in the paragraph 3 the skipper of the vessel IMUL- A- 0728 KLT has

been obstructed to the duties of SFPO of BIOT. We take this matter into our serious consideration and decided to cancel the skipper license for one year.

I would say that in the FARA Act No 35 of Sri Lanka also has provisions to take legal actions for obstructing to the authorized officers.

However the wordings in the paragraph (v) of the letter dated 15th November 2018 has misled the investigation officers of Sri Lanka that the entering of this vessel in to BIOT waters is due to an engine failure, which it was tally with the statements given by them after arrival to Sri Lanka.

In the Inspection Report – ARW01, under IOTC CMM violations we noted that the fishing gears are not marked, No VMS, VMS not tampered, No State issued log book and no state issued license is marked. However DFAR can confirm that the vessel had Log book and the Operation licence and operating VMS on board during the departure from the home port. The departure form of the vessel is attached for your information. We noted that the gear marking has not been checked by the harbor officials during the departure.

- The Vessel Monitoring Device showed that it was in good working order during the departure. However re-configuration of VMS transponders is going on under new International Maritime Satellite (INMARSAT) C service due to the change of the previous INMARSAT C service provider. Therefore DFAR is experiencing failure of Vessel monitoring system in some of the vessels the above vessel also one of such and therefore VMS record is not available.
- The vessel is permitted for H.S. Fishing
- The owner has not persecuted.
- With the information provided by you on 15<sup>th</sup> of March there is a potential DFAR to take further action in respect of the skipper. We hope to execute the legal provisions available in the prevailing Act with the assistance of the evidence provided by BIOT in future.

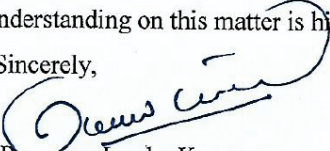
I would say that DFAR is hardly managing to take some legal actions against the fishers due to some economic and social hardships faced by them. However we are not retrograde to take legal actions against the IUU fishing activities keeping our commitment to prevent IUU fishing in the region.

Your understanding on this matter is highly appreciated.

Yours Sincerely,

Ginige Prasanna Janaka Kumara

Director General

  
Ginige Prasanna Janaka Kumara  
Director General  
Department of Fisheries & Aquatic Resources

Ginigie Prasanna Janaka Kumara  
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26 March 2019

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Dear Mr. Kumara,

**Reporting presumed IUU vessels to the IOTC Compliance Committee (CoC)**

Thank you for your letter dated 21 March 2019 which has helpfully answered some of the questions raised in our earlier correspondence of 4 March and 15 March 2019.

**1. VMS on multiday fishing vessels operating within the EEZ of Sri Lanka**

We note the updated details regarding installation of VMS on multiday fishing vessels operating within the EEZ of Sri Lanka and are encouraged that this will occur 'very soon'. *We would be grateful for an update on the status of installation in due course.*

**2. Action taken against fishing skippers**

We note and support the plans to amend the Fisheries Act in order to enable legal action to be taken against the vessel operator (skipper) and nationals engaged in IUU Fishing which will enable Sri Lanka to apply the provisions of IOTC Resolution 07/01. *We would be grateful for an update on the timeline for change in due course.*

We appreciate that you have used such administrative powers that you have available to deal with the skippers of these vessels.

The skipper of IMUL 0728 KLT had his licence cancelled for one year, whereas the skippers of IMUL-A-0128 GLE; IMUL-A-0398-KLT; IMUL 0142 PTM; IMUL A 0030 GLE; IMUL0207 GLE; and IMUL 0293 KLT each attended a 2 day consultation *It would be useful to understand if there is any further information that BIOTA or the Principal Legal Advisor can provide which would allow you to suspend the licences of skippers suspected of IUU fishing ahead of the proposed changes to legislation?*

**3. IOTC IUU vessel listing**

**A. Vessels previously reported to IOTC**

**Superfresh 02 – IMUL-A-0128 GLE (presented to IOTC in 2017) and Lakshi Duwa 06 – IMUL-A-0398-KLT (presented to IOTC in 2018)**

We are satisfied that sanctions of adequate severity have been taken in respect of the owners of these vessels. We consider the actions taken in respect of the skippers to be inadequate but note the current limitations of the

Fisheries Act and that this will be updated. We will therefore not be re-notifying these vessels to IOTC Compliance Committee in 2019.

