



COMMUNICATION FROM THE UK CONCERNING NINE VESSELS ON THE IOTC DRAFT IUU VESSELS LIST

Prepared by IOTC Secretariat, 25 May 2021

PURPOSE

To provide additional information, which has been received from the United Kingdom by the IOTC Secretariat, to the Compliance Committee to assist it in taking decisions on:

- nine vessels that are on the 2021 Draft IOTC IUU Vessels List. The nine vessels are listed in Annex 2 of document IOTC-2021-CoC18-08.

INFORMATION REPORTED TO THE IOTC SECRETARIAT

In response to IOTC Circular 2021-26, on the IOTC IUU Vessels List and the 2021 Draft IUU Vessels List, which was sent out in accordance with Paragraph 11 of IOTC Resolution 18/03, the United Kingdom provided the responses which are reproduced in Appendix 1.

RECOMMENDATION/S

That the CoC18:

- 1) **NOTE** the information provided in document IOTC-2021-CoC18-08 Add 2, which will assist it in its deliberations on the nine vessels that are on the 2021 Draft IOTC IUU Vessels List.

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

24 May 2021

cc. Ms Anne-France Mattlet, Chair of the Compliance Committee; Dr Indra Jaya Vice Chair CoC
Mr Susantha Kahawatta, and Ms Kalyani Hewapathirana, DFAR, Sri Lanka

Dear Dr O'Brien,

Recommendation to place the Sri Lankan Flagged Vessels: IMULA 0730 KLT; IMULA 0846 KLT; IMULA 1028 TLF on the Provisional IUU Vessels List (Resolution 18/03 On establishing a list of vessels presumed to have carried out IUU fishing in the IOTC Area of Competence)

We refer to IOTC Circular 2021-26 'DRAFT 2021 INDIAN OCEAN TUNA COMMISSION IUU VESSELS LIST' dated 20 May 2021, including the new evidence submitted by Sri Lanka at 15 days prior to the Compliance Committee Meeting (Annex 5E), and the checklist of information provided by the Secretariat (Annex 3E). The evidence presented for IUU in BIOT waters by the three above referenced vessels appears in Annex 4E.

We understand that each vessel should be presented separately but as the issues are common this summary of the information follows Sri Lanka's approach of tabulating all vessels, avoids repetition, and aims to speed the presentation of each vessel report during the shortened remote Compliance Committee Meeting in 2021 (See Table 1, below).

During 2021, due to the current situation with Coronavirus these vessels were not boarded and the BIOT Authorities were unable to conduct a full criminal investigation of the vessels' activities. Sri Lanka was requested to investigate these vessels, and we acknowledge the excellent bilateral relationship between UK and Sri Lanka, and the positive actions taken by Sri Lanka when UK reports vessels to DFAR.

Resolution 18/03 paragraph 14 envisages that vessels will not be included in the Provisional IUU vessel list if the conditions of sub paragraphs a-d are met. As the Checklist provided by the Secretariat (Annex 3E) shows, only para 14d applies to these three vessels.

Regretfully, at the time of writing and until the court cases for these three vessels are concluded, Sri Lanka is not in a position to demonstrate that it has taken effective action and we are not in a position to determine whether '*sanctions of adequate severity to be effective in securing compliance and deterring further infringements*' have been imposed. Therefore, as stated in our original submissions (Annex 4E, summarised in Table 1 below), these vessels should be placed on the IOTC Provisional IUU Vessels List.

Finally, we would remind the Compliance Committee of the context in which these cases are presented. IUU in BIOT waters by Sri Lankan vessels has been a longstanding problem. Since 2009, BIOT has every year presented vessels flagged to Sri Lanka for inclusion on the draft IUU vessels list. To date none have been IUU listed, but following a roadmap agreed at Compliance Committee Sri Lanka has updated its fisheries legislation and installed VMS on some vessels. A bilateral arrangement between UK and Sri Lanka has developed.

