

INVESTIGATION NO. 7

PIRACY, POACHING AND PEOPLE SMUGGLING?



The LUCKY STAR has been a vessel of interest within the Western Indian Ocean for many years. It has repeatedly been reported to be poaching in Somali waters and harassing artisanal fishers in Kenyan waters. FISH-i Africa revealed the possible use of multiple identities to cover-up an illegal past. The vessel is still operating under the Kenyan flag, now as the PRECIOUS DIAMOND, however the Kenyan fisheries authorities have denied the vessel authorisation to fish outside of the Kenyan exclusive economic zone (EEZ).

VESSEL TYPE

Longliner, but was also using other gear

FLAG STATE

Tanzania, Kenya

PENALTY/SANCTIONS

No sanctions have been issued. The LUCKY STAR was de-registered by two countries.

KEY EVENTS

2005-2008 Investigations by FISH-i in 2013 established that between 2005 and 2008 the LUCKY STAR (previously known as GOLDEN WAVE NO. 305) had offloaded in Mombasa on several occasions under a Kenyan flag but using the call sign of a South Korean longliner, CHANCE No. 101.

2010-2011 The LUCKY STAR, was reported hijacked by Somali pirates in 2010 and released in 2011. Media stories suggested that the vessel had been fishing illegally in Somali waters at the time of its hijacking, but this was not verified. After its release, the vessel was de-registered by Kenyan authorities due to persistent non-compliance with fisheries regulations and unseaworthiness.

SEP 2013 The LUCKY STAR was flagged to the United Republic of Tanzania (Tanzania) through the Zanzibar Maritime Authority (ZMA).

APR TO MAY 2014 After a month at sea, the LUCKY STAR entered port in Mombasa where it offloaded reef species, despite only having a permit to target tuna and related species. The captain claimed that he had not been fishing in Kenyan waters. The Kenyan authorities worked with FISH-i to establish the movements and activity of the vessel.

MAY 2014 Tanzanian authorities reported that the vessel had been fishing during early 2014 but had not been transmitting a vessel monitoring system (VMS) signal despite repeated requests. Tanzania withheld the vessel's authorisation to fish until the VMS data was supplied.

2014 Unverified information obtained from sources in Somalia suggested that the LUCKY STAR may have been involved in people and/or arms smuggling and that, although described and authorised as a

longliner, the vessel was also reported to be using crab traps close to shore.

MAR 2015 The Deep Sea Fishing Authority (DSFA) in Tanzania sent a letter to the ZMA requesting that they de-register the vessel due to its failure to supply VMS data. There was also uncertainty in respect to the identity of the owner, given conflicting indications that ownership may either be with a South Korean agent based in Kenya or with a Somali citizen resident in Zanzibar.

2015 The LUCKY STAR was de-registered by the Tanzanian ZMA.

MAY 2016 The LUCKY STAR was renamed PRECIOUS DIAMOND and was again flagged to Kenya. However, the Kenyan fisheries authorities denied the vessel authorisation to fish outside of the Kenyan EEZ.

WHAT WORKED?

- Cross checking of AIS and VMS information highlighted anomalies and identified the LUCKY STAR as a high-risk vessel.
- Tanzania acted responsibly as a flag State, deregistering the LUCKY STAR when the vessel owners had failed to submit VMS data or provide satisfactory information on the vessel's ownership.
- Port inspection in Mombasa showed inconsistency between the catch in the hold and the catch log, triggering further investigations.
- The use of risk assessment by Kenya's licensing authority further restricted fishing activity by the LUCKY STAR.
- Regional cooperation and information exchange was crucial, and facilitated cross-checking and verification of information.

WHAT DID FISH-i AFRICA DO?

- Tracked and monitored the vessel over several years.
- Provided information to support the Tanzanian ZMA to de-flag the LUCKY STAR.
- Based on the investigations, the Kenyan Fisheries Department withheld an authorisation to fish outside of the Kenyan EEZ.
- Improved procedures for inter-agency cooperation for registration of fishing vessels.

