

9th Meeting of the Compliance Committee (CC9) and 12th Meeting of the Parties (MoP12)

Ebene, Mauritius, 25–27 June 2025 and 30 June – 04 July 2025

MoP-12-INFO-03

Preparing SIOFA for the entry into force of the BBNJ Agreement

Deep Sea Conservation Coalition

Meeting	Compliance Committee <input type="checkbox"/> Meeting of the Parties <input checked="" type="checkbox"/>
Document type	working paper <input type="checkbox"/> information paper <input checked="" type="checkbox"/>
Distribution	Public <input checked="" type="checkbox"/> Restricted ¹ <input type="checkbox"/> Closed session document ² <input type="checkbox"/>
Abstract	<p>The DSCC draws the attention of the SIOFA MoP to the recent adoption of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ Agreement).</p> <p>The objective of the BBNJ Agreement is to “ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term”. In coming years, SIOFA will inevitably be</p>

¹ Restricted documents may contain confidential information. Please do not distribute restricted documents in any form without the explicit permission of the SIOFA Secretariat and the data owner(s)/provider(s).

² Documents available only to members invited to closed sessions.

called on to consult and coordinate with States, other RFMOs, bodies and the BBNJ on the protection of marine biodiversity.

It is clear that the procedures outlined in Part III of the BBNJ Agreement on area-based management tools (ABMTs) including marine protected areas (MPAs) will require responses and input by SIOFA. SIOFA can prepare for that by adopting procedures and modalities necessary in order to:

- 1) collaborate with parties interested in developing BBNJ ABMT proposals;
- 2) participate in any general coordination efforts organized by BBNJ;
- 3) respond to invitations to consult on specific ABMT proposals which are relevant for SIOFA; and
- 4) consider the adoption of SIOFA management measures which would advance consistency with ABMTs adopted by BBNJ.
- 5) Task the Secretariat with functions necessary to respond to BBNJ needs.

In addition, Part IV of the BBNJ Agreement outlines environmental impact assessments (EIA) provisions. To be consistent with the BBNJ EIA provisions, the SIOFA Bottom Fishing Impact Assessment Standard ([BFIAS](#)) should be revised. Bottom Fishing Impact Assessments (BFIs) and assessments completed for both new and exploratory fisheries should be environmental impact assessments compliant with BBNJ EIA provisions.

Preparing SIOFA for the entry into force of the BBNJ Agreement

Contents

Recommendations	4
Background and Introduction	5
BBNJ and SIOFA	5
BBNJ, SIOFA and Biodiversity	5
The relationship between BBNJ and SIOFA	6
The role of the Secretariat in building capacity for BBNJ readiness	6
BBNJ Area-Based Management Tools and Marine Protected Areas	8
BBNJ Implications for ABMTs and SIOFA	9
BBNJ Environmental Impact Assessments and SIOFA	10
Bottom Fisheries Impact Assessments	10
EIAs and new and exploratory fishing	12
Conclusion	12

Recommendations

The DSCC recommends that the MoP develops procedures to ensure that SIOFA is ready for the entry into force of the BBNJ Agreement by:

1. Establishing a working group under the MoP.
2. Establishing a standing agenda item on BBNJ readiness.
3. Tasking the working group to make recommendations to the 2026 MoP after:
 - i. A review of the BBNJ Agreement and SIOFA practices and procedures with a view to identifying:
 - a. the procedures necessary to develop EIA and ABMT procedures in response to the BBNJ Agreement entry into force;
 - b. Assigning functions to the Secretariat to execute cooperation, consultation and other functions under the BBNJ Agreement; and
 - c. modalities to ensure that SIOFA is prepared to receive and respond to consultation invitations, and to meaningfully engage in consultations with the future BBNJ as well as other relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies (IFBs), including RFMOs.
 - d. Tasks for the Secretariat to carry out.
 - ii. A review of the BBNJ Annex I Indicative criteria for the identification of areas in the revised SIOFA standard protocol for future protected areas designation and the proposed designation of new BPAs. It is suggested that SIOFA treats the Protocol as a living document and regularly reviews it,

including how habitats and climate refugia should be incorporated in the designation criteria.

iii. Review Memoranda of Understanding with other IFBs, including RFMOs.

iv. Review the Bottom Fishing Impact Assessment Standard ([BFIAS](#)) against Part IV of the BBNJ Agreement and identify possible gaps or discrepancies that the SIOFA MoP should address.

