



## INTEGRITY COMMISSION

### Special Report of Investigation

#### Complaint Regarding the Issuance of Lobster Fishery Licences to a Family Member of a then Government Minister

#### Ministry of Agriculture and Fisheries

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## OFFICE OF THE CONTRACTOR GENERAL OF JAMAICA

### Special Report of Investigation

### Complaint Regarding the Issuance of Lobster Fishery Licences to a Family Member of a then Government Minister

### Ministry of Agriculture and Fisheries

#### INTRODUCTION

In 2017, the Government of Jamaica enacted the Integrity Commission Act (ICA), which retroactively became effective on February 22, 2018, as per Gazette dated March 7, 2017. The enactment and subsequent gazette of the Integrity Commission Act, partially repealed the Contractor General Act (1983), and established the Integrity Commission (IC).

Pursuant to Sections 1 and 5 of the Integrity Commission Act (ICA), the functions of the Office of the Contractor General (OCG) have been fully subsumed into the IC. Section 63(2)(b) of the ICA provides, *inter alia*, as follows:

*“The Commission established under this Act may -*

*...*

*(b) continue to do any act, thing or investigation which was pending before the appointed day.”*

The Office of the Contractor General (OCG), by way of a copy letter, dated July 26, 2011, addressed to the then Minister of Agriculture and Fisheries, the Hon. Christopher Tufton, was made aware of certain allegations regarding the Issuance of Industrial Lobster Trap Boat Licences/Lobster Fishery licences to family members of a Government Minister.

The referenced letter stated, *inter alia*, that the “...industry members learnt that by “ministerial decreed[sic]”, all 14 license must be activated at once failure to which will result in vacancy being created for new members.” The letter went on further to state that, “It is with great dismay



*that we now learn the vacancy was designed to accommodate Minister Tufton's family members."*

Based upon the allegations which were made in the referenced letter, the OCG, by way of letter dated July 29, 2011, and addressed to Mr. Frank Cox, Director, DYC Fishing Limited, requested a detailed statement along with copies of any pertinent correspondence or documentation to fully substantiate the allegations.

In response, under the cover of an email dated 2011 August 16, Mr. Frank Cox, Director, DYC Fishing Limited, asserted, *inter alia*, the following:

*"By notice published in the Gleaner newspaper on or around June of 2011, the Licencing Authority invited qualified persons to apply for a license [sic] to fish for lobsters with conditions...Several persons applied...*

*Mr. Ewan Stephenson was granted a license [sic] despite:-*

- a) Being new to the industry;*
- b) Owning no fishing vessels whatsoever;*
- c) Having no history in the industry;*
- d) Having no investment in the fishing sector whatsoever.*

Mr. Cox further alleged that *"Mr. Stephenson has no boats, no processing facilities and invariably intends to use foreign vessels contrary to this new policy. It is clear that [he] cannot be selected over others that qualify...Further the boats he intends to use have dual registry which is prohibited by the Shipping Act. These vessels are registered in Jamaica as well as in Honduras and are owned by a Honduran entity."*<sup>1</sup>

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<sup>1</sup> Email from Mr. Frank Cox, Director, DYC Fishing Limited, dated 2011 August 16, to the Contractor General. Question # 15



A further letter was submitted by D.Y.C. Fishing Limited, dated August 29, 2011, in response to a follow-up requisition from the OCG dated August 22, 2011. Certain particulars of the referenced letter from Mr. Frank Cox are quoted verbatim below:

*“The following facts are **not in dispute** and can be verified by the relevant authority:-*

- 1) Mr. Ewan Stephenson and Minister Tufton are married to two sisters.*
- 2) Mr. Ewan Stephenson is a former banker, is no fisherman, owns no fishing boats and has never been in the fishing industry.*
- 3) His vehicle, Branmar Investments Limited, was incorporated in March of this year for the sole purpose of camouflaging the real applicant for the licenses[sic]. In the normal course of business, there being no influence, he could never qualify for such license[sic].*
- 4) He has applied for licenses[sic] using vessels that are already leased and have illegal dual registration in Jamaica as well as Honduras opening doors to the poaching of lobsters.*
- 5) There are other more qualified persons who own Jamaican Boats.”<sup>2</sup>*

Section 15 (1) of the Act provides that “... a Contractor-General may, if he considers it necessary or desirable, conduct an investigation into any or all of the following matters –

- (a) the registration of contractors;*
- (b) tender procedures relating to contracts awarded by public bodies;*
- (c) the award of any government contract;*
- (d) the implementation of the terms of any government contract;*

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<sup>2</sup> Letter dated August 29, 2011 under the signature of Frank S. Cox, Director, DYC Fishing Limited addressed to the OCG.



- (e) *the circumstances of the grant, issue, use, suspension or revocation of any prescribed licence;*
- (f) *the practice and procedures relating to the grant, issue, suspension or revocation of prescribed licences.”*

Section 16 of the Act expressly provides that “*An investigation pursuant to section 15 may be undertaken by a Contractor-General on his own initiative or as a result of representations made to him, if in his opinion such investigation is warranted.*”



## **TERMS OF REFERENCE**

The OCG, in conducting the Investigation into the allegations regarding the award of Lobster Fishery Licences to Mr. Ewan Stephenson and/or Branmar Investments Limited, sought to determine, *inter alia*, the following:

1. Whether, in fact, a relative of Dr. Christopher Tufton, the then Minister of Agriculture & Fisheries, had been granted a, Lobster Fishery Licence and/or an Industrial Lobster Trap Boat Licence;
2. Whether Dr. Tufton was aware of and/or involved in the process for the granting of any such licence to Mr. Ewan Stephenson and/or Branmar Investments Limited;
3. Whether the subject licence(s) was/were issued in accordance with the terms and relevant policies governing the application and issuance of Lobster Fishery Licences and other such related licences;
4. Whether there is any evidence of impropriety, collusion and/or conflict of interest in the award of the referenced Lobster Fishery Licence and/or the Industrial Lobster Trap Boat Licence to Mr. Ewan Stephenson and/or Branmar Investments Limited;
5. Whether there was any merit to the complaint which was made to the OCG regarding the granting of the Lobster Fishery Licences to Mr. Ewan Stephenson and/or Branmar Investments Limited.



## **JURISDICTION**

The OCG's jurisdiction into the matter is grounded upon the fact the Lobster Fishery Licence and the Industrial Lobster Trap Boat Licence are licences which fall within the rubric of a '*prescribed licence*' as contemplated by the Contractor General Act.

Further, the referenced licences were issued by the then Ministry of Agriculture and Fisheries.

Detailed below is the legal basis upon which the OCG has enquired into the grant of the Lobster Fishery Licence and the Industrial Lobster Trap Boat Licence awarded to Mr. Ewan Stephenson and/or to Branmar Investments Limited.

Section 2 of the Act provides as follows:

**"government contract"** includes any licence, permit or other concession or authority issued by a public body or agreement entered into by a public body for the carrying out of building or other works or for the supply of any goods or services;

**"prescribed licence"** means any licence, certificate, quota, permit or warrant issued or granted pursuant to any enactment by a public body or an officer thereof;

**"public body"** means –

- (a) a Ministry, department or agency of government;
- (b) a statutory body or authority;
- (c) any company registered under the Companies Act, being a company in which the Government or an agency of Government, whether by the holding of shares or by other financial input, is in a position to influence the policy of the company;



The Ministry of Agriculture and Fisheries is in fact a public body as defined by the Act.





## **METHODOLOGY**

Section 17 (1) of the Contractor General Act empowers a Contractor General to “adopt whatever procedure he considers appropriate to the circumstances of a particular case and, subject to the provisions of (the) Act, (to) obtain information from such person and in such manner and make such enquiries as he thinks fit.” (OCG Emphasis)

The following methodology was employed by the OCG in an effort to conduct a thorough investigation into the complaint which had been received.

1. Review of the complaint which was received by way of a copy letter, dated July 16, 2011, and subsequent letters which were dated August 16, 2011 and August 29, 2011, respectively.
2. The issuance of Statutory Requisitions to the following persons and/or representatives of the following entities:
  - a. Dr. Christopher Tufton, the then Minister of Agriculture and Fisheries,
  - b. Mr. Frank Cox, Managing Director, DYC Fishing Limited;
  - c. Mr. Ewan Stephenson, Branmar Investments Limited;
  - d. Mr. Donovan Stanberry, Permanent Secretary, Ministry of Agriculture and Fisheries (MOAF);
  - e. Mr. Peter Brady, Director, Maritime Authority of Jamaica;
3. The OCG, on 2012 January 31, visited the Fisheries Department of the Ministry of Agriculture and Fisheries to obtain access to, and information regarding the Lobster Licences which had been granted to fishers employed to and/or associated with Mr. Ewan Stephenson and/or Branmar Investments Limited.



4. A review of the relevant MOAF policies in respect of the issuance of Industrial Trap Boat Licences;
5. A review of the Fishing Industry Act, which governs the award of the referenced Licence(s); and
6. A comprehensive review of the information which was received, including the sworn statements, was undertaken by the OCG.



## DISCUSSION

### Whether a relative of Minister Christopher Tufton had been granted an Industrial Lobster Trap Boat Licence and whether Dr. Tufton was aware of and/or involved in the process for the granting of same

Given the nature of the allegations which had been received and the implications of same for the then Minister of Agriculture and Fisheries, Dr. Christopher Tufton, the OCG, under the cover of a letter, which was dated August 31, 2011, enquired of Dr. Christopher Tufton whether he is/was, *inter alia*, “...in any way related, whether by blood, marriage and/or any other legal undertakings, to any person and/or representative of any commercial entity who/which has applied for, and/or been awarded a licence related to the Lobster Industry since January 2010?...”<sup>3</sup>

Dr. Tufton, in his response which was dated September 20, 2011 advised the OCG, *inter alia*, that “...I made enquiries of personnel from the Ministry of Agriculture and Fisheries and learned that my brother-in-law had been granted a licence to fish for lobster on application under the relevant statutory provision”<sup>4</sup>.

