



COMPLEMENTARY ELEMENTS FOR DISCUSSION UNDER ITEM 7 OF THE AGENDA FOR THE COMPLIANCE COMMITTEE

Prepared by IOTC Secretariat, 13 MAY, 2019

PURPOSE

To bring to the attention of the Compliance Committee the actions undertaken by CPCs during the last intersessional period to address fishing practices that undermines the effectiveness of conservation and management measures of the Indian Ocean Tuna Commission.

INFORMATION REPORTED TO THE IOTC SECRETARIAT

Information with regards to one Sri Lankan vessel:

- Attachment 1 – Information on the vessel SENEKA 07 (IMULA 0142 PTM), flagged to Sri Lanka, submitted by the UK (OT) in March 2019.

RECOMMENDATION/S

That the CoC16:

- 1) **NOTE** paper IOTC-2019-CoC16-08a, which describes one incidence of illegal fishing activities that took place in the waters of the UK (OT), within the IOTC Area.
- 2) **NOTE** the actions that Sri Lanka has taken against the vessel involved in this incidence.
- 3) **NOTE** the effectiveness of the bilateral relationship established between Sri Lanka and the UK (OT) with the objective of combatting IUU fishing activities.
- 4) **RECOMMEND** that CPCs continue to provide the Compliance Committee with information of actions they undertake to combat fishing practices that undermines the effectiveness of conservation and management measures adopted by the Indian Ocean Tuna Commission.



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

28 February 2019

cc. Mr Hosea Gonza Mbilinyi, Chair of the Compliance Committee;
Ms Anne-France Mattlet, Vice Chair;
Mr Kumara; Ms K Hewapathinara; Ms G. Chandrasiri.DFAR, 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 Seneka 07 IMULA 0142 PTM

As required in paragraphs 5 and 6 of Resolution 18/03 please find attached a completed IOTC Reporting form for Illegal Activity and accompanying correspondence with Sri Lanka for the Sri Lankan flagged vessel Seneka 07 IMULA 0142 PTM. 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). We are satisfied that sanctions of adequate severity have been taken by the flag State in respect of the owner of this vessel. We consider the actions taken in respect of the skipper to be inadequate but note that such administrative powers that are currently available to deal with the skippers of IUU vessels have been applied. We note the intention of Sri Lanka to update its Fisheries Act in respect of the sanctions available to it against vessel operators (skippers).

Noting the effective bilateral relationship established with Sri Lanka, and their firm and demonstrated commitment to combat IUU perpetrated by vessels flagged to Sri Lanka we recommend '(b) Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to flag State'.

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

Thank you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C.C. Mees', is written over a light blue circular stamp that contains the text 'UK(OT) DELEGATION TO IOTC'.

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

Enclosed: IOTC Reporting form for Illegal Activity, Seneka 07 IMULA 0142 PTM

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)	IMUL-A-0142-PTM (also known as Senaka 07)
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)	4SF3324
g	Owner (previous owner/s, if any)	Tenisan Thenabadu, Palawaththa, Light House Road, Devinuwara – as per flag state issued fishing license (WLDCL Perera, near the church, Kandakuliya – as per IOTC record)
h	Operator (previous operator/s, if any) and Master/Fishing Master	Not known
i	Date of alleged IUU fishing activities	11/07/2018
j	Position of alleged IUU fishing activities	04° 57.2' S 068° 25.1' E
k	Summary of alleged IUU activities (see section B for more detail)	<p>Fishing without a licence in BIOT water.</p> <p>The IOTC record for the authorization period showed that this had expired on 31/12/2017. The vessel also only had a state issued fishing license for operating within the Sri Lankan EEZ.</p> <p>There were no catch records in the state issued fishing logbook. No other catch records were shown.</p> <p>Fishing gear observed on-board did not have markings.</p> <p>A VMS system was present on board but appeared to be switched off.</p> <p>There was an estimated total of 500kg onboard including yellowfin tuna and swordfish.</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 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 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 checked="" type="checkbox"/>
c	Recommended for inclusion on IOTC IUU list	<input type="checkbox"/>

Appendix I – Photographs.