However, the effectiveness of Sri Lanka's actions may be questioned. For example, in the case of the repeat offender IMULA 0730 KLT. Another example is IMULA-0195-TCO. That vessel was on the draft IUU

vessels list in 2020, but was not listed on the basis of information provided by Sri Lanka¹. The same vessel was inspected on 15 May 2021 in BIOT waters² (clearly not under close supervision, nor monitored by VMS, and not within the Sri Lankan EEZ).

Rather than needing to deal with IUU vessels, UKs position is that it would be preferable to prevent those vessels from perpetrating IUU in the first place. We recognise the scale of the problem that Sri Lanka faces but to assist the Compliance Committee and Commission in their deliberations we would request an update on the plans in place for improving the effectiveness of flag State control including:

- installation of VMS on the remainder of the multi-day fleet including those vessels that are not on the IOTC Authorised fishing vessel list;
- updates to legislation to enable prosecution of skippers;
- any other measures that Sri Lanka is taking to combat this persistent IUU threat;
- assurances as to how Sri Lanka will ensure it's stated actions are effective, monitored and reported upon

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
UK Delegation to IOTC

¹ extract from the CoC17 MEETING RESPONSE DOCUMENT submitted by Sri Lanka): *'The Vessel is in the risk vessel list for closed supervision. Fishing trips confined to within EEZ, trip length restricted to 21 days subject to updated log book records , communication with MCS centers via (SSB) radios once 6 hours. Currently the vessels is in the priority list for VMS installation*

² The vessel had gear ready to be deployed and was on the Great Chagos Bank, not on a recognized transit route. It was intercepted after the 70-day reporting deadline for 2021.

Table 1: A summary of evidence for IUU in BIOT Waters (Annex 4E) , actions taken by Sri Lanka (Annex 5E), and outstanding issues

Vessel	BIOT Inspection details	DFAR Actions at 15 days prior CoC (14/3/2021)	BIOTA: Outstanding issues to consider regarding the Provisional IUU vessels list
IMULA 0730 KLT	<p>Inspected on 29 Aug 2020, Details sent to DFAR 1/9/20</p> <ul style="list-style-type: none"> The vessel was fishing illegally without a licence within BIOT waters. The vessel had fishing gear in the water within BIOT and the Captain was requested to haul the gear by the Senior Fisheries Protection Officer. The catch included one dead shark only. This vessel owner is a repeat offender. The vessel was previously detained in BIOT waters in 2017 and was not IUU listed by the Compliance Committee at the time as Sri Lanka had indicated it would prosecute the owner. After the incident in 2017 VMS was installed on the vessel yet flag State controls appear not to have been applied to monitor the activities of the vessel in 2020 based on VMS. 	<p>(i)Initiate court case in MC Colombo under 14 F sentence of FARA No. 2 of 1996 amended by FARA No.35 of 2013. Case No: 40533/5/20. (ii) Magistrate summoned to detain the vessel under the Department of Coast Guard. (iii) Next trial date 2021.07.16.</p>	<p>Until the outcome of the Court case is known, we are not in a position to conclude that the conditions of Resolution 18/03 para 14d are satisfied i.e. that <i>'effective action has been taken in response to the IUU fishing activities in question'</i>, nor that <i>'imposition of sanctions of adequate severity to be effective in securing compliance and deterring further infringements'</i> have been applied. Furthermore:</p> <ul style="list-style-type: none"> Repeat offender. Sri Lanka's flag State controls failed to prevent this questioning their effectiveness and adequacy. DFAR confirmed in September 2020 that it would take legal action. The trial date is July 2021 i.e. 10 months later - is this effective or adequate? <p>On this basis the vessel should move to the Provisional IUU Vessels List. We also seek reassurances:</p> <ul style="list-style-type: none"> Confirm the vessel was detained for all this period.
IMULA 0846 KLT	<p>Inspected 30/10/20. Details sent to DFAR on 4/11/20</p> <ul style="list-style-type: none"> The vessel was fishing illegally without a licence within BIOT waters. The vessel had fishing gear in the water within BIOT and the Captain was requested to haul the gear by the Senior Fisheries Protection Officer. The catch included IOTC species: Swordfish and sharks on the IUCN red list of threatened species. The vessel was believed to have been fishing within BIOT waters for at least 10 days. 	<p>(i)Initiate court case in MC Colombo under 14 F sentence of FARA No. 2 of 1996 amended by FARA No.35 of 2013. Case No: 17524. (ii)Magistrate summoned to detain the vessel under the Department of Coast Guard. (iii) Next trial date 2021.07.16.</p>	<p>As above, conditions of 18/03 para 14d are not yet met. Furthermore:</p> <ul style="list-style-type: none"> DFAR confirmed in November 2020 that it would take legal action. The trial date is July 2021 i.e. 8 months later - is this effective or adequate? <p>On this basis the vessel should move to the Provisional IUU Vessels List. We also seek reassurances:</p> <ul style="list-style-type: none"> Confirm the vessel was detained for all this period.
IMULA 1028 TLF	<p>Inspected on GCB on 20/8/20 presumed IUU (gear not stowed; not on IOTC AFV list Letter sent to DFAR 24/8/2020</p> <ul style="list-style-type: none"> The vessel was not on the current IOTC Record of Authorised Vessels and had no authorisation from it's flag State to fish on the high seas. The vessel was inside BIOT and it had not submitted a transit report The vessel was presumed IUU in BIOT waters: Fishing gear was not stowed and was readily available for fishing; the Master indicated the reason he was not fishing was due to bad weather. 	<p>(i)Initiate court case in MC Colombo under 14 F sentence of FARA No. 2 of 1996 amended by FARA No.35 of 2013. Case No: 40534/5/20. (ii)Magistrate summoned to detain the vessel under the Department of Coast Guard. (iii) Next trial date 2021.07.16.</p>	<p>As above, conditions of 18/03 para 14d are not yet met. Furthermore:</p> <ul style="list-style-type: none"> DFAR confirmed in August 2020 that it would take legal action. The trial date is July 2021 i.e. 11 months later - is this effective or adequate? <p>On this basis the vessel should move to the Provisional IUU Vessels List. We also seek reassurances:</p> <ul style="list-style-type: none"> Confirm the vessel was detained for all this period.

