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Making Progress on VME Protection and Sustainable Fisheries Practices

The Deep Sea Conservation Coalition (DSCC)

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Abstract	
<p>The DSCC notes with appreciation the efforts made by SIOFA Parties to address the many challenges it faces in implementing sustainable fisheries measures while ensuring the protection of vulnerable and important ecosystems and habitats. This paper provides suggestions designed to strengthen the full implementation of CBD and UNGA resolutions to protect vulnerable marine ecosystems (VMEs), including seamounts, ridges, hydrothermal vents, cold water corals, and SIOFA-specific VME elements, including in the proposal for a new Exploratory Fisheries CMM, and urges progress on the protection of the Saya de Malha Bank in line with its EBSA status, action to prepare for the impact of climate change in the region, and affirmation of Article 8 of the BBNJ Agreement.</p>	

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Making Progress on VME protection and sustainable fisheries practices.

Introduction

The Deep Sea Conservation Coalition (DSCC) welcomes the opportunity to participate as an observer at the 11th Meeting of the SIOFA Meeting of the Parties. The DSCC also welcomes the substantive discussions that took place at the recent SIOFA-SCO9 around protection of vulnerable and important marine ecosystems and habitats, potential impact of climate change, development of harvest strategies, research activities, and new and exploratory fisheries management measures.

The DSCC notes with appreciation the efforts made by SIOFA Parties to address the many challenges it faces in implementing sustainable fisheries measures while ensuring the protection of vulnerable and important ecosystems and habitats, and would like to draw your attention to the following issues requiring the MoP's urgent attention and action.

1: Full implementation of the CBD and UNGA resolutions to protect vulnerable marine ecosystems (VMEs), including seamounts, ridges, hydrothermal vents, cold water corals, and SIOFA-specific VME elements, from destructive fishing practices, including bottom trawling.

DSCC notes the considerable progress made on mechanisms to identify and manage protection of VMEs. Significant advances have also been made in other RFMOs and international fora relating to the identification and implementation of marine area protection. We note that for more than 20 years, commitments by Parties to the Convention on Biological Diversity (CBD) and members of the UN General Assembly (UNGA) have underlined the urgency of action needed to sustainably manage fish stocks and protect VMEs, including seamounts, from destructive fishing practices. The UNGA December 2022 resolution again called for urgent action to prevent damage from deep-sea fishing to vulnerable ecosystems found on seamounts and in other areas of the high seas 'recognizing the immense importance and value of deep-sea ecosystems and biodiversity they contain' (UNGA resolution 61/105 (para 80)). The 2022 CBD meeting (COP15) also called on governments to halt biodiversity loss and restore ecosystems.

SIOFA can contribute to the achievement of these calls by immediately halting destructive fishing practices, including bottom trawling, on all VMEs, including seamounts, hydrothermal vents and cold-water corals, initiating an urgent review of the impact of other fishing gears on seamounts and other VMEs, and establishing a VME register. The UN FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, (FAO 2008, para 42-43 and Annex) recognises seamounts as VME elements. Consistent with this, NAFO lists seamounts as VME elements, and has closed all identified seamounts at fishable depth (<4000 m) (NAFO 2021, CEM Annex E).

The recent advisory opinion on climate change from the International Tribunal for the Law of the Sea (ITLOS) specifically mentions obligations under the Fish Stocks Agreement to protect biodiversity and sets a legal basis for addressing climate change and its contributing factors through organisations such as RFMOs (paras 403, 406, 415, 418). The Advisory Opinion highlights the protection and preservation of rare or fragile ecosystems and the habitats of depleted, threatened, or endangered species as an obligation of due diligence. It also highlights the importance of applying the precautionary approach and ecosystem approach as well as the obligations of cooperation in the protection of the marine environment.

The DSCC also notes the progress made by SIOFA with respect to the management of bottom fishing, and the interim measures adopted to protect vulnerable marine ecosystems from significant adverse impacts. In our paper for the Scientific Committee, DSCC reviewed the status of the benthic fishery impact assessment standard and the benthic fisheries impact assessments prepared to date and

proposed that they be updated with more recent information, consider cumulative impacts, and include effects of climate change in the standard.

DSCC welcomes the SC09 agreement “to hold a focused session at SC10 to discuss encounter thresholds and other VME-related issues.” (SC09, para 296), and “to discuss potential revision to the list of VME taxa, including the potential inclusion of seagrass and rhodoliths, as part of a focused session on VME at SC10.” (SC09, para 307).

DSCC proposes that MoP 11:

- **Adopts spatial closures as the primary mechanism to manage impacts on benthic habitats;**
- **Prioritises consideration of the potential risks within Bioregion 1, and particularly subregion 1.2, from existing fishing impacts; and**
- **Recognises seamounts as VMEs (in accordance with the FAO Guidelines) and close them to bottom trawling.**

A full list of DSCC recommendations related to VME and mpa protection can be found in [SC-09-INFO-28-DSCC-VME-Protection.pdf](#) and [SC-09-INFO-27-DSCC-Area-Protection.pdf](#) presented to SIOFA SC09.

2: Designation of the Saya del Malha Bank as a VME

The Saya De Malha Bank has been recognised as an Ecologically and Biologically Significant Area (EBSA) by the Convention on Biodiversity. The Bank has a number of features which should be considered as a vulnerable marine ecosystem under the FAO Deepsea Guidelines.