It is instructive to note that Dr. Tufton, in response to the OCG’s Requisition, further declared that “*Mr. Ewan Stephenson - Brother-in-law*” is the person to whom he is related and to whom a referenced licence had been granted.

In regard to his knowledge of the date(s) and circumstance(s) under which he became aware that Mr. Stephenson and/or his company had applied for and/or been granted a licence, Dr. Tufton stated that “*I became aware that Mr. Stephenson had been awarded a licence on consultation*

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<sup>3</sup> OCG Requisition to Dr. Christopher Tufton, dated August 31, 2011. Question # 1

<sup>4</sup> Response from Dr. Christopher Tufton dated September 20, 2011. Response to Question # 1



*with persons from the Ministry of Agriculture and Fisheries upon receipt of this requisition.”<sup>5</sup>*  
Dr. Tufton further declared that *“I have no knowledge of the circumstances under which this application was made or in what capacity.”<sup>6</sup>*

The OCG, in its statutory Requisition to Dr. Christopher Tufton, specifically requested that he *“...detail the extent of [his] involvement, if any, in the award of the referenced licence(s).”<sup>7</sup>* In his response to the OCG, Dr. Tufton denied any involvement in the award of the referenced licence.

When asked by the OCG whether he was approached by the named person(s) and/or anyone who is related to him, whether by blood, marriage and/or any other legal undertakings, regarding the application for, and/or award of the referenced licence(s), Dr. Tufton stated that *“I do not recall ever being approached by Mr. Stephenson in my capacity as Minister of Agriculture and Fisheries. I receive correspondence regularly from persons seeking assistance and/or information concerning matters under this portfolio. My practice has always been to refer these matters to the relevant officers within the Ministry.”<sup>8</sup>*

During the perusal of the documentation which was submitted to the OCG, by the Ministry of Agriculture and Fisheries, the OCG noted that an application was submitted by a “Delano Stephenson”. In an attempt to ascertain any possible relationship between Dr. Christopher Tufton and Mr. Delano Stephenson, the OCG, by way of a Statutory Requisition dated November 30, 2011, enquired of Dr. Tufton as follows:

*“Are you in any way related, whether by blood, marriage and/or any other legal undertaking, to a Mr. Delano Stephenson? If yes, please provide responses to the following:*

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<sup>5</sup> Response from Dr. Christopher Tufton dated September 20, 2011. Question # 1d

<sup>6</sup> Response from Dr. Christopher Tufton dated September 20, 2011. Question # 1b

<sup>7</sup> OCG Requisition dated August 31, 2015. Question # 1f

<sup>8</sup> Response from Dr. Christopher Tufton dated September 20, 2011. Question # 1e



- a. *The precise nature of your relationship with the named individual;*
- b. *Did the named person approach you and/or anyone who is related to you, whether by blood, marriage and/or any other legal undertakings, regarding application for, and or/award of the referenced licence(s)? If yes, please provide full particulars of same, inclusive of the date(s) on which the approach (es) was/were made, and the nature of the assistance, if any, which was solicited.”<sup>9</sup>*

In his response to the foregoing question, Dr. Tufton, under the cover of a letter dated December 7, 2011, stated the following: “Yes. Mr. Delano Stephenson is the brother of my brother-in-law, Ewan Stephenson.”<sup>10</sup> He also stated that “I have never been approached by Mr. Delano Stephenson in my capacity as Minister of Agriculture and Fisheries.”<sup>11</sup>

In order to seek clarification regarding the two (2) statements which were previously submitted to the OCG by Dr. Christopher Tufton, the OCG, on 2011 December 9, issued a further Requisition to Dr. Christopher Tufton, which stated as follows:

*“Reference is made to the OCG’s requisitions dated August 31, 2011 and November 30, 2011, respectively. In both instance, the OCG asked, inter alia, “Did the named person approach you and/or anyone who is related to you, whether by blood, marriage and/or any other legal undertakings, regarding application for, and or/award of the referenced licence(s)? If yes, please provide full particulars of same, inclusive of the date(s) on which the approach (es) was/were made, and the nature of the assistance, if any, which was solicited”. In response, the following answers were asserted by you:*

- a. *Under the cover of Letter which was dated September 20, 2011, you asserted,*

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<sup>9</sup> OCG Requisition dated November 30, 2011

<sup>10</sup> Response from Dr. Christopher Tufton, dated December 7, 2011. Response # 1a

<sup>11</sup> Response from Dr. Christopher Tufton, dated December 7, 2011. Response # 1b



inter alia, the following: “I do not recall ever being approached by Mr. [Ewan] Stephenson in my[sic] capacity as Minister of Agriculture and Fisheries...” and

- b. Under the cover of letter which was dated December 7, 2011, you asserted the following; “I have never been approached by Mr. Delano Stephenson in my capacity as Minister of Agriculture and Fisheries”

Having regard to the foregoing, please state, unequivocally, whether you were approached **in any other capacity** by Mr. Ewan Stephenson and/or Mr. Delano Stephenson regarding the application for and/or award of the referenced licence.”<sup>12</sup>

Dr. Christopher Tufton, in his sworn response to the OCG, which was dated December 19, 2011 indicated as follows:

*“Further to correspondence dated September 20, 2011, I again reaffirm that **I do not recall** ever being approached by Mr. Ewan Stephenson in my capacity as Minister of Agriculture and Fisheries. **I again also reaffirm as stated in correspondence dated December 7, 2011, that I have never been approached by Mr. Delano Stephenson.***

*It is noted that the OCG has placed emphasis on “my capacity as Minister of Agriculture and Fisheries.” Please be advised that persons seeking assistance and/or information would be solely based on my portfolio responsibilities, and it was always my practice to forward their requests to the relevant officers, departments or agencies within the Ministry of Agriculture and Fisheries. I hereby unequivocally state that I cannot conceive being approached in any other*

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<sup>12</sup> OCG Requisition Letter dated December 9, 2011



*capacity for governmental assistance other than by virtue of my portfolio responsibility.*<sup>13</sup> (**OCG Emphasis**)

As it pertains to the possibility of Dr. Christopher Tufton's wife, Mrs. Neadene Tufton, being aware of the application and/or the circumstances under which the application for the Lobster fishery licence was made, Dr. Tufton asserted that, "*I am informed and verily believe that my wife has no knowledge of the circumstances under which this application was made or in what capacity.*"<sup>14</sup> Dr. Tufton also stated that his wife "*...has never been involved in the process under which the said licence was granted...and has had no involvement whatsoever in the award of the referred licence.*"<sup>15</sup>

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<sup>13</sup> Response from Dr. Christopher Tufton dated December 19, 2011. Response # 1b

<sup>14</sup> Response from Dr. Christopher Tufton dated September 20, 2011. Response 2b

<sup>15</sup> Response from Dr. Christopher Tufton dated September 20, 2011. Response 2c and 2f



## **Representations made by Mr. Ewan Stephenson, Director, Branmar Investments Limited**

It is instructive to note that the OCG, by way of a Statutory Requisition which was dated June 4, 2012 which was addressed to Mr. Ewan Stephenson, Director, Branmar Investments Limited, posed the following questions:

*“Please provide an Executive Summary detailing the nature and extent of your involvement and/or association with the Lobster Fishing Industry in Jamaica. The Executive Summary should include, inter alia, the following:*

- i. *The date on which you became involved in the Lobster Fishing Industry in Jamaica;*
- ii. *The circumstances under which you became involved in the referenced Lobster Fishing Industry;*
- iii. *Full particulars of any company and/or entity with which you are affiliated and which is/are, as a consequence, involved in the Lobster Fishing Industry in Jamaica;*
- iv. *In the event that any company and/or entity with which you are affiliated is involved in the Lobster Fishing Industry, please provide particulars regarding (a) any licence(s) which was/were issued to it, (b) any equipment and/or vessels which it owns, and (c) particulars of the staff which it employs in regard to the Lobster Fishing Industry.*

*Please provide documentary evidence, where possible, in support of your response.”<sup>16</sup>*

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<sup>16</sup> OCG Requisition to Mr. Ewan Stephenson dated June 4, 2012. Question # 1





In his response to the OCG, which was dated 2012 June 18, Mr. Ewan Stephenson advised as follows:

*“The date on which I became involved in the industry is April 15, 2011 which is the date of the application by Branmar Investments Limited to the Director of Fisheries for a licence to fish lobster in Jamaican waters.*

*Neither I nor the company was conducting any activities in fishing before the application was submitted. However, I had done planning and preparatory work before then, in order to decide whether to get involved.*

*The circumstances under which I became involved is that I developed an interest in fishing from I was a child because my father was a fisherman for 52 years. That is what he earned most of his income from and from which he raised the 9 children that he had.*

*There is no other company with which I am affiliated in the fishing industry apart from Branmar Investments Limited.*

*I have provided a copy of the licence that was issued. The registration certificate of the boat is also among the documents provided with this response. The boat was leased. There is also a list of the fishermen who worked on the boat.”<sup>17</sup>*

Based upon the representation made by Mr. Stephenson, Branmar Investment Limited was incorporated on March 30, 2011 and obtained a Lobster Licence in August 2011. Further, the company was not in receipt and/or in possession of any other licence outside of that which was obtained in August 2011.

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<sup>17</sup> Response from Mr. Ewan Stephenson dated June 18, 2012.