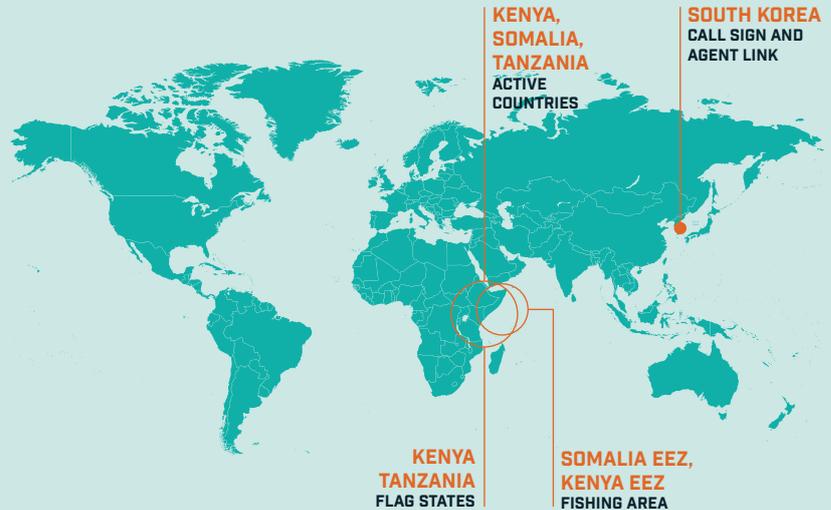


In working together on over thirty investigations, FISH-i Africa has shed light on the scale and complexity of illegal activities in the fisheries sector and highlighted the challenges that coastal State enforcement officers face to act against the perpetrators.

FISH-i investigations demonstrate a range of complexity in illegalities – ranging from illegal fishing, to fisheries related illegality, to fisheries associated crime to lawlessness.

In this case evidence of illegal fishing, fisheries related illegalities and fisheries associated crimes were found.

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WHAT NEEDS TO CHANGE?

- Increased awareness of the use of fishing vessels as cover for other crimes is needed to improve involvement of other agencies in investigating high risk operators.
- Improved multi-agency national cooperation, especially between the maritime and fisheries authorities, would contribute to ensuring due diligence when flagging or licensing fishing vessels.
- Cooperation between fisheries and police authorities to enable engagement with INTERPOL in cases with suspicion of fisheries related and associated crimes.
- An accessible database of correct templates and stamps and documents would enable verification of documents when licensing, flagging or inspecting fishing vessels.
- Greater awareness of the implications of flagging high risk fishing vessels is needed, including the potential negative impacts on flag States who are unable or unwilling to carry out their responsibilities to inspect, monitor and control.



HOW?

The evidence uncovered during FISH-i investigations demonstrates different methods or approaches that illegal operators use to either commit or cover-up their illegality and to avoid prosecution.

VESSEL IDENTITY The LUCKY STAR had previously carried the name GOLDEN WAVE NO. 305. It had also used a call sign from the South Korean longliner CHANCE No. 101, while operating under Kenyan flag, and today it operates as the PRECIOUS DIAMOND. This raises suspicion that the vessel may be operating with multiple identities at once.

FLAGGING ISSUES The LUCKY STAR operated under Kenyan and Tanzanian flags and may also have had a South Korean flag in the past, due to the use of a South Korean call sign. Later, the vessel was de-flagged by Tanzania for not providing required information.

BUSINESS PRACTICES (suspected) The agent of the LUCKY STAR is a South Korean resident in Kenya that has been involved in other IUU fishing cases. He has also served as the agent for other vessels suspected of illegal fishing, namely POSEIDON, AL-AMAL and PREMIER. The LUCKY STAR had been de-flagged by Kenya due to an unseaworthiness report produced by the Kenyan maritime authority, its subsequent registration by the ZMA suggests that corrupt practices may have occurred to facilitate its new seaworthy status, when photo evidence demonstrates no improvements in the vessel's state.