Note Sri Lanka's initial actions after the vessels were reported, in each case included:

- (i) Detain the vessel after arrival to the port of SL and keep under the supervision of DCG.
- (ii) Summon the skipper and crew to the head office, DFAR and conduct an inquiry in the presence of the vessel owner.
- (iii) Suspend the fishing operation license, skipper license and seize the registration book and the log book issued to the vessel.
- (iv) The owner informed the repercussions of being listed IUU vessels list as per the IOTC Resolution 18/03

Dr Chris O'Brien
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24 May 2021

cc. Ms Anne-France Mattlet, Chair of the Compliance Committee; Dr Indra Jaya Vice Chair CoC
Mr Susantha Kahawatta, and Ms Kalyani Hewapathirana, DFAR, Sri Lanka

Dear Dr O'Brien,

Sri Lankan Flagged Vessels on the draft IUU vessels List: IMULA 0564 NBO; IMULA 0684 CHW; IMULA 0790 KLT; IMULA 0814 CHW; IMULA 1552 MTR – Request for further information

We refer to IOTC Circular 2021-26 'DRAFT 2021 INDIAN OCEAN TUNA COMMISSION IUU VESSELS LIST' dated 20 May 2021, including the new evidence submitted by Sri Lanka at 15 days prior to the Compliance Committee Meeting (Annex 5E), and the checklist of information provided by the Secretariat (Annex 3E). The evidence presented for IUU in BIOT waters for the above referenced vessels appears in Annex 4E.

Resolution 18/03 paragraph 14 envisages that vessels will not be included in the Provisional IUU vessel list if the conditions of sub paragraphs a-d are met. As the Checklist provided by the Secretariat (Annex 3E) shows, only para 14d applies to these five vessels.