Mr. Stephenson also disclosed to the OCG that he “...had applied for a licence or for licences to cover 3 boats but [he] was only granted a licence to cover one boat. From that one application for 3 licences I was granted 1 licence only, and the application letter for the licence is provided and is dated April 15, 2011.”<sup>18</sup>

As it regards the date on which the application for the Licence was made to the Ministry of Agriculture and/or the Director of Fisheries, Mr. Ewan Stephenson advised the OCG that he could not recall the specific date on which same was done and that it could have been on the same date on which the application was written.<sup>19</sup>

Given the nature of the allegations which were made, the OCG in its Requisition of June 4, 2012, posed the following question to Mr. Ewan Stephenson:

*“Please provide an Executive Summary detailing particulars of the application process which was employed by you and/or anyone acting on behalf of Branmar Investments Limited in regard to obtaining lobster fishing licences for the period of January 2010 to present. The Executive Summary must include, inter alia, the following:*

- iv. *“The name(s) and title(s) of any GOJ Public Officer(s)/Official(s) who was/were approached, if any, in regard to the application for the referenced lobster fishing licence(s) during the period of January 2010 to present;*
- v. *The name(s) and title(s) of the officers, employees, representatives and/or agents of Branmar Investments Limited, or any other person or entity acting on its behalf who/which approached the named GOJ Officer(s)/Official(s);”<sup>20</sup>*

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<sup>18</sup> Sworn response from Mr. Ewan Stephenson which was dated June 18, 2012. Question # 3(i)

<sup>19</sup> Sworn response from Mr. Ewan Stephenson. Refer to Question # 4(i).

<sup>20</sup> OCG Requisition to Mr. Ewan Stephenson which was dated June 7, 2012. Questions # 4 (iv) and (v).



In response to the foregoing question, Mr. Ewan Stephenson advised the OCG that *“No one was approached in relation to the application. I did not approach anybody. I just went through the procedures that I was advised anybody who would have to go through.*

*Anything to do with details of approach is not relevant in light of the fact that there was no such approach.”*<sup>21</sup>

It is instructive to note that Mr. Stephenson denied having had any discussion(s), negotiation(s) and/or having been involved in, attended and/or affiliated with any meeting(s), seminar(s), conference(s) and/or any other form of an assembly with Dr. Christopher Tufton, whether in his then official capacity with the GOJ and/or the MAF or otherwise, in regard to the applications for, and/or award of any Lobster Fishing Licence(s) to either himself and/or Branmar Investments Limited.

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<sup>21</sup> Response from Mr. Ewan Stephenson, question # 4(iv) and (v).



**To determine whether the licence was issued in accordance with the terms and relevant policies governing the application and issuance of Licence**

**The Invitation to Apply for Licences**

An Advertisement Notice was placed in the Jamaica Gleaner advising the public, *inter alia*, that “...the annual Close Season for Lobsters will end on June 30, 2011, and as such fishing for, selling, trading and keeping in possession of Spiny Lobsters may resume in July 1<sup>st</sup>, 2011 subject to relevant regulations and conditions of licence under the Fishing Industry Act, 1975.” Applications for licences to fish for Spiny Lobster were thereby invited for submission by the deadline of June 30, 2011.

As a matter of record, the advertisement notice stipulated, *inter alia*, that “...for the Industrial Fishery on the Pedro Bank, only a very limited number of licences will be granted for lobster fishing vessels.”<sup>22</sup>

The advertisement notice detailed the following:

*“Applicants for lobster licences should note that:*

- (i) Only Jamaican owned vessels will be allowed;*
- (ii) Preference will be given to those applicants who are active Licence holders;*
- (iii) Applicants who have not activated their license for more than three years prior to this season will be treated as new;*
- (iv) Licence holders who do not utilise their licences for two consecutive years subsequent to this (2011) fishing season will be considered as new applicants are when they next apply.”*

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<sup>22</sup> Ministry of Agriculture and Fisheries advertisement, “Close season for lobster ends on June 30, 2011”



## The Ministry of Agriculture's Policy

By way of letter which was dated July 29, 2011, the OCG requested that the Ministry of Agriculture and Fisheries (MOAF) provide, amongst other things, *“Documentation detailing the Ministry’s established Policy on the Issuance of Industrial Lobster Trap Boat Licences, which was in force as at January 2010. In the event that same was changed/amended between January 2010 to present, kindly provide copies of any or all new Policy (ies).”*<sup>23</sup>

In a response to the OCG’s request, the Ministry of Agriculture and Fisheries, under the cover of letter which was dated August 17, 2011, outlined the Licensing Regime for the Industrial Spiny Lobster Fishery as follows:

*“The industrial spiny lobster fishery is subject to a limited licensing system. Thus there is a restriction on the number of motor fishing vessels (MFV) that can be licensed for any given spiny lobster fishing season.*

*The licensing policy for industrial spiny lobster MFVs was established many years ago-prior to the tenure of the current Licensing Authority. The policy was rightly based on a rationalization between the estimated sustainable yield of spiny lobsters and the fishing power of spiny lobster MFVs as well as potential conflict between vessels and gears in the lobster fishery and other fisheries-due to the limited space in the productive areas on the Pedro Bank.*

*The licensing policy-based on agreement with the industry members at the time - limited the total number of MFVs fishing spiny lobsters on the Pedro Bank firstly, to eight (8) and then subsequently, this number was revised to fourteen (14).*

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<sup>23</sup> OCG Requisition addressed to the Permanent Secretary, MOAF, dated July 29, 2011.



*Based on the current policy, industrial spiny lobster fishery licences are deemed to have rights to an industrial spiny lobster licence in perpetuity-unless suspended or cancelled by the Licensing Authority or voluntarily surrendered. New entrants are considered on a first come basis and are considered only when the number of licences are reduced as a result of cancellation or voluntarily surrendered by the licensee.*

*The licensee can use any suitable MFV to activate his or her industrial spiny lobster licence. There is currently no deadline date for the licensee to activate his or her licence. Licensees who indicate an intention to activate their licence(s) or offer reasonable grounds for not activating their licence(s) are not penalised if they do not activate their licence for a given spiny lobster fishing season.*

*The current policy, for which discussions begun during the latter half of 2010, build on the above stated policies but with key changes to the tenure of licences. Licensees can no longer be held in perpetuity if they are not being utilized or activated. The reason for this change is to prevent licences from remaining dormant and unproductive indefinitely, while allowing other fishers access to the lobster resources but on a sustainable basis... ”<sup>24</sup>*

According to the response from the MOAF, the policy position with respect to the issuing of Lobster Licences was, however, revised in 2011. The revised policy was outlined by the MOAF as follows:

- 1) “Preference will be given to those applicants who are active Licence holders;*

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<sup>24</sup> Response to the OCG from the Permanent Secretary, MOAF, dated August 17, 2011. Appendix 1 (a)



- 2) *Applicants who have not activated their lobster licences for more than three years prior to this season will be treated as new.*
- 3) *Licence holders who do not utilise their licences for two consecutive years subsequent to this (2011) fishing season will be considered as new applicants when next they apply*
- 4) *Fishers must use Jamaican Vessels when available.*
- 5) *Fishers are encouraged to use Jamaican crew. At the least a proportion of the crew must be Jamaican. An apprenticeship system is also proposed.*
- 6) *Industrial licences are to use traps only.*
- 7) *Fishers are encouraged to participate in the monitoring and reporting of illegal activities on the Bank, particularly poaching by foreign fishers.*
- 8) *A limit on the total number of licences to be issued each year will be set, based on best available information and recommendation from fishers. For the 2011 fishing season the total number of industrial lobster licences will be limited to fourteen (14).”<sup>25</sup>*

Subsequent to the review of the information contained in the Advertisement Notice and the Policy information that was submitted to the OCG, by the MOAF, inconsistencies with the information were noted. Consequently, by way of a requisition which was dated October 4, 2011, the OCG made reference to the letter of August 17, 2011, which was received from the Ministry of Agriculture and Fisheries.

The OCG stated in the referenced letter *“Under the cover of the referenced letter, it was stated, inter alia, that “Policy Position with Respect to the Issuing of Lobster Licences (Revised 2011)...Fishers must use Jamaican Vessels when available.” However, the advertisement notice placed in the print media stated, inter alia, that “Applicants for lobster Licences should note*

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<sup>25</sup> Appendix 1(c) –Policy Position With Respect to the Issuing of Lobster Licences (Revised 2011) as submitted by the MOAF under the cover of letter dated August 17,2011



that: (i) only Jamaican owned vessels will be allowed... Having regard to the foregoing, kindly provide an explanation for the inconsistency.”<sup>26</sup>

In response to the aforementioned question, the MOAF stated, *inter alia*, that;

“...The draft policy position was not updated to reflect the new position of the Ministry regarding the use of foreign owned vessels engaged in lobster fishing in Jamaican waters...the Fisheries Division had proposed restrictions to the use of foreign vessels in the Lobster Fishing Industry for two primary reasons:

- i. To provide greater economic opportunities to Jamaicans; and
- ii. To reduce the threat of foreign poaching, for which anecdotal evidence suggests, is facilitated by the foreign operators and crews of the foreign boats while operating in Jamaican waters on behalf of local fishers.

These issues became more pressing given the harsh economic conditions...plus the state of the lobster resource. These concerns were discussed with the majority of the Industrial Lobster Fishery operators at a meeting held at the Ministry of Agriculture and Fisheries on July 12, 2011. The consensus reached between the Industrial Lobster Fishery operators and the Ministry was for a move towards using Jamaican boats only for the Lobster Fishery. Foreign boats would be allowed under exceptional circumstances only...This decision is not reflected explicitly in any meeting notes or minutes as the meeting not [sic] formally recorded.