Figure 1: Vessel photo, portside



Figure 2: Vessel name/registration number



Figure 3: Vessel stern with no vessel name or identification

INSPECTION REPORT – JB/12/2018

1 Summary

Date of boarding	11/07/2018
Patrol type and number	FIPA44
Vessel name	Senaka 07
Vessel type	Longline
Vessel flag and home port	Sri Lanka - Dondra
Vessel identification number	IMULA0142PTM 4SF3324
Vessel identification type	Registration number Callsign
IOTC# (if registered)	14214 – expired 31/12/2017
Vessel Master name	MMM Danesh
SFPO	Judith Brown
Grampian crew assisting	James Ward
Outcome of boarding	Detained and taken to Diego Garcia for suspected illegal fishing within BIOT EEZ

2 Initial sighting details (from Grampian Frontier only)

Date and time of first sighting	11/07/2018 07:10 (DD/MM/YY HH:MM)				
Sighted by	John Krueger	Radar	x	Visual	x
Position of target 1	04° 57.2' S 068° 25.1' E				
Course	Nil – laid to				
Speed	0 knots				
Range	5.1 nm				
Bearing	320 degrees				
Comments: Visibility was poor – detected on radar and once closer saw a light.					
Fisheries Pennant and Sierra Quebec Three Raised	11/07/2018 07:50 (DD/MM/YY HH:MM)				
Target requested to stop and prepare for boarding.	11/07/2018 08:22 (DD/MM/YY HH:MM)				
Response to request for boarding	No VHF response. No response to BPV crew with loudspeaker request to stop. Vessel made speed to BIOT EEZ border, stopping twice likely due to engine overheating before finally stopping. Followed BPV back to initial detection point near where SFPO boarding another vessel. SFPO requested verbally to captain permission to board.				

3 Launching of workboat

Time workboat launched	11/07/2018 07:50	(DD/MM/YY HH:MM)
Workboat crew	Steve Tredigo Donald MacFarlane	
Comments on the approach to the FV: On seeing BPV FV turned and headed towards the BIOT EEZ border.		

	Port	Y
Photographic Evidence Collected (See Annex 1).	Starboard	Y
	Stern	Y
	Fishing gear	Y
	Other	

4 Boarding details

Date and time vessel boarded	11/07/2018 10:07 (DD/MM/YY HH:MM)		
Position vessel boarded	04° 58.3' S 068° 17.8' E		
Boarding party team	Judith Brown/James Ward		
Language spoken	Sri Lankan		
Interpreter needed (Y/N)?	Non available – little English spoken	Name	N/A

4.1 Crew details

Vessel Master name	MMM Danesh		
Vessel Master nationality	Sri Lankan		
Vessel Master address	90 Pattihena Dewinuwara		
Vessel Master D.o.B	10/10/1986	(DD/MM/YY)	
Number of crew (including captain)	5		
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:			
Photographic Evidence Collected (See Annex 1).	Captain ID	Y	
	Other crew id	Y	

4.2 Vessel registration and paperwork

Fishing licence present (y/n) and number if relevant	Y: 18 EEZ IMUL 2225 MTR Valid for Sri Lankan waters only.	
Fishing licence date of issue, expiry and issuing authority	09/03/2018-31/12/2018 (DD/MM/YY) Department of Fisheries and Aquatic Resources, Sri Lanka	
FV owner name (as per licence)	Tenisan Thenabadu	
FV owner details (as per licence)	Palawaththa, Light House Road, Devinuwara	
Fishing logbook present (y/n) and number if relevant	Y LB 17 1236	
Issuing authority	Department of Fisheries and Aquatic Resources, Sri Lanka	
Date of last entry	25/05/2018 (DD/MM/YY)	
Position of last entry	00° 44' N 078° 06' E	
Other paperwork: There was no catch log that the captain was willing to show the SFPO in relation to the current catch on board. This was not documented in the official logbook. Captains skipper ID no: SK0745MTR.		
Photographic Evidence Collected (See Annex 1).	Licence	Y
	Logbook	Y
	Other	Y

4.3 Information from Captain

Time of discussion with captain	10:07 (HH:MM)
Captain's rights read and understood?	N/A
FV Port of departure	Dondra, Sri Lanka
Date of departure	19/06/2018 (DD/MM/YY)
Travelling to or from fishing grounds?	From
Amount of fish onboard (t)	26 fish (number given by captain)
If fish onboard where caught?	No logbook details for the catch on board.
If fish onboard when caught?	No logbook details for the catch on board but freshness score 2 so only a few days old maximum
If fish onboard how caught?	Longline
Destination	Dondra, Sri Lanka
Port of return	Dondra, Sri Lanka
Anticipated date of return	21/07/2018 (DD/MM/YY)
Comments: Captain reported in broken English that they had been fishing outside the EEZ but the other FV (IMULA1380MTR) had engine trouble and they came to assist. Engine problem on other vessel (IMULA01380MTR) was fixed very rapidly and it departed.	