3. Requesting the working group to develop a draft Conservation and Management Measure for submission by a Member to guide the implementation of future area-based management tools, including:

- a. principles for guiding consultation and coordination with other RFMOs and with BBNJ;
- b. principles and process for the designation and implementation of ABMTs;
- c. preparing SIOFA to engage in consultations with the BBNJ and with other relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies (IFBs);
- d. adding an agenda item to discuss BBNJ-related considerations; and
- e. assessing memoranda of understanding with other RFMOs and BBNJ as needed.

4. Initiating an update of SIOFA's [new and exploratory fisheries measure 17](#) (2024) to ensure that prospective fishing proposals provide the information that is required to assess the proposal.

Background and Introduction

The BBNJ Agreement to date has received [136 signatures and 51 ratifications](#), including the EU, since its adoption in June 2023. It is possible that it may gain the required 60 ratifications (BBNJ article 68) within the coming year, entering into force 120 days after that. Given this trajectory, it is timely for the SIOFA MoP to begin to consider the necessary steps to be ready for BBNJ's entry into force. This briefing addresses two essential elements of the BBNJ Agreement that are relevant to SIOFA: 1) area-based management tools (ABMTs) including marine protected areas (MPAs) (Part III) and, 2) environmental impact assessments (EIAs) (Part IV).

The work might be undertaken [by a working group](#) established under the MoP.

BBNJ and SIOFA

BBNJ, SIOFA and Biodiversity

The focus of the BBNJ Agreement is the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (ABNJ), for the present and in the long term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination.

The SIOFA Convention acknowledges the importance of preserving biodiversity in its preamble and addresses the protection of ecosystems (article 3(1)(vii)) in delivering its objective: to ensure the long-term conservation and sustainable use of fishery resources and, in so doing, to safeguard the marine ecosystems in which these resources occur (article 2). These objectives are also supported by the Fish Stocks Agreement³ requirement to protect biodiversity in the marine environment (Article 5(g)). The International Tribunal for the Law of the Sea in its [Climate Change Advisory Opinion](#) underlined the need to implement the obligation in article 194(5) of UNCLOS to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life, as well as the need to implement article 192 to protect and preserve the marine environment (paras 402, 403).

The relationship between BBNJ and SIOFA

International cooperation and coordination are at the heart of the BBNJ objective (article 2). Other important provisions are contained in articles 5 and 8: BBNJ provides in article 5(2) that it shall be interpreted and applied in a manner that does not undermine relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies (“IFBs”) and that promotes coherence and coordination with those IFBs. It also provides in article 8(2) that Parties shall endeavour to promote, as appropriate, the objectives of the BBNJ Agreement when participating in decision-making under other IFBs, such as SIOFA. In practical terms this means that Parties to the BBNJ Agreement will be expected to promote BBNJ objectives in SIOFA, alongside SIOFA objectives - as well as in other fora.

The role of the Secretariat in building capacity for BBNJ readiness

Multiple functions may be required of the SIOFA Secretariat.⁴ The Indian Ocean Tuna Commission (IOTC) in April considered proposals that have a number of elements, including:

1. Establishing a mechanism, including communication channels, with the BBNJ Secretariat, once it is established, to:
 - a) identify and collect information and data relevant to the work of SIOFA from the BBNJ Clearing-House Mechanism, including on suitable opportunities for capacity-building and the transfer of marine technology;
 - b) submit to the BBNJ Clearing-House Mechanism, with the consent of the MoP, requests for suitable capacity-building and the transfer of marine technology and opportunities with respect thereto, including research collaboration and training opportunities, information on sources and

³ Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to The Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

⁴ These suggestions on the Secretariat are based on proposal **IOTC-2025-S29-PropR_Rev3** of the Maldives presented to the 29th IOTC Commission on 17 April 2025.