The policy position was therefore changed to reflect the stronger position discussed and agreed on in the meeting. **The documented draft policy position which was taken to the meeting was however not updated to reflect the change. The notice placed in the advertisement reflected the stronger position discussed in the above noted meeting with the Licensing Authority**

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<sup>26</sup> OCG Requisition dated October 4, 2011. Question # 4





**making the change as part is in keeping with author[sic] of the Licencing Authority.**<sup>27</sup> (OCG Emphasis)

Further, the OCG posed the following question to the MOAF:

*“Under the cover of the referenced letter, it was stated, inter alia, that “The revised policies outlined below were discussed with the Lobster Fishery industry members who were all in general support of the said policies.” Please state whether the referenced policies were approved, and by whom or which authority.*<sup>28</sup>

In response, the MOAF stated, *inter alia*, that **“The revised policies referenced above have not gone through the formal policy submission and approval process.** *The policies represent an effort by the Ministry of Agriculture and Fisheries to provide consensual and transparent guidelines to the industry operators for the granting of industrial lobster licences and the management of the fishery. The policy positions were supported by the Industry operators and endorsed by the current Minister of Agriculture and Fisheries at a meeting held at the Ministry of Agriculture on July 12, 2011...”* (OCG Emphasis)

The OCG was advised, among other things, that no attendance register was taken at the meeting of July 12, 2011. However, the Ministry, provided the following list of attendees, which is claimed to be to the *“...best recollection of the Fisheries Division personnel present at the meeting”*.<sup>29</sup>

The names of the persons present at the meeting, included, *inter alia*, the then Minister of Agriculture and Fisheries, Dr. Christopher Tufton, the Chief Technical Director in the Ministry

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<sup>27</sup> Letter dated October 14, 2011 from the Ministry of Agriculture and Fisheries. Appendix 4

<sup>28</sup> OCG requisition which was dated October 4, 2011. Question # 5

<sup>29</sup> MOAF Letter addressed to the OCG dated December 13, 2011



of Agriculture, the then Chief Technical Officer, Officers of the Fisheries Division and several members of the lobster fishing industry.

### **The Applications for the 2011/2012 Industrial Lobster Fishing Season**

Under the cover of letter dated July 29, 2011, the OCG requested from the Ministry of Agriculture and Fisheries copies of all applications for Industrial Lobster Trap Boat Licences, which were received during the period January 2010 to July 2011<sup>30</sup>.

In response, the MOAF<sup>31</sup> provided copies of the application letters, particulars of which are detailed below:

<b>Number</b>	<b>Name of Company</b>	<b>Date on Application Letter</b>	<b>Date Received by the Ministry of Agriculture and Fisheries</b>
1	Seafood Incorporated Limited	June 14, 2011	June 16, 2011
2	Seafood One Company Limited	August 9, 2011	August 9, 2011
3	Ryan Forest	May 3, 2011	May 4, 2011
4	Delano Stephenson	April 15, 2011	July 12, 2011
5	Ewan Stephenson/TA Branmar Investments Limited	April 15, 2011	There was no date of receipt stamped unto this application.
6	B&D Trawling Limited	June 29, 2011	June 29, 2011
7	Seafood and Ting International Limited	June 22, 2011	June 23, 2011
8	Elizabeth Forrest	June 22, 2011	June 28, 2011
9	Wadwald Knight	June 20, 2011	June 20, 2011

<sup>30</sup> OCG Letter dated July 29, 2011. Question # 3

<sup>31</sup> Appendix III, submitted under cover of letter from the MOAF dated August 17, 2011.



Number	Name of Company	Date on Application Letter	Date Received by the Ministry of Agriculture and Fisheries
10	East Coast Fish & Meats Limited	June 15, 2011	June 15, 2011
11	Clarendon Seafood Limited	June 29, 2011	June 29, 2011
12	Tonrick Enterprises Limited	June 8, 2011	June 9, 2011
13	C&S Seafood Limited	May 10, 2011	May 19, 2011
14	Newport Fish & Meats Limited	May 2, 2011	There was no date of receipt stamped unto this application
15	Zelrita & John Forrest	May 9, 2011	May 24, 2011
16*	Seafood & Ting International Limited	November 25, 2010	There was no date of receipt stamped unto this application. However, the letter was signed FYA and dated 31/1/11
17*	Wadwald Knight	August 25, 2010	August 31, 2010

\* These two (2) applications were in relation to the 2010-2011 Lobster Fishing Season.

Subsequent correspondence<sup>32</sup> submitted to the OCG by the MOAF, reveals conflicting information as it pertains to the date of receipt of the application from Ewan Stephenson/ TA Branmar Investments Limited.

Two (2) copies of the application letter of Mr. Ewan Stephenson were re-submitted to the OCG, under the cover of letter which was dated October 14, 2011. In one instance, it was noted that the application letter was stamped received on April 19, 2011, whilst, in another instance, the application letter was stamped received on August 4, 2011.

The content of both letters were the same.

<sup>32</sup> Letter dated October 14, 2011 from the MOAF.



Of the total applications which were received by the MOAF for the 2011-2012 Lobster Season, the following were granted:

<b>No.</b>	<b>Name of person/Companies</b>	<b>Number of Licences Awarded/Renewed</b>
1	Clement Lue/ C&S Seafood Limited	2
2	Roderick Francis/ B&D Trawling Limited	2
3	Seafood & Ting International	1
4	Newport Fish & Meats	2
5	Tonrick Enterprises	1
6	Seafood Incorporated	1
7	Wadwald Knight	1
8	Clarendon Seafood	1
9	East Coast Fish & Meats	1
10	Ewan Stephenson	1
11	Ryan Forest	1

Of the fourteen (14) licences that were issued as detailed above, twelve (12) were to persons/entities, who/which, based on information submitted to the OCG, had previously possessed Licences to operate Lobster Fishing Vessels at some point during the period of 2002-2011.<sup>33</sup>

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<sup>33</sup> Response to the OCG dated August 17, 2011. Appendix VI



The other two (2) applicants, Mr. Ryan Forest and Mr. Ewan Stephenson/TA Branmar Investment Limited, based on information submitted to the OCG, were the only new applicants, who were granted licences during the period.

Subsequent information submitted to the OCG<sup>34</sup>, detailed the list of Motor Fishing Vessels (MFV) licensed to Fish for Spiny Lobster for the 2011/2012 Lobster Season and the related persons/company:

<b>Licencee</b>	<b>Name of Vessel</b>
B&D Trawling/ Roderick Francis	<i>M/V</i> Captain Sean
Ton-Rick Enterprise	<i>M/V</i> Wind Jammer
Knight's Commodity Trading Co. Ltd/ Wadwald Knight	<i>M/V</i> Rajmilour
Branmar/ Ewan Stephenson	<i>M/V</i> Windy Weather
Ryan Forrest	<i>M/V</i> Lone Star

The Maritime Authority of Jamaica Certificate of Registry submitted for the aforementioned vessels indicated the following as it regards the ownership:

<b><u>Name of Vessel</u></b>	<b><u>Owners</u></b>	<b><u>Authorised Representative</u></b>
Captain Sean	B&D Trawling Limited- 1Port Royal Street, Kingston, Jamaica	Roderick Francis
Windjammer	Ton-Rick Enterprises Ltd, P.O. Box 135, Yallahs, St. Thomas	Ton-Rick Enterprises Limited
Rajmilour	Owen Knight, P.O. Box 117, Tower Isle, St. Mary	Owen Knight
Windy Weather	Seafood One Company	Seafood One Company Ltd,

<sup>34</sup> MOAF Letter dated December 13, 2011



	Ltd, 76 Marcus Garvey Drive, Kingston 13	76 Marcus Garvey Drive, Kingston 13
Lone Star	Seafood One Company Ltd, 76 Marcus Garvey Drive, Kingston 13	Seafood One Company Ltd, 76 Marcus Garvey Drive, Kingston 13

It was observed that there was a ‘Transfer of Ownership’ for the vessels M/V Lone Star and M/V Windy Weather, respectively. Under the cover of Letters dated September 1, 2011 and September 2, 2011, respectively and addressed to the Directors of Seafood One Company Limited, the Maritime Authority of Jamaica indicated the following:

*“Please find attached...Certificate of Registry and Small Vessel Inspection Certificate ...issued to reflect Seafood One Company Limited as the Registered Owners, further to our acceptance of the applicable documents to execute the Registration of Transfer of Ownership...”<sup>35</sup>*

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<sup>35</sup> Letter addressed to the Directors of Seafood One Company Ltd. from Seymour Harley, Registrar General, September 2, 2011.



## **Mr. Ewan Stephenson's Application and Related Correspondence**

The OCG, by way of a letter dated August 2, 2011, addressed to Mr. Frank Cox, Director, D.Y.C. Fishing Ltd. requested that he “... *provide it [the OCG] with a detailed statement along with copies of any pertinent correspondence or documentation, to fully substantiate your allegations.*”<sup>36</sup>

Mr. Frank Cox, by way of an email dated August 16, 2011, provided the OCG with a signed statement which alleged, *inter alia*, as follows:

*“Mr. Ewan Stephenson was granted a license despite;-*

- a. Being new to the industry;*
- b. Owning no fishing vessels whatsoever;*
- c. Having no history in the industry;*
- d. Having no investment in the fishing sector whatsoever.*

*Mr. Stephenson has no boats, no processing facilities and invariably intends to use foreign vessels contrary to this new policy. It is clear that [sic] cannot be selected over others that qualify.”*<sup>37</sup>

In regard to the foregoing allegations, the evidence which is available to the OCG has revealed the following:

- a) Mr. Ewan Stephenson submitted an application for the issuance of a licence to fish lobster in the Jamaican waters. The application letter was dated April 15, 2011. The contents of letter, under the signature of Mr. Ewan Stephenson are replicated below:

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<sup>36</sup> OCG letter dated August 2, 2011 addressed to Mr. Frank Cox, Director, D.Y.C Fishing Ltd.

<sup>37</sup> Email correspondence from Mr. Frank Cox dated August 16, 2011.



*“This Letter serves to introduce my company Branmar Investments Limited. I have recently retired from banking where I served as branch manager at RBBT for twenty four (24) years. I have had interest in fishing from childhood days as my father was a fisherman at Great Bay, St. Elizabeth for fifty two (52) years.*

*I have entered into an agreement to lease three (3) boats, already licensed in Jamaica engaged in the fishing of lobster. I have also been able to secure a verbal contract for the exportation of these products to the USA market.*

*It is in my intention to establish a processing plant in Black River, St. Elizabeth where I will operate from. Overtime, it is our intention to employment [sic] for in excess of one hundred (100) persons.*

*I am therefore applying for a license to fish lobster in Jamaican waters.*

*I am willing to comply with all the regulations of the Fisheries Act.*

*I anticipate your favourable response.”<sup>38</sup>*

- b) A company search was undertaken in relation to Branmar Investments Limited, utilizing the database of the Registrar of Companies in Jamaica. Based upon the documentation it was established that Mr. Ewan Stephenson is the principal owner of Branmar Investments Limited, which was incorporated on March 30, 2011. The listed Directors and Shareholders of the Company are: Ewan Stephenson and Hope Stephenson.