UK notes that Sri Lanka has taken action and imposed sanctions on the owners of these five vessels. Before we are in a position to respond on the *effectiveness* of such actions, and thus whether these vessels should be placed on the IOTC Provisional IUU vessels list or not, by copy of this letter we request that Sri Lanka provides to the Compliance Committee:

- details of any terms and conditions of licence under which each vessel will be released
- assurances as to how Sri Lanka will ensure it's stated actions are effective, monitored and reported upon

This should enable us to make a suitable recommendation during the Compliance Committee Meeting. Subsequently, we would request that Sri Lanka provides to UK and the Secretariat for the information of the Compliance Committee

- a) For all five vessels, an update on the status of each vessel indicating the date that VMS was installed, and the date that the vessel was released from detention by the Coast Guard;
- b) For IMULA 0564 NBO; IMULA 0790 KLT; IMULA 1552 MTR, confirmation that the Administrative Penalty has been paid.

We note the continued bilateral relationship between UK and Sri Lanka to deal with incidences of IUU, and thank DFAR for the positive actions taken by Sri Lanka for these vessels reported by UK.

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
UK Delegation to IOTC

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

24 May 2021

cc. Ms Anne-France Mattlet, Chair of the Compliance Committee; Dr Indra Jaya Vice Chair CoC
Dr. Saniay Pandey, Assistant Commissioner (Fisheries); Dr.P.Paul Pandian, Government of India; Mr.
J. Balaji Ministry of Fisheries, Government of India

Dear Dr O'Brien,

Indian Flagged Vessel on the draft IUU vessels List: IND-TN-15-MM8297_Arrat_Resmitha – Request for further information

We refer to IOTC Circular 2021-26 'DRAFT 2021 INDIAN OCEAN TUNA COMMISSION IUU VESSELS LIST' dated 20 May 2021, including the checklist of information provided by the Secretariat (Annex 3E). The evidence presented for IUU in BIOT waters for the above referenced vessel appears in Annex 4E. As indicated in the check list India did not respond 15 days prior to the Compliance Committee and so under the measures set out in Resolution 18/03 this vessel should automatically move to the IOTC Provisional IUU vessels list. However, on 20th May India did submit a report. We note that:

- Department of Fisheries, Government of India requested the State Government of Tamil Nadu to conduct a regulatory investigation into the activities of the vessel which was confirmed to have been illegally fishing in BIOT Waters;
- The State Government of Tamil Nadu has issued an interim report date 5 May 2021
 - The vessel was not yet detained by the Tamil Nadu Authorities, but had been instructed to berth at Thengapattinam Fishing Harbour, Kanniyakumari District, Tamil Nadu by 20 May 2021
 - The owner/skipper was present at an enquiry held by the Adjudicating office / Deputy Director of Fisheries (Regional) Kanniyakumari
 - Legal action and sanctions in the form of a fine have been imposed on the owner; the fine had not yet been paid.

Resolution 18/03 paragraph 14 envisages that vessels will not be included in the Provisional IUU vessel list if the conditions of sub paragraphs a-d are met. Only para 14d applies.

UK notes that the State Government of Tamil Nadu has taken action and imposed sanctions on the owner of this vessel. Before we are in a position to respond on the *effectiveness* of such actions, and thus whether this vessel should be placed on the IOTC Provisional IUU vessels list or not, we request that India provides further evidence to the Compliance Committee:

- That the vessel has now been detained in Thengapattinam Fishing Harbour, Kanniyakumari District, Tamil Nadu and confirmation that the vessel will remain detained by the Authorities until the owner has paid his fine;
- Whether the owner and master are the same or different persons, and if the latter the actions taken against each of them;
- That during the enquiry, as per Resolution 18/03 para 9 the Owner, Operator and the Master of the vessel were informed of the fact of the inclusion of the vessel in the Draft IUU Vessel List and of

the consequences that may result from its inclusion being confirmed in the IUU Vessel List adopted by the Commission;

- Evidence that the fine has now been paid, or when it is expected to be paid.
- Details of any terms and conditions of licence under which the vessel will be released including whether a VMS will be installed on the vessel.

This should enable us to make a suitable recommendation during the Compliance Committee Meeting.

We thank the Government of India and the State Government of Tamil Nadu for the positive actions taken to date in response to IUU fishing by this vessel.

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
UK Delegation to IOTC