#### **B. Vessels to be reported to IOTC in 2019**

##### **Seneka 07 IMUL 0142 PTM**

We are satisfied that sanctions of adequate severity have been taken in respect of the owner of this vessel. We consider the actions taken in respect of the skipper to be inadequate but note the current limitations of the Fisheries Act and that this will be updated. We will notify this vessel to IOTC Compliance Committee in 2019 with recommendation b) 'Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State'.

##### **IMUL A 0030 GLE; IMUL0207 GLE; and IMUL 0293 KLT**

Thank you for indicating that these cases have been referred to the Minister. It is still not clear to us why this is the case. *Could you please provide a more detailed explanation of what that means?* We also note that the dates for court cases for these vessels have passed (25 March; 20 February; and 5 February respectively). *Is DFAR intending that any of the owners of these vessels is to be prosecuted?*

At the time of writing, we are NOT satisfied that sanctions of adequate severity have been taken in respect of the owners of these vessels. We consider the actions taken in respect of the skippers to be inadequate but note the current limitations of the Fisheries Act and that this will be updated.

As we are unable to conclude on the information currently provided that actions of adequate severity have or shall be taken, we have concluded that the only correct course of action for us to take is to notify these vessels to IOTC Compliance Committee in 2019 with recommendation c) 'Recommended for inclusion on IOTC IUU list'. We note that Sri Lanka has until 15 days before the Compliance Committee Meeting to provide additional information which we will review at that time before deciding whether to pursue IUU listing during the meeting.

##### **IMUL 0728 KLT.**

This vessel is on the IOTC Authorised fishing vessel list. We understand that no action has been taken against the owner of the vessel nor is intended. The vessel has now been released. We note that the Master's/Skipper's licence was cancelled for 12 months. Whilst the VMS was working when the vessel left port reconfiguration of VMS transponders means there are no vessel tracks for the period in question, which we consider to be inadequate. *It would be helpful to us when deciding how to request this vessel is to be dealt with by the IOTC if we could understand why this owner has not been prosecuted. Is there a specific reason why this action could not take place in this case compared to others.*

At the time of writing, we are NOT satisfied that sanctions of adequate severity have been taken in respect of the owner of this vessel. We consider the action taken in respect of the skipper to be adequate.

As we are unable to conclude on the information currently provided that actions of adequate severity have or shall be taken, we have concluded that the only correct course of action for us to take is to notify this vessel to IOTC Compliance Committee in 2019 with recommendation c) 'Recommended for inclusion on IOTC IUU list'. We note that Sri Lanka has until 15 days before the Compliance Committee Meeting to provide additional information which we will review at that time before deciding whether to pursue IUU listing during the meeting.





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We would like to thank Sri Lanka as flag State for the continued bilateral assistance in combatting the threat of IUU fishing in the Indian Ocean. We look forward to receiving your responses to the above.

If you have any questions or require assistance please do not hesitate to contact myself ([c.mees@mrag.co.uk](mailto:c.mees@mrag.co.uk)) or James Muir Clark ([j.clark@mrag.co.uk](mailto:j.clark@mrag.co.uk)). We look forward to your continued cooperation.

Yours Sincerely

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

Linsey Billing  
BIOT Administration, Director of Fisheries

No. 0527.2/ 6290



Department of Fisheries  
Kaset Klang, Chatuchak,  
Paholyothin Road,  
Bangkok 10900, Thailand

12 June B.E. 2561 (2018)

Dear Sir,

**Subject: Submission the Information on IUU Fishing Activities**

Kindly refer to Resolution 17/03 On establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC area of competence. The Department of Fisheries, Thailand would like to submit the information of vessel namely "CHOTCHAINAVEE 35" for the consideration of the commission to include the vessel in IOTC IUU Vessels list, the detail of this vessel as attachment.

Regarding this, The Department of Fisheries, Thailand would like to request you to share this information to all IOTC member states for the upcoming meeting.

Please kindly be assured of our cooperation.