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<sup>38</sup> Letter dated April 15, 2011 from Mr. Ewan Stephenson addressed to the Director of Fisheries, Ministry of Agriculture





- c) A letter, under the signature of Mr. Chue Kim Lue, on the letterhead of ‘MCLAUGLIN MARINE SERVICES’ informed the Director of Fisheries at the Ministry of Agriculture that the fishing vessel Lone Star “...is now lease [sic] to Branmar Investments Ltd. For 2011-2012 Lobster season.” The letter further stated that “Our authorized representative in Jamaica is Seafood One Company Ltd 76 Marcus Garvey Drive Kingston 13.”<sup>39</sup>

Another letter, under the signature of Mr. Chue Kim Lue, on the letterhead of Blue Seas Seafood, further informed the Director of Fisheries at the Ministry of Agriculture that the vessels Windy Weather and Rough Rider “...are now lease[sic] to Branmar Investments Ltd. For 2011-2012 lobster season.” The letter further stated that “Our authorized representative in Jamaica is Seafood one company Ltd 76 Marcus Garvey Drive Kingston 13.”<sup>40</sup>

- d) Mr. Chue Kim Lue, under the cover of a letter, dated June 29, 2011<sup>41</sup>, advised the Maritime Authority of Jamaica as follows:

“...C&S Seafood 58E Armour Heights, Kingston are no longer the Authorized Representative for the following vessel: M/v “Lone Star” A request was further made for the “...Certificate of Registry [to] be amended to reflect:

**Seafood One Company Ltd.**

**76 Marcus Garvey Drive**

**Kingston 13...”**

- e) By way of letter dated, August 2, 2011, Seafood One Company Limited informed the Licencing Authority of the Ministry of Agriculture and Fisheries of the changes in ownership of the particular boats. The letter stated, *inter alia*, that:

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<sup>39</sup> Letter dated June 29, 2011, on the Letterhead of : McLaughlin Marine Services, 16612 Foothill Dr., Tampa FL 33624 -1051, signed by Mr. Chue Kim Lue

<sup>40</sup> Letter dated June 29, 2011, on the Letterhead of: Blue Seas Seafood, signed by Mr. Chue Kim Lue

<sup>41</sup> Letter Headed : Blue Seas Seafood



*“Blue Seas Seafood, Rotan Honduras owned by Luey McLaughlin has been in operation with B&D Trawling Jamaica fishing lobsters for the last twenty years. This relationship was terminated on July 14<sup>th</sup> 2008. The boats are M/V Lone Star, M/V Windy Star, M/V Rough Rider and M/V Fair Wind. In 2009 there was a new arrangement with C&S Seafood Ltd. and Newport Fish and Meats this lasted up to the last lobster fishing season (2011). Newport Fish and Meat arrangements have been finalized and discontinued. Luey McLaughlin and I have formed and registered Seafood One Company Ltd in Jamaica, with full responsibility for the management and handling of the four vessels... We have agreed with Euan (sic) Stephenson of Branmar Investments Ltd.to fish this lobster season with M/V Windy Weather...”<sup>42</sup>  
**(OCG Emphasis)***

It is to be noted that a Power of Attorney was executed on 8<sup>th</sup> March 2011, wherein Mr. Chue Kim Lue was appointed by Mr. Luey McLaughlin, to be his “...*true and lawful Attorney with authority for me and in my name and on my behalf to perform the following acts in relation to marine vessels owned and operated by Blue Seas Seafood...and McLaughlin Marine Services Incorporated... (1) to manage and operate the said marine vessels in his name and his stead subject to his absolute discretion while the vessels are in the jurisdiction of Jamaica.*”

Other than leasing the aforementioned boats to Branmar Investments Limited, Seafood One Company Limited, was also authorised, by Mr. Euan Stephenson “...*to receive on my behalf any correspondence pertaining to my application for a lobster licence for the 2011/2011[sic] Fishing season.*”<sup>43</sup>

- f) An Email correspondence from Mr. Euan Stephenson to Richard A. Russell, stated “*Further to telephone conversation...we hereby ask that communication be forwarded to*

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<sup>42</sup> Letter was under the signature of Mr. Chue Kim “Tun” Lue, Managing Director-Seafood One Company Limited

<sup>43</sup> Letter dated August 11, 2011 from Euan Stephenson.



*Mr. Edward Kafie, Honorary Consul General, Final Avenue, Los Proceres, P.O box 152, Tegucigalpa, Handuras [sic] indicating that your division has no objection to the M/V, her captain and crew members (see attached list) entering jamaican waters in order to process their fishing licences and work permits for the 2011 lobster fishing season... We are aware of the importance of employing local crew members but was unable to do same due to the lateness in the approval of our lobster fishing licence.*<sup>44</sup>

g) *Mr. Stephenson, by way of letter dated August 8, 2011 “...ask that communication be forwarded to Mr. Edward Kafie, Honorary Consul General, Final Avenue, Los Proceres, P.O. box 152, Tegucigalpa, Handuras (sic) indicating that your division has no objection to the M/V [Windy Weather], her captain and crew member (see attached list) entering Jamaican waters in order to process their fishing licenses[sic] and work permits for the 2011 lobster fishing season...I am aware of the importance of employing local crew members but was unable to do same due to the lateness in the approval of my lobster fishing license [sic].”*<sup>45</sup>

The attached list, as submitted to the OCG, detailed the following crew for M/V Windy Weather:

- 1. Oscar Rony Padilla Garcia*
- 2. Osman Migdel Godoy Ferrera*
- 3. Marvin Emilzon Turcios Mejia*
- 4. German Alexander Zapata Martinez*
- 5. Marco Tulio Lopez Lopez*
- 6. Victor Arnaldo Ballerio Bernardez*
- 7. Carlos Francisco Lino Gutierrez*
- 8. Samuel Leonardo Rivera James*

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<sup>44</sup> Email dated ‘7/19/2011; 1:57 p.m’. Subject: Lobster Fishing Licence for M/V Lone Star, the Captian [sic] and Crew Members

<sup>45</sup> Letter dated August 8, 2011 from Mr. Ewan Stephenson addressed to the Director of Fisheries, Mr. Stephen Smikle.



The OCG has also noted four (4) Government of Jamaica Fisherman's Identification Cards, representing the remainder of the fishing crew as follows:

1. *Devon Earl Hyde*
2. *Owen Williams*
3. *Maurice South*
4. *Kemar Rose*

- h) Under the cover of letter dated August 12, 2011, Mr. Ewan Stephenson, advised the Director of Fisheries that “...we will be using the vessel m/v *Windy Weather*...”<sup>46</sup>
- i) It was further noted that the Director of Fisheries, Mr. G. Andre' Kong, wrote to the Honorary Consul General of Honduras, Mr. Edward Kafie, under the cover of letter which was dated September 14, 2011, requesting that he “...*facilitate the necessary procedures to allow Mr. Stephenson to procure the services of a suitable captain and crew members to harvest Spiny lobsters on his behalf.*”<sup>47</sup>
- j) The OCG, by way of a requisition letter dated November 30, 2011, sought to ascertain, from the Ministry of Agriculture and Fisheries, the premise upon which this aforementioned request was made by the Ministry on the behalf of Mr. Stephenson. The OCG sought to further ascertain under whose authority and/or directive were such requests made.

In response, the OCG was advised as follows:

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<sup>46</sup> Letter dated August 12, 2011 from Mr. Ewan Stephenson to the Director of Fisheries.

<sup>47</sup> Letter dated September 14, 2011 from The Director of Fisheries to the Mr. Edward Kafie, Honorary Consul General, Honduras.



*“There is a shortage of qualified captains and crewmembers to operate the larger industrial motor fishing vessels in Jamaica. This situation also holds true for industrial spiny lobster motor fishing vessels. Consequently, it is common practice for holders of industrial spiny lobster fishing licences to employ foreign captains and foreign crewmembers to fish spiny lobsters on their behalf. These foreign captains and crew are normally sourced from Honduras. In some cases the captains and crewmembers may be sourced from the Dominican Republic. Given the lack of qualified Jamaican fishers, it is common practice for the Fisheries Division to assist industrial spiny lobster licence holders to secure qualified captains and crew from Honduras and the Dominican Republic. In fact, assistance to secure the services of qualified captains and crewmembers to fish for spiny lobsters from Honduras or the Dominican Republic (to a lesser extent) has been provided by the Fisheries Division to industrial spiny lobster licencees at most if not all lobster fishing seasons in the past.*

*The request to the Honorary Consul General of Honduras, Mr. Edward Kafie dated September 14, 2011 was issued under the authority of the Licensing Authority. Under the Fishing Industry Act, the Licensing Authority has the discretion to grant licences to fish in Jamaican waters. The discretion in favour of licensing foreigners to engage in commercial fishing activities in Jamaica is normally based upon the fact that there is a lack of Jamaicans with the requisite skills.”<sup>48</sup>*

**\* It should be noted that the same request was made to the Honorary Consul of Honduras, Mr. Edward Kafie, in respect of the licence granted to Mr. Ryan Forrest to fish Spiny Lobster in Jamaican Waters for the 2011-2012 Season<sup>49</sup>.**

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<sup>48</sup> Response from the Ministry of Agriculture and Fisheries dated December 13, 2011.