Seagrasses support fisheries and biodiversity, clean the surrounding water and help take carbon dioxide out of the atmosphere.

The important seagrass and rhodoliths beds found on the Saya De Malha Bank (Rogers 2021) are not included in the current definition of SIOFA VME taxon in the Annex 1 of CMM2020-01.

The FAO guidelines were developed without a focus on shallow features on the high seas, such as the Saya de Malha Bank. However, sea grasses, rhodolith beds and shallow water corals would meet the criteria for identifying VME taxa set out in para 42 of the FAO guidelines.

The DSCC proposes that MoP11:

- **Agrees a process to develop protection of the Saya De Malha Bank from the significant adverse impacts of bottom fishing, in line with its EBSA status;**
- **Add seagrasses to the list of VME indicator species in Annex 1 of CMM 2020/01, and precautionary thresholds be applied for move-on rules; and**
- **Review other potential indicator taxa, including rhodoliths, to reflect the different depths and taxa that make up the Saya De Malha Bank.**

3: Adoption of Exploratory and Research Fisheries Measures that prohibit the use of bottom destructive practices in recognised VME areas

The DSCC welcomes the substantive discussion at SIOFA SC09 on new and exploratory fisheries and research fisheries regulations, and the EU proposal for a New and Exploratory CMM. The SC09 noted (para 96) that, “in order to sustainably manage fish stocks and protect VMEs, the frameworks should consider the International Guidelines for the Management of Deep-sea Fisheries in the High Seas (United Nations Food and Agriculture Organization (FAO), 2009).”

While the DSCC agrees adoption of this Measure is urgent given the number of exploratory proposals being submitted, we also believe it is important to ensure that it is effective. The CMM proposal would be strengthened by prohibiting new and exploratory fishing on known VMEs,

including seamounts. Such an exclusion is consistent with the recent recognition by UNGA in 2022 of the value of such ecosystems, and their call for urgent action to protect them. In addition, the recognised need for precaution articulated in Article 4 of the Agreement, the sensitivity of these areas to fishing activity, and the many recent international statements calling for stronger marine biodiversity protection all support the proactive protection of VMEs, including seamounts, from the impacts of New and Exploratory fisheries.

The DSCC notes that any proposed bottom fishing activity should be assessed to determine whether the activity would cause significant adverse impacts on any VME and take actions to prevent such impacts or not be authorised.

DSCC urges the MOP to:

- **Adopt the proposed Exploratory and Research CMM amended to exclude exploratory fishing from VMEs, including seamounts.**

4: Progress on the commitment to set aside areas, including vulnerable marine ecosystems, for biodiversity, ecosystem maintenance and climate resilience purposes

The DSCC recalls the considerable efforts of previous MoPs in considering the Standard Protocol for future protected areas designation, but notes the continued interim status of that Protocol and the five declared benthic protected areas developed under the protocol. The DSCC notes the failure to progress any further consideration of areas to be set aside. The CBD 2022 (COP 15) called on governments to halt biodiversity loss, restore ecosystems and commit to protecting at least 30% of the Earth's oceans. That goal can only be achieved with the active engagement of RFMOs.

DSCC urges MoP 11 to:

- **Approve the proposed virtual workshop (tentatively scheduled for mid-November 2024) to review the protocol for future marine protected area designations, and the development of an associated workplan, building on substantive work undertaken by SIOFA;**
- **Adopt the Interim Benthic Protected Areas (BPAs) and request the SC to review their research and management plans and provide advice on any necessary improvements based on latest research;**
- **As a first step, and without prejudice to the future protection of identified and recognised VME features, adopt protected areas status to those proposed by the Cook islands which prohibit bottom impact fishing; and**
- **Request the SC to assess the alignment of SIOFA spatial management measures with the internationally accepted criteria of IUCN for marine protection measures that meet the standards for CBD designation.**

5: Affirmation of Article 8 of the BBNJ Agreement

The United Nations Convention on the Law of the Sea (UNCLOS), the Agreement on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction ('BBNJ Agreement'), enables the establishment of marine protected areas (MPAs) on the high seas. Article 1(9) of the Agreement sets out a definition of marine protected areas and Part III of the Agreement sets out the assessment and decision-making process and measures for establishing marine

protected areas including in emergency situations, and the monitoring and review provisions. SIOFA and other RFMOs will have an important role in this process.

DSCC proposes that MOP11:

- **Consider processes of constructively working with the BBNJ Parties and signatories in preparation for the Agreement coming into force.**

6: Action to prepare for the impacts of Climate Change

The increasingly urgent concerns about the impacts of human-induced climate changes on Earth ecosystems, including the marine environment, have led to many RFMOs undertaking work to incorporate response actions into their processes and decisions. DSCC also notes the recent Advisory Opinion on climate change from the International Tribunal for the Law of the Sea (ITLOS) which sets a legal basis for addressing climate change and contributing actions through existing international frameworks and RFMOs.

The DSCC strongly supports the initiation of such action for SIOFA and the advice from SIOFA SC09.

The DSCC urges MoP 11 to:

- **Adopt a standing item on its agenda;**
- **Support funding on research by the SIOFA SC to identify potential climate impact threats to SIOFA ecosystems and species and to consider where potential and observed impacts of climate change impacts should be incorporated into its advice to the Meeting of the Parties (MoP); and**
- **Consider what advice it would like from the SC on the potential implications of climate change on SIOFA ecosystems and species.**

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