Yours Sincerely,

**(Dr. Adisorn Promthep)**  
**Director - General**

Mr. Christopher O' Brien  
Executive Secretary, Indian Ocean Tuna Commission  
IOTC Secretariat Le Chantier Mall (2<sup>nd</sup> floor)  
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Overseas Fisheries and Transshipment Control Division  
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### IOTC Reporting form for Illegal Activity

Recalling IOTC Resolution 17/03 *On establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC area of competence*, attached are details of illegal activity recorded in [area in which the activity took place] Somali's water

#### A. Details of Vessel

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

Item	Definition	Indicate
a	Current Name of Vessel (Previous name/s, if any)	CHOTCHAINAVEE 35
b	Current Flag (previous flag/s, if any)	Unknown (Djibouti)
c	Date first included on IOTC IUU Vessel List (if applicable)	N/A
d	Lloyds IMO Number, if available	N/A
e	Photo	Please see in attachment 1
f	Call Sign (previous call sign, if any)	N/A
g	Owner (previous owner/s, if any)	Company: GREEN LAUREL INTERNATIONAL SARL
h	Operator (previous Operator/s, if any) and Master/Fishing Master	Master: Mr. Prawit Kerdsuwan
i	Date of alleged IUU fishing activities	1 March - 8 April 2016
j	Position of alleged IUU fishing activities	Somali's water
k	Summary of alleged IUU activities (see section B for more detail)	This vessel illegally fished in Somali's waters (Not register under Somalia Fisheries Law and Operated fishing in Somali's restriction area). This vessel did not register under IOTC ,however, had IOTC competence species onboard such as sword fish and Frigate tuna ( <i>Auxis thazard</i> ).
l	Summary of any Actions known to have been Taken in respect of the alleged IUU fishing activities	Thailand has taken key actions to this vessel including: - Exercised PSM inspection - Confiscation this vessel under Order of Department of Fisheries No. 805/2560 dated 27 July B.E. 2560 (2017) - Investigation - Prosecution under Royal Ordinance on Fisheries B.E. 2558 (2015)

The detail of actions are as following:

1. On the 1st May 2017 the vessel agent for the CHOTCHAINAVEE 35 (Djiboutian Flagged) submitted a request to bring the fishing vessel to Thajeen Union Port, Sumuthsakorn Province to land fish.

2. The PSM inspectors at DOF Headquarters received and analyzed the AREP request and associated documents and identified some areas of concern regarding the fishing license, particularly;

i) This was the first time a Djibouti fishing vessel had applied to enter port in Thailand, thereby making the vessel higher risk.

ii) It was found that on some of the records contained in the AREP documentation that changes had been handwritten over top of existing information.

iii) The vessel provided a license issued by the Puntland authority.

3. The PSM inspector at DOF Headquarter contacted to The Republic of Djibouti and The Federal Government of Somalia to verify the authorization and license of the FV CHOTCHAINAVEE 35.

4. The Republic of Djibouti responded and confirmed that the FV CHOTCHAINAVEE 35 was registered under Djiboutian Flagged.

5. The Federal Government of Somalia reported back to Thailand that the FV CHOTCHAINAVEE 35 had engaged in illegal fishing in Somali waters and had violated the Fisheries Law of The Federal Government of Somalia.

6. The vessel CHOTCHAINAVEE 35 was granted permission to enter port in Thailand for the purpose of inspecting the vessel and taking actions at least as effective against IUU fishing as denying the requested berthing as per Section 95 of the Royal Ordinance BE 2015. The Department of Fisheries also worked with the Royal Thai Police who intercepted the vessel while it was heading into Thai waters.

7. Once the vessel berthed, the vessel was also inspected and it was found that the 448 tons of catch onboard was well over of the 270 tons quota granted in the fishing license by the Puntland authority of the Federal Republic of Somalia.

8. Officers of the Department of Fisheries detained the vessel and required that the vessel owner or operator provide evidence to the Fisheries Department that it had not undertaken IUU fishing as required under Section 96 of Royal Ordinance on Fisheries BE 2015.

9. The vessel owner or operator subsequently failed to present the required evidence. Therefore, on July 27, 2017 the Department of Fisheries issued an order to confiscate the vessel and property on board the vessel under Section 96 of Royal Ordinance on Fisheries BE 2015.

10. Following the confiscation of the vessel investigations continued, the case file was developed and judicial proceedings undertaken. During this period the vessel was locked and entry prohibited without authorization with control being maintained by the Department of Fisheries Patrol.