<sup>49</sup> Letter dated September 14, 2011, under the signature of Mr. G. Andre’ Kong-Director of Fisheries, Ministry of Agriculture and Fisheries



## **The Evaluation and Award of Licences**

The Ministry of Agriculture and Fisheries, advised the OCG that *“Historically, including the July 2010 to March 2011 lobster fishing season, no formal documented evaluation process was used to select successful applicants. Industrial Lobster Licences were granted as outlined in the standing policy at the time.*

*For the July 2011 to March 2012 lobster fishing season, fishers were advised by way of public notice...of the basic selection criteria and policies governing the granting of Industrial Lobster Fishing Licences...The selection criteria used to determine successful applicants follow the simple 3 tier ranking system below:*

- 1. First priority is given to those applicants who possess Industrial Lobster Fishing Licences and were actively utilizing their lobster licences at any time over the last three years, meaning July 2008 to March 2011.*
- 2. Second priority is given to those applicants for whom the records show that they possess or possessed Industrial Lobster Fishing Licences but may not be currently utilizing said licences.*
- 3. Any remaining Industrial Lobster Fishing Licences may then be issued to new applicants on a first come first served basis determined by the date that their applications were received.”<sup>50</sup>*

The Fishers who had active Industrial Trap Boat Licences since January 2010 are as follows:

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<sup>50</sup> MOAF Letter dated August 17, 2011, Appendix 1(a),#4



*Table Showing the Fishers that had Active Industrial Trap Boat Licences Since January 2010.<sup>51</sup>*

<i>No.</i>	<i>Name</i>	<i>Company</i>	<i>Vessel Name</i>	<i>Years Renewed</i>
<i>1</i>	<i>Clement Lue</i>	<i>C&amp;S Sea Food Ltd</i>	<i>Captain Franklin</i>	<i>2008-2010</i>
			<i>Captain Lamar</i>	<i>2008-2010</i>
			<i>Lone Star</i>	<i>2008-2010</i>
<i>2</i>	<i>Roderick Francis</i>	<i>B&amp;D Trawling Ltd</i>	<i>Captain Sean</i>	<i>2010</i>
<i>3</i>	<i>Donna Roberts</i>	<i>Seafood and Ting Ltd</i>	<i>Abbey</i>	<i>2009</i>
<i>4</i>	<i>Wadwald Knight</i>	<i>Knight's Commodity Trading Ltd</i>	<i>Rajmilour</i>	<i>2009</i>

Of this number/listing, all persons were issued with Industrial Lobster Trap Boat Licences for the 2011/2012 fishing season as follows:

- a) Clement Lue received two (2) licences;
- b) Roderick Francis received two (2) licences;
- c) Donna Roberts(Seafood &Ting International) received one (1) licence; and
- d) Wadwald Knight received one (1) licence.

The foregoing accounted for six (6) of the fourteen (14) licences which were issued during the 2011/2012 lobster fishing season.

Further records submitted to the OCG indicated that the following persons/entities were registered and possessed an Industrial Lobster Fishing Licence prior to the 2011 season.

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<sup>51</sup> Letter dated August 17, 2011. Appendix V



1. Tonrick Enterprises Limited:- was first issued a licence on 9/2/2002 in respect of a vessel named Windjammer;
2. Seafood Incorporated Limited:-was first issued a licence on 10/3/2008 in respect of a Vessel named Lady Kim;
3. Clarendon Seafood:- was first issued a licence on 8/2/2002 in respect of a Vessel named Lady Kim and on 3/3/2006 in respect of vessel named Bryce;
4. East Coast Fish and Meats:- was first issued a licence on 7/1/2004 in respect of a Vessel named Captain Richard;
5. Newport Fish and Meats:- was first issued a licence on 9/24/2009 in respect of vessels named Rough Rider and Windy Weather, respectively.

However, based on the records submitted, the abovementioned did not activate the respective licences since January 2010.

There is no documentary evidence of either Mr. Ryan Forrest and Mr. Ewan Stephenson and/or their respective business entities being registered to fish at any point in time prior to the 2011/2012 Industrial Lobster Fishing Season. These two (2) persons/entities were both awarded one (1) licence each for the 2011/2012 season. By way of letter dated August 2, 2011, Mr. Ewan Stephenson was advised, by the Ministry of Agriculture and Fisheries that his company was granted one licence to fish spiny lobster during the 2011-2012 Lobster Fishing Season. Further, there was no documentary evidence to suggest that previous holders, who had applied for licence to fish lobster for the 2011-2012 season, were denied same.





**Whether a relative of Minister Christopher Tufton had been granted an Industrial Lobster Trap Boat Licence and whether he was aware of and/or involved in the process for the granting of same**

Based upon the responses provided by Dr. Tufton, under the cover of letter dated September 20, 2011, it has been established that a relative of Dr. Tufton, Mr. Ewan Stephenson, has been granted an Industrial Lobster Trap Boat Licence for the 2011/2012 season.

Subsequently, the OCG, by way of a Requisition, dated November 30, 2011, enquired of Dr. Tufton whether he was related to a Mr. Delano Stephenson and to advise of the precise nature of the relationship if one existed. In his response to the OCG, which was dated December 7, 2011, Dr. Tufton responded as follows:

*“Yes. Mr. Delano Stephenson is the brother of my brother-in-law, Ewan Stephenson.”<sup>52</sup>*

Based upon the information which was provided to the OCG, by the Ministry of Agriculture & Fisheries under cover of letter dated August 17, 2011, it has been established that Mr. Delano Stephenson, had also submitted an application to fish for lobster for the 2011-2012 season, but was, however, unsuccessful in obtaining a licence for same.<sup>53</sup>

In his response of September 20, 2011, Dr. Tufton denied his involvement in the process for the award of the referenced licence to Mr. Ewan Stephenson. He further distanced his wife from any involvement in the award process.<sup>54</sup>

Of interest is the statement made by Dr. Tufton wherein he asserted that he only became aware of such a licence being issued subsequent to enquires made of *“personnel from the*

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<sup>52</sup> Response from Dr. Christopher Tufton dated December 7, 2011. Response # 1a

<sup>53</sup> Refer to response from the Ministry of Agriculture & Fisheries dated August 17, 2011. Appendices # 3 and #5

<sup>54</sup> Response from Dr. Christopher Tufton dated September 20, 2011. Response # 2



Ministry of Agriculture and Fisheries”<sup>55</sup> Dr. Tufton further asserted that **“I do not recall ever being approached by Mr. Stephenson in my capacity as Minister of Agriculture and Fisheries. I received correspondence regularly from persons seeking assistance and/or information concerning matters under this portfolio. My practice has always been to refer these matters to the relevant officers within the Ministry.”**<sup>56</sup> **(OCG’S EMPHASIS)**

In an attempt to obtain an unequivocal statement from Dr. Tufton, the OCG, by way of a requisition dated December 9, 2011, enquired whether or not he was approached in any other capacity by Mr. Ewan Stephenson and/or Mr. Delano Stephenson, regarding the application for/and or award of any lobster licence.<sup>57</sup>

Dr. Tufton, in his response, dated December 19, 2011, sought to solidify his previously asserted positions and declared as follows:

*“...I again reaffirm that I do not recall ever being approached by Mr. Ewan Stephenson in my capacity as Minister of Agriculture and Fisheries. I again also reaffirm as stated in correspondence dated December 7, 2011, that I have never been approached by Mr. Delano Stephenson... I hereby unequivocally state that I cannot conceive being approached in any other capacity for governmental assistance other than by virtue of my portfolio responsibility.”*<sup>58</sup>

**It must also be noted that an application was submitted by one Mr. Delano Stephenson, who it has been determined is the brother of Mr. Ewan Stephenson. No allegation was levied against Mr. Delano Stephenson nor was he granted a lobster fishing licence.**

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<sup>55</sup> Letter from Dr. Christopher Tufton, dated September 20, 2011. Response # 1

<sup>56</sup> Letter from Dr. Christopher Tufton dated September 20, 2011, Response # 1d

<sup>57</sup> OCG Requisition dated November 30, 2011. Question # 1b

<sup>58</sup> Letter from Dr. Christopher Tufton dated December 19, 2011



**Whether the licence was issued in accordance with the terms and relevant policies governing the application and issuance of Licences of such nature:**

- 1) The invitation for the application of Industrial Lobster Trap Boat Licences for 2011/2012 which was advertised in the Gleaner had a deadline for submission date of June 30, 2011. The copy of the documents submitted to the OCG did not have the publication date of the advertisement on same. Accordingly, the definitive date of the invitation was not ascertained.

It was observed that the Advertisement Notice outlined certain conditions as it pertains to the issuance of the licences. Certain of the conditions are detailed below:

1. *“Only Jamaican owned vessels will be allowed;*
2. *Preference will be given to those applicants who are active Licence holders;*
3. *Applicants who have not activated their licences for more than three years prior to this season will be treated as new;*
4. *Licence holders who do not utilise their licences for two consecutive years subsequent to this (2011) fishing season will be considered as new applicants when next they apply.”*

However, the Revised Policy Position in respect of the Issuance of Lobster Licences (2011) stated that *“Fishers must use Jamaican Vessels when available”* Having juxtaposed these two (2) statements, there is a disparity between the information and/or requirements as was advertised and the documented policy position of the MOAF.

To clarify this inconsistency, the MOAF advised that OCG that *“...the draft policy position was not updated to reflect the new position of the Ministry regarding the use*



*of foreign owned vessels engaged in lobster fishing in Jamaican waters*<sup>59</sup>. The Ministry further advised that at a meeting held on July 12, 2011, “*The consensus reached between the Industrial Lobster Fishery operators and the Ministry was for a move towards using Jamaican boats only for the Lobster Fishery. Foreign boats would be allowed under exceptional circumstances only. The notice placed in the advertisement reflected the stronger position discussed in the above noted meeting with the Licensing Authority...*”<sup>60</sup>

Given that the deadline for the submission of application was June 30, 2011, it stands to reason that the notice would have been placed in the print media prior to this date. The Ministry advised the OCG that a meeting was convened on July 12, 2011, wherein the consensus reached was published in the Advertisement Notice.<sup>61</sup>

Documentation however, clearly indicates that this meeting was convened after the deadline date for submission. Consequently, this statement brings to the fore contradictions in the information being put forward by the Ministry. Based on the timing of the meeting, it cannot be logically reasoned that a particular position of the Ministry was published prior to same being agreed to at a meeting of July 12, 2011.

