

The Southern Indian Ocean Fisheries Agreement (SIOFA) 2<sup>nd</sup> Meeting of the Compliance  
Committee  
21-23 June 2018

Cape Panwa Hotel, Phuket, Thailand

MoP5-Prop02

*Strategy to collect, share & use information on Persons of Interest (POI)*

Relates to agenda item: CC 4.2 / MoP 8    Proposal ☒ Other Document ☐ Info Paper ☐

## Delegation of The Cook Islands

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### Abstract

IUU fishing is a continuing challenge for RFMOs. Identification and compliance has, up to now, been heavily focused on vessels. In order to more effectively combat IUU fishing, CPs and the Secretariat must also identify the persons (natural and legal) operating and controlling IUU vessels. Collecting, using and sharing information on Persons of Interest (POI) will serve as a strong additional tool to the proposed MCS framework for SIOFA. Other RFMOs already use POI information in making its decision to grant good-standing status to a particular vessel. SIOFA does not yet have a good-standing status for vessels, but could also consider adopting this approach.

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### Recommendations

That the SIOFA Compliance Committee meeting recommend to the Meeting of the Parties that the vessel master, fishing master and chief officer's names be included as POIs with any vessel placed on the SIOFA IUU Vessel list.

That the SIOFA Compliance Committee recommend a POI List be developed, taking into account criteria such as personal convictions or settlements for offences against the fisheries laws or regulations of a CP, CNCP or PFE, and including a person convicted of an offence within a coastal fishery of a CP, CNCP or PFE

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### STRATEGY TO COLLECT, SHARE AND USE INFORMATION ON PERSONS OF INTEREST (POI)

## **1. OBJECTIVE**

1.1 The objective of this working paper is to guide SIOFA CPs and the Secretariat in developing a CMM for profiling persons (natural persons and companies) involved in IUU fishing and the collection, sharing and use of such information.

## **2. RATIONALE**

IUU fishing is a continuing challenge for RFMOs. Identification and compliance has, up to now, been heavily focused on vessels. This includes the vessel list on the SIOFA Authorised Vessel Register, the SIOFA IUU List, the vessel compliance reports contained in CP Implementation Reports and the inclusion of vessel blacklists from other RFMOs, in maintaining the integrity of fishing operations in the SIOFA area.

In order to more effectively combat IUU fishing, CPs and the Secretariat must also identify the persons (natural and legal) operating and controlling IUU vessels. It is people who commit fisheries offences, using platforms such as vessels for their IUU activities. Collecting, using and sharing information on Persons of Interest (POI) will serve as a strong additional tool to the proposed MCS framework for SIOFA.

Persons Of Interest (POI) profiling is an extremely valuable tool to inform IUU intelligence gathering. Recent advances in Information Technology significantly increase the range of information Compliance Officers can use to apprehend fisheries offenders and perform due diligence on whether to licence a vessel. Access to information about the history and performance of persons associated with those vessels significantly increases the power of compliance decisions. The intelligence gained through the sharing and analysis of information also serve to better target limited MCS resources, by targeting vessels with known POIs for boarding & inspection, and Observer coverage on vessels associated with POIs.

Other RFMOs already use POI information in making its decision to grant good-standing status to a particular vessel. SIOFA does not yet have a good-standing status for vessels, but could consider adopting this approach.

Minimum mandatory data standards to be shared by Parties for fisheries data and intelligence could include a list of any specific natural or legal POI from a compliance perspective, and include reasons for inclusion on the list, with specific requests regarding action that might be taken with regard to the POI, in an approved updatable electronic format.

### **Outcome 1: Sound legal basis to collect, share and use information on POIs**

It is fundamental that there is a sound legal basis to collect, share and use information on POIs. In general, broad powers exist in national fisheries legislation to collect personal information, including during the licensing process. The authorisation to share 'confidential information' with third parties also has legal basis and precedent. However personal information is not yet being collected at the Secretariat as part of the registration process on the SIOFA Vessel Register.

National privacy laws or the general right to privacy under law must be considered in relation to this type of information. For Parties, POI information will be shared 'subject to national laws'. This takes into account the national privacy legislation of individual Contracting Parties.

### **Outcome 2: Clear criteria for listing a 'Person of Interest'**

Criteria could include personal convictions or settlements for offences against the fisheries laws or regulations of a CP, CNCP or PFE, and could include a person convicted of an offence within a coastal fishery of an CP, CNCP or PFE, as a means of providing other members with a complete compliance history for that individual in the event that they seek an fishery licence from another CP, CNCP or PFE. The criteria could also include a person who is the operator of a vessel listed on the SIOFA IUU Vessel List and other RFMO IUU Vessel Lists.