11. On January 21, 2018, the FV CHOTCHAINAVEE 35 was taken to a cold store for controlled unloading with the fish onboard subsequently distributed to the impoverished underprivileged.

12. DOF are currently in the process of assessing the value of the fishing vessel and the property on board the vessel for further disposal.

13. The action of the Department of Fisheries was taken under Section 94 of the Royal Ordinance on Fisheries B.E.

		<p>2015 which states that “no person shall bring a non-Thai fishing vessel that has undertaken illegal, unreported and unregulated (IUU) fishing into the Kingdom”.</p> <p>14. Judicial action is being undertaken against the vessel owner, vessel master and the vessel agent.</p> <p>15. The Department of Fisheries has also been working closely with the Interpol Headquarters in Lyon, France by collecting evidence onboard the FV CHOTCHAINAVEE 35 to support broader litigation on illegal fishing and human trafficking.</p>
m	Outcome of Actions taken	The FV CHOTCHAINAVEE 35 is confiscated by Thai Authorities under Royal Ordinance on Fisheries B.E. 2558 (2015)

## B. Details of IOTC Resolution Elements Contravened

*(Indicate with a "X" the individual elements of IOTC Resolution 17/03 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	engaged in fishing or fishing related activities and is neither registered on the IOTC Record of Authorised Vessels in accordance with Resolution 15/04, nor recorded in the Active list of vessels; or	<input checked="" type="checkbox"/>
b	engaged in fishing or fishing related activities when its flag State is without quota, catch limit, or effort allocation under IOTC Conservation and Management Measures where applicable; or	<input checked="" type="checkbox"/>
c	failed to record or report its catches in accordance with IOTC Conservation and Management Measures or has made false reports; or	<input checked="" type="checkbox"/>
d	taken or landed undersized fish in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
e	engaged in fishing or fishing related activities during closed fishing periods or in closed areas in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
f	used prohibited fishing gear in contravention of IOTC Conservation and Management Measures; or	<input type="checkbox"/>
g	transhipped fish to, or otherwise participated in joint operations with, support or re-supply vessels that are not included on the IOTC Record of Authorised Vessels or not on the Record of Vessels Authorised to receive transhipments at-sea in the IOTC Area or	<input type="checkbox"/>
h	engaged in fishing or fishing related activities in waters that are under the national jurisdiction of a coastal State without the permission or authorisation of that State or in contravention of the laws and regulations of that State (without prejudice to the sovereign rights of the State concerned to undertake enforcement measures against such a vessel); or	<input checked="" type="checkbox"/>
i	engaged in fishing or fishing related activities whilst being without nationality; or	<input type="checkbox"/>
j	engaged in fishing or fishing related activities having intentionally falsified or concealed its markings, identity or registration; or	<input type="checkbox"/>
k	engaged in fishing or fishing related activities in contravention of any other binding IOTC Conservation and Management Measures;	<input type="checkbox"/>

## C. Associated Documents

*(List here the associated documents that are appended e.g. boarding reports, court proceedings, photographs)*

Click here to enter text.

## D. Recommended Actions

Recommended Actions	Indicate
a Notification to IOTC Secretariat only. No further action is recommended.	<input type="checkbox"/>
b Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State.	<input type="checkbox"/>
c Recommended for inclusion on IOTC IUU list	<input checked="" type="checkbox"/>

**ANNEX II**  
**Information to be included in all IOTC IUU vessels lists**

The Draft, Provisional and Final IUU Vessels Lists shall contain the following details:

1. Name of the vessel and previous name/s, if any; **CHOTCHAINAVEE 35**
2. Flag of the vessel and previous flag/s, if any; **Unknown (Djibouti)**
3. Name and address of the Owner and Operator of the vessel and previous Owner and Operator, if any; **Owner: GREEN LAUREL INTERNATIONAL SARL**  
**Address: P.O. Box 682 Djibouti, Republic of Djibouti**  
**C/O 1264 Vichienchodok Rd., Mahachai, Muang, Samutsakhon**  
**74000 Thailand**
4. For legal entity the country of registration and registration number; **Unknown**
5. Call sign of the vessel and previous call sign, if any; **N/A**
6. IMO number, if any, or unique vessel identifier (UVI), or if not applicable, any other vessel identifier; **N/A**
7. Recent photographs of the vessel, where available; **See attachment 1**
8. Vessel length overall; **42.65 meters**
9. Date the vessel was first included on the IOTC IUU Vessel List, if applicable, **N/A**
10. Summary of the alleged IUU fishing activities which justify inclusion of the vessel on the List, together with references to all relevant supporting documents information.