Of greater concern, is the statement by the MOAF that “*The revised policies referenced above have not gone through the formal policy submission and approval process.*”<sup>62</sup>

Of interest also is that, as advised by the Ministry “*This decision was not reflected in any meeting notes or minutes as the meeting [was] not formally recorded.*”<sup>63</sup>

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<sup>59</sup> Letter dated October 14, 2011 from the MOAF

<sup>60</sup> Ibid

<sup>61</sup> Refer to letter dated October 14, 2011, Appendix 4

<sup>62</sup> Refer to letter dated October 14, 2011 Appendix 5

<sup>63</sup> Letter dated October 14, 2011. Appendix 4



Consequently, the veracity of the explanation being proffered by the Ministry under the cover of letter which was dated October 14, 2011, cannot be substantiated.

Further, the MOAF stated that it was discussed, at the meeting of July 12, 2011, that Foreign Vessels would be allowed under ‘*exceptional circumstance*’. The MOAF defines ‘*exceptional circumstances*’ as “...*those instances where a licensee can show that he/she has exhausted all possible avenues to secure the services of a Jamaican owned vessel to fish for spiny lobster without success.*”<sup>64</sup>

The vessel used by Mr. Ewan Stephenson, M/V Windy Weather, was initially owned by a foreign company, namely McLaughlin Marine Services Incorporated. However, there was evidence of a change of ownership to Seafood One Company Limited-a Jamaican company. A Certificate of Registry for the vessel M/V Windy Weather was issued by the Maritime Authority of Jamaica, under the cover of letter dated September 2, 2011, to reflect Seafood One Company Limited as the Registered Owners, upon their acceptance of the applicable documents to execute the Registration of Transfer of Ownership.<sup>65</sup>

Consequently, the Vessel utilised by Mr. Ewan Stephenson was registered to a Jamaican company and consequently a Jamaican owned vessel as defined by Section 20 and Section 20A, of the Shipping Act of Jamaica which reads:

- “ 20. *The following are persons qualified to own a Jamaican ship, namely -*
- (a) citizens of Jamaica;*
  
  - (b) persons who pursuant to the Immigration Restriction (Commonwealth Citizens) Act are deemed to belong to Jamaica;*

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<sup>64</sup> Letter dated December 13, 2011 from the MOAF

<sup>65</sup> Letter dated September 2, 2011, Maritime Authority of Jamaica, addressed to Seafood One Company Ltd.



*(c) bodies corporate or partnership established under and subject to the law of Jamaica and having a place of business or a managing owner or agent in Jamaica;*

*(d) business entities established under and subject to the law of a state other than Jamaica which, pursuant to that law, are entitled to own or operate ships;*

*(e) such other persons as the Minister may specify by order subject to affirmative resolution of the House of Representatives.*

*20 A.- (1) The owner of a ship which is registered as a Jamaican ship shall appoint a person who satisfies the requirements of subsection (2), as managing owner or agent of that ship, for the period during which the ship is so registered.*

*(2) A person is qualified for appointment as a managing owner or agent if-*

*(a) in the case of an individual, he is resident in Jamaica;*

*(b) in the case of a body corporate, it is incorporated under the laws of Jamaica, and has a place of business in Jamaica; and*

*(c) the person possesses such other qualifications as may be prescribed.”<sup>66</sup>*

It was also noted that whilst the Maritime Authority of Jamaica Certificate of Registry, lists Seafood One Company Ltd as the Registered Owners of M/V Windy Weather, the Certificate of Registration and Licensing of Fishing Vessels, issued by the Fisheries Division of the Ministry of Agriculture and Fisheries, listed Mr. Ewan Stephenson of Branmar Investments Limited, as the Owner of M/V Windy Weather.

- 2) The application letter to the Ministry of Agriculture and Fisheries, which was dated April 15, 2011, and submitted by Mr. Ewan Stephenson, clearly indicates that he was a new applicant and that he would be leasing boats already licensed in Jamaica to engage in the fishing of lobster. Given these facts, and as per the information submitted by the MOAF, regarding the three (3) tier selection criteria used to

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<sup>66</sup> The Shipping Act. Section 20 and 20A



determine successful applicants, the final tier would be “*Any remaining Industrial Lobster Fishing Licences may then be issued to new applicants on a first come first served basis determined by the date that their applications were received*<sup>67</sup>” (OCG **Emphasis**). Mr. Ewan Stephenson’s application, by virtue of the fact that he was a new applicant, would therefore be placed in the tier detailed above.

Copies of fifteen (15) applications were submitted to the OCG, by the Ministry of Agriculture, under the cover of letter which was dated August 17, 2011, for the 2011/2012 Lobster season. Evident on thirteen (13) of the copies of the application letters was the MOAF date of receipt. However, subsequent to a close scrutiny of the applications, it was noted that on two (2) of the applications, namely that of Ewan Stephenson and Newport Fish and Meats Limited, the date of receipt was not stamped, nor did it otherwise appear on the application.

Given that the date of receipt was not on the application of Mr. Stephenson and Newport Fish and Meats Limited, the following concerns arise:

- Given that Mr. Ewan Stephenson was a new applicant, it cannot be ascertained whether his award of the Licence was done in accordance with the procedures for new applicants as emphasised above; and
- It also cannot be ascertained whether the application from Newport Fish and Meats Limited was received prior to the deadline for submission and thereby eligible for consideration.

To compound the issue, it was noted that in response<sup>68</sup> to a follow-up requisition from the OCG, the MOAF re-submitted, amongst other things, two (2) copies of the

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<sup>67</sup> Appendix 1(a) # 4, submitted by the MOAF under cover of letter dated August 17, 2011

<sup>68</sup> Letter dated October 14, 2011 from the Ministry of Agriculture and Fisheries



application letter of Mr. Ewan Stephenson and one (1) copy of the application letter submitted by Newport Fish and Meats Limited.

Upon a review of the re-submitted application letters of Mr. Stephenson, it was observed that both letters are stamped with a date of receipt. However, the initial copy of the application letter which was submitted by the MOAF to the OCG, under the cover of letter dated August 17, 2011, did not bear a date receipt stamp of the MOAF. Quite to the contrary, this was not the case for the application letter which was re-submitted for Newport Fish and Meats Limited. The application letter for Newport Fish and Meats Limited, as was the case in the first instance of submission to the OCG, under the cover of letter dated August 17, 2011, did not bear a receipt date.

- 3) The complainant asserted, among other things, that Mr. Stephenson owns no fishing vessels, is no fisherman, has never been in the fishing industry, that the boats he intends to use are already leased and have dual registration in Jamaica as well as Honduras. The complainant further asserted that dual registration of vessels is illegal.

The application of Mr. Stephenson substantiates this assertion by the complainant. In his application letter, Mr. Stephenson advises that the boats to be utilised will be leased. His application also speaks to him as having “...*recently retired from banking...*” and that he has had an “...*interest in fishing from childhood days as my father was a fisherman...for fifty –two (52) years.*” These pronouncements in his letter, affirms the allegations levied by DYC Fishing Limited.

By way of letters which were dated June 29, 2011, under the signature of Mr. Chue Kim Lue, the Ministry was advised that three (3) boats were leased by Mr. Ewan Stephenson/TA Branmar Investments Limited; these are:

- a. M/V Lone Star;
- b. M/V Windy Weather; and





c. M/V Rough Rider.

From the information submitted, the following was ascertained from the Maritime Authority of Jamaica Certificates of Registry for each of the aforementioned M/V, for the 2011/2012 lobster season:

- a. M/V Lone Star is owned by Seafood One Company Limited, Kingston, Jamaica and the authorised representative or agent in Jamaica is Seafood One Company Limited. The date of expiry is September 23, 2011.
- b. M/V Windy Weather is owned by Seafood One Company Limited, Kingston, Jamaica and the authorised representative or agent in Jamaica is Seafood One Company Limited. The date of expiry is November 8, 2016.
- c. M/V Rough Rider is owned by Blue Seas Seafood S.DE. R.L of Honduras and the authorised agent in Jamaica is Newport Fish and Meats Limited. The date of expiry is November 8, 2011.

It was noted that under the cover of letter which was dated August 2, 2011, Mr. Chue Kim Lue advised the Ministry that his company, Seafood One Company Limited, has full responsibility for the management and handling of four vessels; M/V Lone Star, M/V Windy Weather, M/V Rough Rider and M/V Fair Wind.

It is important to note that by way of letter dated August 2, 2011, the MOAF advised Mr. Stephenson as follows:

*“Please be advised that with respect to the above captioned, the Licensing Authority hereby grant you./your company, one Licence to fish spiny lobster during the 2011 to 2012 Lobster Fishing Season.*



*Kindly advise the Licensing Authority/Director of Fisheries, in writing, of the vessels that will be used to fish for spiny lobsters under the said licence.”<sup>69</sup>*

By way of letter dated August 12, 2011 from Mr. Ewan Stephenson, addressed to Mr. Stephen G. Smikle, MOAF, Mr. Stephenson indicated as follows:

*“Branmar Investments Ltd. ,wishes to thank the licencing authority for having granted us the industrial Spiny Lobster licence for the season 2011 - 2012.*

*We wish to inform the authority that we will be using the vessel M/V Windy Weather, official number JMF04007, date of registry: November 9, 2004, date of expiry: November 8, 2016.*

*We have noted all conditions and terms of the licence and assure you of full compliance in that regard.”<sup>70</sup>*

The instructions in the letter of award from the Ministry of Agriculture and Fisheries, stated, *inter alia*, that “*...Industrial Lobster Fishing Vessels are prohibited to use 100% foreign crewmembers to harvest spiny lobster. Industrial Lobster Fishers are encouraged to use Jamaican crew. At the very least a portion of the crew must be Jamaican...*”<sup>71</sup>

Having regard to the aforementioned, the OCG notes an email correspondence dated 7/19/2011 from Mr. Ewan Stephenson to Richard A. Russell, and subsequent letter dated August 8, 2011, which, stated “*...I/we hereby ask that communication be forwarded to Mr. Edward Kafie, Honorary Consul General, Final Avenue, Los Proceres, P.O box 152, Tegucigalpa, Handuras [sic] indicating that your division has no objection to the M/V,*

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<sup>69</sup> Letter dated August 2, 2011.

