

SC-03-INFO-04

3<sup>rd</sup> Meeting of the Southern Indian Ocean Fisheries Agreement (SIOFA) Scientific  
Committee  
20-24 March 2017, Saint Denis, La Reunion

## Considerations on the purpose of BPAs in the SIOFA

*Relates to agenda item: 6.3*

Working paper  Info paper

### SIODFA

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#### Abstract

SCII was directed by the MoPs during their fourth meeting to establish criteria by which they could evaluate proposals for marine protected areas. A preliminary list of criteria were developed, which drew heavily on relevant custom as practiced by other RFMOs, CCAMLR, National jurisdictions and the expertise in the room. These draft criteria are expected to be refined and amended after testing through practical application by the SC, as our knowledge of the region increases, and in response to identified needs to take into account changes to the environment. They were not intended to be prescriptive or definitive. Since drafting we have been able to further reflect on the proposed criteria. Australia, as an example (see paper SC3 XXX), has proposed minor amendments to the protocol after their application of the criteria to several of the areas in SIOFA area that Australia has closed to fishing for its flagged vessels. One aspect that was only briefly discussed when drafting the protocol at SC2 was the “objectives for protection via area closure to fishing”. Here additional guidance on the various objectives for BPAs in SIOFA from the Industry perspective is provided.

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Southern Indian Ocean  
Deepsea Fishers Association

## **Considerations on the Purpose of Benthic Protected Areas in the Southern Indian Ocean Fisheries Agreement Area<sup>1</sup>**

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### • *Introduction*

SCII was directed by the MoPs during their fourth meeting to establish criteria by which they could evaluate proposals for marine protected areas. A preliminary list of criteria were developed, which drew heavily on relevant custom as practiced by other RFMOs, CCAMLR, National jurisdictions and the expertise in the room. These draft criteria are expected to be refined and amended after testing through practical application by the SC, as our knowledge of the region increases, and in response to identified needs to take into account changes to the environment. They were not intended to be prescriptive or definitive. Since drafting we have been able to further reflect on the proposed criteria. Australia, as an example (see paper SC3 XXX), has proposed minor amendments to the protocol after their application of the criteria to several of the areas in SIOFA area that Australia has closed to fishing for its flagged vessels. One aspect that was only briefly discussed when drafting the protocol at SC2 was the “objectives for protection via area closure to fishing”. Here additional guidance on the various objectives for BPAs in SIOFA from the Industry perspective is provided.

The OED informs us that a criterion is the principle or standard by which something may be judged or decided. For us, what is missing from this definition is what the ‘something’ is intended to do, i.e. the purpose of the activity – why is it being undertaken? This section explores why BPAs had initially been proposed in the first place. An explicit consideration of the objectives of BPAs will better enable an evaluation as to how well potential criteria are satisfied. We note that for the most part, it had been implicitly assumed that there was good understanding of the purpose of establishing benthic protected areas (BPAs). As always, some effort directed to clearly documenting what the objectives were of the proposal would have greatly facilitated the task. Although late, this is attempted here.

### *Perceptions of the Purpose of the Protected Areas*

There are (at least) three objectives as to why one would desire to protect areas in the SIOFA area.

- i. To protect fragile benthos from being damaged/destroyed by fishing gear should it make contact with the sea floor based on the principle that gratuitous destruction is inimical with our societal values
- ii. To ensure that marine benthic populations, communities and as appropriate ecosystems, can continue to function without ‘undue’ interference or destruction – consistent with societal values that ‘biodiversity’ should be protected and conserved
- iii. To demonstrate that the relevant institutions with the mandate to ensure this protection are fulfilling this responsibility as requested by intergovernmental institutions such as the United Nations as articulated through its General Assembly resolutions. Here there are two institutions of direct relevance

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<sup>1</sup> This note has benefited from the comments of several people.

- RFMOs and in our case, a RFMA
- The fishing industry, which is the primary agency that gives rise to the concern.

The RFMOs accept their responsibilities of stewardship by signing and ratification of agreements that result in Parties accepting the requirement to

- a. “formulate and adopt conservation and management measures necessary for ensuring the long-term sustainability of the fishery resources, taking into account the need to protect marine biodiversity, based on the best scientific evidence available;”.

See ARTICLE 6 – FUNCTIONS OF THE MEETING OF THE PARTIES – para 1, The Meeting of the Parties shall:

- *But why else are we doing this?*

These ‘purposes’, described above, reflect two other considerations. It is assumed that marine areas are protected because society places a value on the existence of benthic communities, populations and ecosystems, even if these faunal elements will never be directly seen by people or at least will be seen by only a very few. And, to do so would require artificial illumination – without this the vivid colours of the deep-sea benthos would not be apparent – all is black at the depths of interest here. How many people are expected to see first-hand the benthos living on the deep-sea features of the Indian Ocean? Yet there is common agreement that their existence as valued by our society and that this existence should be protected.

An argument that has been posited for protecting any communities, populations or ecosystems is that they provide services to human society, which is often difficult to quantify. It is difficult to conceive of the nature of actual services that may be provided by these communities, populations or ecosystems, commonly referred to Vulnerable Marine Ecosystems (even if this is usually not the case). But, the absence of evidence of provision of identifiable ‘ecosystem services’ does not negate from the value that is assigned to their existence.

- *Perspective of the Fishing Industry*

The obligation of the fishing industry to accept responsibility for contributing to protection of benthic fauna is one that is rarely if ever discussed. The reasons for this are self-evident – they do not sign/ratify documents in their own right. But, the advent of corporate responsibility for issues such as stewardship of the environment has existed for decades and continues to grow in importance and be accepted by society as both an implicit and explicit obligation of commercial enterprises. Indeed, in national jurisdictions, legal liability for failure to observe the norms of environmental protects may, and often does, result in legal prosecution.

In our case, members of the Southern Indian Ocean Deepsea Fishers Association have for a long time been aware that access to markets for many of their products is, or will be, contingent on their demonstrating that their fishing operations are consistent with the points (a) and (b) above. Failure to satisfy this requirement can result in buyers refusing to handle their products with major implication for company revenues. Thus, SIODFA is of the view that an important objective of the existence of effective protected areas is to confirm their commitments to satisfying what are now standard requirements for the operations of the fishing industry.