**This vessel illegally fished in Somali's waters (Not register under Somalia Fisheries Law and Operated fishing in Somali's restriction area).**

**This vessel did not register under IOTC, however, had IOTC competence species onboard such as sword fish and Frigate tuna (*Auxis thazard*)**

11. Summary of any actions known to have been taken in respect of the alleged IUU fishing activities and their outcomes.

**Thailand has taken key actions to this vessel including;**

- **Exercised PSM inspection**
- **Confiscation this vessel under Order of Department of Fisheries No. 805/2560 dated 27 July B.E. 2560 (2017)**
- **Investigation**
- **Prosecution under Royal Ordinance on Fisheries B.E. 2558 (2015)**

The detail of actions are as following:

1. On the 1st May 2017 the vessel agent for the CHOTCHAINAVEE 35 (Djiboutian Flagged) submitted a request to bring the fishing vessel to Thajeen Union Port, Sumuthsakorn Province to land fish.
2. The PSM inspectors at DOF Headquarters received and analyzed the AREP request and associated documents and identified some areas of concern regarding the fishing license, particularly;
  - i) This was the first time a Djibouti fishing vessel had applied to enter port in Thailand, thereby making the vessel higher risk.
  - ii) It was found that on some of the records contained in the AREP documentation that changes had been handwritten over top of existing information.
  - iii) The vessel provided a license issued by the Puntland authority.
3. The PSM inspector at DOF Headquarter contacted to The Republic of Djibouti and The Federal Government of Somalia to verify the authorization and license of the FV CHOTCHAINAVEE 35.

4. The Republic of Djibouti responded and confirmed that the FV CHOTCHAINAVEE 35 was registered under Djiboutian Flagged.

5. The Federal Government of Somalia reported back to Thailand that the FV CHOTCHAINAVEE 35 had engaged in illegal fishing in Somali waters and had violated the Fisheries Law of The Federal Government of Somalia.

6. The vessel CHOTCHAINAVEE 35 was granted permission to enter port in Thailand for the purpose of inspecting the vessel and taking actions at least as effective against IUU fishing as denying the requested berthing as per Section 95 of the Royal Ordinance BE 2015. The Department of Fisheries also worked with the Royal Thai Police who intercepted the vessel while it was heading into Thai waters.

7. Once the vessel berthed, the vessel was also inspected and it was found that the 448 tons of catch onboard was well over of the 270 tons quota granted in the fishing license by the Puntland authority of the Federal Republic of Somalia.

8. Officers of the Department of Fisheries detained the vessel and required that the vessel owner or operator provide evidence to the Fisheries Department that it had not undertaken IUU fishing as required under Section 96 of Royal Ordinance on Fisheries BE 2015.

9. The vessel owner or operator subsequently failed to present the required evidence. Therefore, on July 27, 2017 the Department of Fisheries issued an order to confiscate the vessel and property on board the vessel under Section 96 of Royal Ordinance on Fisheries BE 2015.

10. Following the confiscation of the vessel investigations continued, the case file was developed and judicial proceedings undertaken. During this period the vessel was locked and entry prohibited without authorization with control being maintained by the Department of Fisheries Patrol.

11. On January 21, 2018, the FV CHOTCHAINAVEE 35 was taken to a cold store for controlled unloading with the fish onboard subsequently distributed to the impoverished underprivileged.

12. DOF are currently in the process of assessing the value of the fishing vessel and the property on board the vessel for further disposal.

13. The action of the Department of Fisheries was taken under Section 94 of the Royal Ordinance on Fisheries B.E. 2015 which states that "no person shall bring a non-Thai fishing vessel that has undertaken illegal, unreported and unregulated (IUU) fishing into the Kingdom".

14. Judicial action is being undertaken against the vessel owner, vessel master and the vessel agent.

15. The Department of Fisheries has also been working closely with the Interpol Headquarters in Lyon, France by collecting evidence onboard the FV CHOTCHAINAVEE 35 to support broader litigation on illegal fishing and human trafficking.



Attachment 1