<sup>70</sup> Letter dated August 12, 2011 from Mr. Ewan Stephenson to Mr. Stephen G. Smikle

<sup>71</sup> Letter from the MOAF, dated August 2, 2011 to Ewan Stephenson, Branmar Investments Limited



*her captain and crew members (see attached list) entering Jamaican waters in order to process their fishing licenses and work permits for the 2011 lobster fishing season...I am aware of the importance of employing local crew members but was unable to do same due to the lateness in the approval of my lobster fishing license.”<sup>72</sup>*

The OCG, by way of a letter dated November 30, 2011, sought to ascertain particulars of the composition of the crew members assigned to the fishing vessel ‘Windy Weather’ which was to be utilised by Mr. Ewan Stephenson.

In response, the MOAF advised the OCG that “*There is no disparity with the stipulations of the referenced letter. The total complement of crewmembers licensed to fish on the vessel operated by Mr Stephenson is comprised of both Jamaican (4 members) and Honduran crew (8 members)...*”<sup>73</sup>

A copy of the licences of the crewmembers was attached to the referenced letter.

Given this observation, and although information was submitted to the OCG, which indicated details of twelve (12) crewmembers, which was comprised of four (4) Jamaicans and eight (8) Hondurans, the OCG must make reference to the assertion of Mr. Stephenson that “*...We are aware of the importance of employing local crew members [sic] but was unable to do same due to the lateness in the approval of our lobster fishing licence.*”<sup>74</sup>

4) The complainant alleged that the ships to be utilised by Mr. Stephenson “*...have dual registry which is prohibited by the Shipping Act...*”<sup>75</sup> Pursuant to Section 24 of the Shipping Act “*A ship which has previously been registered in a foreign registry is*

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<sup>72</sup> Letter from Mr. Ewan Stephenson dated August 8, 2011 addressed to the Director of Fisheries.

<sup>73</sup> MOAF Letter dated December 13, 2011, Response # 5(d)

<sup>74</sup> Email dated 7/19/2011 from Ewan Stephenson to R. Russell

<sup>75</sup> Statement from Mr. Frank Cox, under cover of email dated August 16, 2011.



*not eligible for registration under this Act unless evidence has been supplied to the satisfaction of the Director that –*

*(a) the ship has been de-registered on the day that the new registration under this Act is to be effected or the ship's foreign registration has been cancelled or will be cancelled on the day that the new registration is effected; and*

*(b) no mortgages are outstanding against the ship or where there are mortgages outstanding against the ship, the holders of such mortgages have consented in writing to the de-registration or cancellation of the ship's foreign registration.*

It has already been established that the boat to be utilised by Mr. Ewan Stephenson, namely M/V Windy Weather, was previously owned by foreign nationals. However, there was a transfer of ownership as indicated in a letter from the Maritime Authority dated September 2, 2011, to that of Jamaican Ownership.

However, what seemed peculiar to the OCG, based upon the information which was submitted to the Office, was that at the time of the application and up to the time of the issuance of a licence to fish lobster, the ownership of the boat to be utilised by Branmar Investments Limited, was by a foreign national. The change in ownership was subsequent to the issuance of the licence, to Branmar Investment Limited, to fish for spiny lobster.

The Ministry of Agriculture and Fisheries has, however, put forward a position that explained the aforementioned occurrence. The Ministry posited the following “...licences to participate in the industrial spiny lobster fishery are issued to persons



*or entities. It is only after a licence is issued to a person or entity that the vessel used to activate the licence to harvest spiny lobsters is considered.”<sup>76</sup>*

Based on information submitted to this office<sup>77</sup>, of the fourteen (14) licences issued to individuals and/or companies to participate in the industrial spiny lobster fishery for the 2011/ 2012 season, only five (5) of those companies and/or individuals, activated licences for Motor Fishing Vessels (MFV) to Fish for Spiny Lobster for the 2011/ 2012 Lobster Season. Of note also, one particular company, which was issued with two (2) licences to participate in the industrial spiny lobster fishery for the 2011/ 2012 season, had only activated licence for one (1) MFV to fish for the season in question.

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<sup>76</sup> MOAF letter dated December 13, 2011, Response # 3 & # 4

<sup>77</sup> MOAF Letter dated December 13, 2011, Response to Question 3a, Appendix II



## CONCLUSIONS

1. It has been found and concluded that applications for the 2011/2012 lobster fishing season were submitted to the Ministry of Agriculture & Fisheries by (a) Mr. Delano Stephenson and (b) Mr. Ewan Stephenson, respectively.
2. The OCG, based upon the evidence provided by the then Minister of Agriculture & Fisheries, Dr. Christopher Tufton, and Mr. Ewan Stephenson, has determined that the two are brothers-in-law. It has also been determined that Mr. Delano Stephenson is the brother of Mr. Ewan Stephenson.
3. A licence to fish for spiny lobster for the fishing season 2011-2012, was issued to a family member of Dr. Christopher Tufton, namely Mr. Ewan Stephenson and his company Branmar Investments Ltd.
4. The Ministry of Agriculture, by way of a published advertisement, invited submissions/applications for licences for the 2011/2012 lobster fishing season. The referenced advertisement advised of the criteria upon which licences would be awarded.
5. There is a clear contradiction between the publicly advertised requirement that fishing vessels should be of “Jamaican ownership” and the policy position which was later adopted and implemented by the MOAF, *viz a viz*, allowing foreign owned vessels to be utilized by licensees. It is therefore concluded that such an approach does not lend itself to fairness and consequently could have dissuaded and/or disadvantaged potential applicants who, upon review of the advertisement, did not meet the requirement of accessing or owning vessels of “Jamaican ownership”.

This approach by the MOAF is compounded by the fact that the new policy position upon which it relied was not formally adopted.



6. There is uncertainty regarding the precise date on which the application for the Lobster Fishing licence from Mr. Ewan Stephenson and/Branmar Investments Ltd. was made and/or received by the Fisheries Division of the Ministry of Agriculture and Fisheries. The application is, however, dated April 15, 2011.
7. Mr. Ewan Stephenson, was a first time applicant for a Lobster Fishery Licence. Based upon the particulars of the application which was submitted, Mr. Ewan Stephenson had no practical experience in the lobster fishing industry and was amongst a group of some fourteen applicants for the 2011/2012 lobster season.
8. There is no documented evaluation and/or award criteria based on international best practices which was used by the Ministry of Agriculture and Fisheries, through the Fisheries Division, to determine the award of the licences beyond that which was outlined in the advertisement and the policy document.
9. It has been established that the M/V Windy Weather utilised by Mr. Ewan Stephenson, through his company, Branmar Investments Limited, was of Jamaican Ownership, and information has been submitted to indicate that the composition of crewmembers was that of Jamaicans and Hondurans.
10. The OCG has concluded that Mr. Ewan Stephenson and/or Branmar Investments Ltd. leased the Motor Fishing Vessel, M/V Windy Weather, in order to activate the lobster fishing licence which was granted for the 2011/2012 lobster fishing season.
11. The OCG has noted that Dr. Tufton was careful to indicate that he did not recall ever being approached by Mr. Ewan Stephenson in his capacity as a government Minister in relation to application for the referenced licence. However, he was forthright in stating that he was never approached by Mr. Delano Stephenson in the foregoing regard.



12. From the information reviewed, the OCG is unable to conclude that there was any impropriety in the award of a licence to Mr. Ewan Stephenson and/or Branmar Investments Ltd.

However, given the previously stated inconsistencies regarding (a) the advertised criteria, (b) the policy decision taken in regard to the ownership of the vessels (c) the absence of measurable and competitive award criteria beyond that stated in the advertisement and (d) the uncertainty regarding the date of applications received, it is hereby concluded that the process cannot be reasonably considered to be devoid of irregularity.

13. The OCG has not found evidence to indicate the involvement of the then Minister of Agriculture and Fisheries in the approval process for the award of industrial lobster fishing licences for the 2011/2012 fishing season.





## **RECOMMENDATIONS**

Section 20 (1) of the Contractor-General Act mandates that “*after conducting an Investigation under this Act, a Contractor-General shall, in writing, inform the principal officer of the public body concerned and the Minister having responsibility therefor of the result of that Investigation **and make such Recommendations as he considers necessary in respect of the matter which was investigated.**” (OCG’s Emphasis).*

In light of the foregoing, and having regard to the Findings and Conclusions that are detailed herein, the OCG now makes the following Recommendations:

1. It is recommended that the Ministry of Agriculture & Fisheries and in particular, the Fisheries Division, if it has not already done so, consider the introduction and/or design of an objective evaluation and award criteria for the award of Lobster Fishing Licences during the lobster fishing seasons.

Further, the Ministry of Agriculture & Fisheries should, respectfully, ensure that it has a uniformed application process and cut-off date for the receipt of applications for lobster fishing licences.

2. Given the apparent disparity and/or nuances between the advertisement which was published inviting applicants to submit applications for the 2011/2012 lobster fishing season, the OCG recommends, for future reference, that the Ministry of Agriculture & Fisheries should ensure that there is one approved and agreed upon set or criteria and/or conditions which are conveyed to prospective applicants. In instances in which there are exceptions to a stated policy position and/or requirement, the OCG recommends, in the interest of transparency, that all stakeholders are advised of same.



3. It is recommended that the Ministry of Agriculture & Fisheries implement and standardize its licence application and document management system to ensure that the date of receipt, application particulars and processing status of each lobster licence application is subject to stringent checks and balances which can be validated via appropriate documentation and internal controls.
  
4. The OCG deems it prudent to recommend for future reference that declarations should be made by persons involved in and/or associated with the grant of the licence(s) regarding any interests and/or relations which could bring the licence award process into disrepute.