4.4 Vessel inspection

Fishing gear type		Longline	
Comments: Longline was nylon monofilament and steel hooks. 1000 hooks on board.			
Catch onboard (estimated t)		26 fish (approx. 500kg) – information on numbers of fish from captain	
IOTC species onboard (Y/N)	Y	Endangered species onboard (Y/N)	Not seen
Description of catch: 20 yellowfin tuna on ice 3 billfish (marlin) on ice 3 other fish on ice – captain pointed at picture of blue shark (however SFPO did not see any shark carcass in hold but did see at least 5 billfish heads so possibly a different species of billfish) [1 skipjack tuna (seen by SFPO, not reported by captain)]			
Comments: Captain provided verbal information on catch on board (not documented in official or other logbook). SFPO recorded yellowfin tuna and marlin on ice in hold.			
Photographic Evidence Collected (See Annex 1).	Gear	Y	
	Catch	Y	
	Hold	Y	

5 List of violations (“X” marks non-compliance otherwise leave blank)

5.1 BIOT ordinance violations

Fishing without a licence	x
Fishing with prohibited fishing gear	
Possession of prohibited fishing gear	
Obstruction of a fisheries patrol officer	
Possession of sea cucumbers or molluscs	

Traversing or landing on an SNR	
Comments: Marlin head showed red gills and convex eye (freshness score 2/3) indicating recently caught.	

5.2 IOTC CMM violations

Vessel not marked with name or callsign	
Fishing gear not marked with name or callsign	X
No VMS	
VMS not tamperproof	X (VMS switched off)
No state issued logbook	X (not used for this catch)
No state issued licence	X (Sri Lanka seas only)
Possession of drift net over 2.5km.	
Not on the IOTC authorised list	X (out of date)
Not on the IOTC Record Active Tuna / Swordfish	X
No turtle de hooker on board	
Comments: Whilst the vessel had a state issued logbook the latest catch was not written in there. VMS on board was switched off Vessel held valid licence to fish in Sri Lanka seas only. Fishing licence does not permit High Seas fishing or fishing within the BIOT EEZ and the vessel had tuna catch on board. Photographs of yellowfin tuna and marlin on ice in hold. Vessel on the IOTC authorised list, but expired 31/12/2017 Fishing floats were not marked with vessel call sign or name.	

6 SFPO actions

Vessel and Master detained and escorted to DG	Y
FPN issued and catch and gear seized	
IOTC Reporting Form to be completed (Res: 11/03)	Y
Master given verbal warning and released	
No further action, vessel released	
Comments (when detained / escorted) Detained on 11/07/2018. Captain instructed by SFPO to follow BPV back to Diego Garcia (at 12:48 on 11/07/18). Escorted back to Diego – approximate arrival due 14/07/18.	

7 Disembarkation and recovery

Time FV disembarked	11:02	(HH:MM)
Time Workboat recovered to the BPV	11:09	(HH:MM)
Comments: Reboarded FV on 11/07/2018 at 12:48 and disembarked at 13:15 to collect evidence (vessel logbook, paperwork and crew ID) and to inform captain to follow BPV back into Diego Garcia. Captain given boarding receipt.		

8 Vessel records and history

Vessel on IOTC register (Y/N)	Y but expired 31/12/2017	IOTC number	14214
Vessel on IOTC Record Active Tuna / Swordfish (Y/N)			N
Version of IOTC database referenced:			IOTC_positive_list_2018-06-04
Vessel previously boarded (Y/N)	N	Inspection report ID	
Master previously boarded (Y/N)	N	Inspection report ID	
Owner previously boarded (Y/N)	N	Inspection report ID	
Crew previously boarded (Y/N)		Inspection report ID	
Comments:			

Judith Brown
BIOT Senior Fisheries Protection
Officer 11/07/2018

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

11 July 2018

E-Mail: Geethamali Chandrasiri ip@fisheriesdept.gov.lk
Cc: Director General mclfenando@gmail.com
Nuwan Gunawardana nuwan54@gmail.com
Kalyani Hewapathirana hewakal2012@gmail.com

Dear Dr Chandrasiri,

Request for Confirmation of Ownership of the Sri Lankan vessel SENAKA

The Sri Lankan flagged vessel SENAKA (IMUL-A-0142PTM, IOTC014214 (last recorded active in 2017)) 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	WLDCL PERERA NEAR THE CHURCH, KANDAKULIYA

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 SENAKA also 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 14 July. 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

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

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P. O. Box

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தொலைபேசி
Telephone

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(3 lines)

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பணிப்பாளர் நாயகத்தின் அலுவலகம்
Office of Director General

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தொலை நகல்
Fax No.

449170

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எனது இல.
My No.

DFAR/FM/K/IUU/2018

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உமது இல.
Your No.