Other possible criteria could include where evidence exists that gives reasonable cause to believe that the person has committed or is likely to commit a serious offence against the fisheries laws and regulations of an CP, CNCP or PFE where that person has not been brought to trial, or is still under investigation.

Establishing criteria ensures consistency, transparency and equal application among all CPs, CNCPs and PFEs, in a manner that is legally sound.

Key questions for agreement:

- How is the List amended or updated?
- Is it possible to be deleted from the List?
- Can de-listing be conditional, dependent on future non-compliance?
- Do we need to distinguish between minor and serious violations, or consider levels of severity?
- Should the listing be for a defined period, taking into account ongoing compliance, or for life?

Secondary questions to consider:

- Is a POI notified when included on the List?
- Does a POI, once notified, have right of redress if they feel they are unfairly on the POI List?

**Outcome 3: Unique Person Identifier (UPI)**

A UPI establishes a way for Persons of Interest to be uniquely identified, to avoid mistaken identity. A UPI could be based on personal information that is unique to that person and which can identify them wherever they are in the world. Name, nationality, date of birth, photo, passport biodata and seafarers service book can be used to identify individuals.

Additional forms of identification could include driver's licence number, company registration number, company and personal tax numbers or fingerprints, to create a UPI. 'Beneficial ownership' also identifies the relevant natural persons involved in managing and directing the activities of companies and vessels involved in IUU fishing and is a tool to define to find the motivators behind IUU activity.

**Outcome 4: Information Sharing**

RFMOs, flag States, port States and market States have important roles to play in the collection, verification and sharing of POI data. Verification of information by the flag State at the point of registration is crucial to ensure the accuracy and veracity of the information provided by its nationals.

Port States and market operators should provide assistance in the collection, verification and sharing of POI information, including under the Port State Measures Agreement.

SIOFA should also consider that fisheries data and intelligence may be shared for broader law enforcement purposes, and vice versa. This POI mechanism could be used as a tool to assist with the emerging call to end transnational crimes such as human trafficking and the illicit trade of contraband.

Information sharing with other RFMOs, international enforcement organisations, Market States and Port States will assist in the shared goal to track down and penalise persons involved in IUU fishing.

**Outcome 5: The Use of POI information**

POI profiles will assist decision-makers to determine which person(s) are allowed fishing access. This data can play a critical role in the registration and licensing processes, as well as aiding compliance efforts.

CPs, CNCPs and PFEs need clear procedures for when POI information can be used and for what purpose.

POI information can also be used to provide a decision-maker with additional information for determining whether to grant, renew or cancel a licence.

POI information helps form a more comprehensive understanding of compliance by a particular individuals or groups of individuals involved with a vessel, for licensing purposes or as supporting evidence for a prosecution or negotiations, or to target compliance activities such as Observer coverage or inspections. Minimum uniform standards for CPs, CNCPs and PFEs should be considered to ensure there is some consistency between jurisdictions.

Clear procedures at Secretariat level for the use of POI information should also be developed to enable refusal to grant or to revoke good standing on the SIOFA Vessel Register. For example if a vessel is named on a IUU Vessel List, then an application to the SIOFA Vessel Register which names a POI associated with a listed IUU Vessel

should be rejected. The Secretariat could also use POI information to undertake trend analyses and to plan regional surveillance operations.

POI profiles of CP, CNCPs and PFEs nationals could be used to target engagement with the countries of nationality of such persons so that appropriate action can be taken.

**Recommendation:**

That the SIOFA Compliance Committee meeting in June 2018 recommend to the Meeting of the Parties that the vessel master, fishing master and chief officer's names be included as POIs with any vessel placed on the SIOFA IUU Vessel list along with vessel details, and that their nationality and any identifying information be included alongside the names so listed. Where the vessel is not listed on the Record of Fishing Vessels and/or a POI's name and nationality are not known, the flag State should be responsible for providing the name and nationality of the POI, so that these details can be included in the SIOFA IUU Vessel List.

That the SIOFA Compliance Committee recommend that a SIOFA POI List be developed, taking into account criteria such as personal convictions or settlements for offences against the fisheries laws or regulations of a CP, CNCP or PFE, and including a person convicted of an offence within a coastal fishery of a CP, CNCP or PFE whether or not a vessel is listed.