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கடற்றொழில், நீரியல் வளத்துறை திணைக்களம்

DEPARTMENT OF FISHERIES & AQUATIC RESOURCES

E-mail : depfish@diamond.lanka.net
Web : www.fisheriesdept.org

Mr. John Pearce
Principal Consultant, MRAG Ltd
18 Queen Street
London, W1J 5PN
United Kingdom

Dear Mr. John

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

දිනය
நிகதி
Date

12/07/2018

Confirmation of ownership details of the Vessel "SENAKA" (IMUL-A-0142-PTM)

This is in reference to your letter dated 11th July 2018 requesting confirmation of the ownership details of the Vessel "SENAKA" (IMUL-A-0142-PTM).

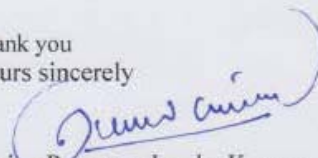
We confirm the owner of the above vessel is as follows.

Owner Name/address	Sources
TENABADU T, PELAWATTA, LIGHT HOUSE ROAD, DEVINUWARA, SRI LANKA	DFAR Vessel Registry, DFAR operation license registry (within EEZ) - Copy of the vessel registration attached.

The owner has been granted permission to operate only within EEZ of Sri Lanka. There is provisions under the Fisheries and Aquatic Resources Act No. 2 of 1996 Sri Lanka and the amendments to take legal actions against the fishers who violate the conditions of the licenses issued. Therefore we would much appreciate if you send the vessel and the fishers to Sri Lanka with your the findings of the investigation to this Department to take legal actions.

Your continuous support of providing information of the Sri Lanka vessels those engage in irresponsible fishing activities in BIOT waters is highly appreciated.

Thank you
Yours sincerely


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

Vessel Registration Certificate

Boat Registration No **IMUL-A-0142PTM**

Certificate Serial No **46629**

Date of First Registration **07-Sep-11**

Vessel Material **FRP**

Year of Manufacture **2011**

Length **40.5 Feet**

Engine No **6D14-795468** Engine Type **Mitsubishi**

Horse Power **115**

Boat Yard **SEELANI BOAT YARD** Boat Yard No. **SLB 533**

Owner Details

Name	Address	National ID	Effective Date
THENABADU T	PELAWATTA, LIGHT HOUSE ROAD, -, DEVINUWARA	681830570V	07-Mar-18

Insurance No **33758** Insurance Date **19-Dec-17**

1. Port Name **Puranawella**
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
Thursday, July 12, 2018



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ශ්‍රී ලංකා මුහුදේ ධීවර මෙහෙයුම්වල යෙදීම සඳහා පැවැත්ත, ලයිට්හවුස්පාර, දෙවිනුවර පදිංචි
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දිනය - 2018.03.09.

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

19 July 2018

E-Mail: Geethamali Chandrasiri ip@fisheriesdept.gov.lk
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Janak Pushpakumara kumara84janaka@gmail.com
Nuwan Gunawardana nuwan54@gmail.com
Kalyani Hewapathirana hewakal2012@gmail.com

Dear Dr Chandrasiri,

Release of the Sri Lankan vessel SENAKA (IMUL-A-0142PTM)

Thank you for your letter dated 12 July 2018 confirming the ownership and permitted fishing areas of the Sri Lankan flagged vessel SENAKA (IMUL-A-0142PTM) which was boarded and inspected on the 11th July 2018. It was suspected of being involved in illegal fishing activities in BIOT waters. Fresh fish, including tuna species were observed and photographed on the vessel as was an amount of longline and gillnet gear. It was further noted that despite operating outside the Sri Lankan EEZ, the vessel was not found to have a VMS on board. There is an attached boarding report for your information.

Following the examination of the seized catch from the vessel the Prosecution applied to the Magistrates Court for it to be destroyed. Having heard from both the Prosecution and Master of the vessel the Magistrate granted a destruction order and the catch was destroyed on 16th July 2018.

The prosecution of the Master for illegal fishing in BIOT waters was commenced on Monday 16th July 2018. That prosecution was stayed on the 18th July 2018. The Master and crew were ordered to remove from the Territory having been served with removal orders made under BIOT laws.

The Master was instructed to leave BIOT waters directly and return to his home port in Sri Lanka. The vessel was released at approximately 1630 hours on 18th July 2018.

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.



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Please contact the BIOT Principal Legal Adviser, Denise Bradshaw to request information and evidence relating to the BIOT Police investigation.

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

Yours Sincerely

A handwritten signature in black ink that reads 'C.C. Mees'.

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

කු.මෙ.
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Telephone } (3 lines)

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Office of Director General } 472187



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தொலை நகல் } 449170
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මගේ අංකය
எனது இல. } DFAR/FM/K/IUU/2018
My No. }

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கடற்பொழிவு, நீரியல் வளத்துறை திணைக்களம்

DEPARTMENT OF FISHERIES & AQUATIC RESOURCES

E-mail : depfish@diamond.lanka.net

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Dr C.C. Mees - Head of UK(OT) Delegation to IOTC
18 Queen Street
London, W1J 5PN
United Kingdom

Dear Dr. Mees

Implementation of Vessel Monitoring System (VMS) to the Multiday Fishing vessels operate within EEZ of Sri Lanka

This is reference to the recent reporting of the Sri Lankan multiday fishing vessels, operated within EEZ and or transit through BIOT water, those are not in the IOTC Authorized Vessels list of IOTC. The investigations revealed that all these vessels are registered and authorized to operate within EEZ of Sri Lanka.

As you know, Sri Lankan Fishing authorities, especially the Ministry of Fisheries and Aquatic Resources Development & Rural Economy and the Department of Fisheries and Aquatic Resources work hard to comply with CMMS of IOTC the past few years after reiterate IOTC activities in 2011.

Amendment of the Fisheries and Aquatic Resources Act No.2 of 1996 by incorporating the provisions to regulate the high seas obligations as per the international conventions ratified, and the resolutions adopted by the Indian Ocean Tuna Commission (IOTC) is the foremost activity in this regard. As a result The Fisheries and Aquatic Resources Act No.35 was enacted on High Seas fishing in Year 2013.

Implementation of Vessel Monitoring system is also a precedence activity of in Sri Lanka to combat Illegal Unreported and Unregulated (IUU) fishing. In 2015 Sri Lanka installed 1500 units of vessel tracking devices to the high seas fishing vessels. And thereby achieved 100% VMS coverage for all High Seas operating vessels with land based Fisheries Management Centre (FMC) enabling 24hrs monitoring of the vessel functions. Simultaneously the regulation on the implementation of Satellite based VMS for High Seas Fishing was published in 26th March 2015 and being enforced.

In our road map the next step was, installation of vessel tracking devices to the multiday fishing vessels operate within EEZ. The process initiated in 2016 and proceed ahead with the Government tender procedure for the procurement. However, due to a disagreement of a bidding Company in the tender procedure, the process has to be suspended adhering to a courts order.

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

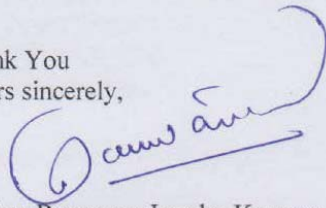
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Under these circumstances DFAR is not able to complete the installation of VMS for the fishing vessels operate within EEZ as per the scheduled time frame. However we are working hard to overcome this issue as early as possible. Until such time DFAR do not hesitate to takes legal actions against the vessels owners who violate the regulations.

Therefore we welcome reporting of the findings of the investigation conduct by the BIOT authorities on Sri Lanka fishing vessels with proven evidence to take legal actions. Your cooperation and assistance on this regard is appreciated.

In conclusion I would like to reaffirm our commitment to cooperate with the relevant coastal states to deter and elimination of IUU fishing in the region. .

Thank You
Yours sincerely,



Ginige Prasanna Janaka Kumara
Director General

Mr. John Pearce- Principal Consultant, RAG Ltd

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

Ginigie Prasanna Janaka Kumara
Director General
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04 March 2019

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Geethamali Chandrasiri ip@fisheriesdept.gov.lk
Janak Pushpakumara kumara84janaka@gmail.com
Nuwan Gunawardana 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 21st March (noting BIOT will be making its submission to IOTC on 28th 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?

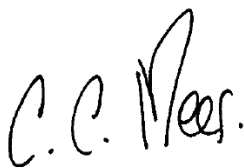
Please indicate if any further action was taken in respect of the skipper?

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.

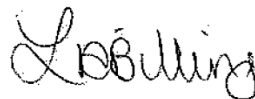
Yours sincerely

If you have any questions or require assistance please do not hesitate to contact myself (c.mees@mrag.co.uk) or James Muir Clark (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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த. பெட்டி.
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Office of Director General } 472187



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கடற்றொழில், நீரியல் வளத்துறை திணைக்களம்

DEPARTMENT OF FISHERIES & AQUATIC RESOURCES

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புதிய செயலகம், மாலிகாவத்தி, கொழும்பு 10.
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திகதி } 21.03.2019
Date }

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Reporting presumed IUU vessels to the IOTC Compliance Committee

This is reference to your letter dated 04th 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 15th 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 15th 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) or James Muir Clark (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