availability of technological information and data for the transfer of marine technology, opportunities for facilitated access to marine technology and the availability of funding;

c) receive invitations to provide information to the BBNJ COP on the implementation of measures that SIOFA has adopted to achieve the objectives of ABMTs;

d) provide and disseminate, with the consent of the MoP, information on SIOFA conservation and management measures as well as monitoring, control and surveillance tools that could be of relevance in monitoring and ensuring compliance with ABMTs, through the BBNJ Clearing-House Mechanism;

e) receive notifications and invitations from the BBNJ Secretariat to participate in the consultation and assessment of proposals for ABMTs in the SIOFA area under article 20(2)(b) of the BBNJ Agreement and emergency measures under article 24(2) of the BBNJ Agreement;

f) participate, with a mandate or specific mandates adopted by the MoP, in the consultation and assessment of proposals for ABMTs;

g) receive recommendations to adopt ABMTs and other relevant measures within the competence of the SIOFA from the BBNJ COP under article 22(1)(c) of the BBNJ Agreement and communicate the MoP's position on such recommendations;

h) monitor and provide periodic updates to the MoP on compliance mechanisms regarding ABMTs established in the framework of the BBNJ Agreement that might have implications for SIOFA conservation and management measures;

i) provide input, as appropriate, to the BBNJ Scientific and Technical Body regarding the development or updating of standards or guidelines for the conduct of EIAs under article 29(3) of the BBNJ Agreement; and

j) facilitate engagement with the Scientific Committee and its subsidiary bodies to ensure that EIAs under the BBNJ Agreement consider potential impacts on SIOFA species and incorporate appropriate scientific input.

2. Further, the Executive Secretary's role could include, as appropriate, notifying the MoP of:

i) any relevant and suitable opportunities for capacity-building and the transfer of marine technology;

ii) any relevant developments regarding proposals for ABMTs in the SIOFA area of competence, including decisions of the BBNJ COP;

iii) any notification and invitation received from the BBNJ Secretariat concerning a consultation and assessment;

iv) any recommendations of the BBNJ COP under paragraph (g) above.

BBNJ Area-Based Management Tools and Marine Protected Areas

The BBNJ Agreement in Part III sets out the procedures for proposals for area-based management tools (ABMTs) including marine protected areas (MPAs) (article 19), publicity and preliminary review of proposals (article 20), consultation and assessment of proposals (article 21), establishment of ABMTs including MPAs (article 22), decision-making (article 23), as well as implementation (article 25), and monitoring and review (article 26).

There are extensive consultation provisions relevant to SIOFA as an IFB. Firstly, when developing proposals, Parties are to consult IFBs, under article 19(2). Secondly, the BBNJ Secretariat is directed to facilitate consultations, including by notifying and inviting IFBs to submit (article 21(2)(b)):

- (i) *Views on the merits of the proposal;*
- (ii) *Any other relevant scientific input;*
- (iii) *Information regarding any existing measures adopted by that instrument, framework or body for the relevant area or for adjacent areas;*
- (iv) *Views regarding any aspects of the measures and other elements for a draft management plan identified in the proposal that fall within the competence of that body;*
- (v) *Views regarding any relevant additional measures that fall within the competence of that instrument, framework or body;*
- (vi) *Any other relevant information.*

After the consultations are concluded, the proponent State(s) have an opportunity to make adjustments to the proposal to address comments raised during the consultation period and then the proposal will be reviewed by the BBNJ Agreement's scientific and technical body (STB). After the STB review and assessment, the next step is that the COP takes decisions on the establishment of ABMTs including MPAs, and more specifically, the BBNJ COP (article 22(1)):

- (a) *Shall take decisions on the establishment of area-based management tools, including marine protected areas, and related measures;*
- (b) *May take decisions on measures compatible with those adopted by [IFBs], in cooperation and coordination with those IFBs; and*
- (c) *May, where proposed measures are within the competences of other [IFBs], make recommendations to Parties to the BBNJ Agreement and to [IFBs] to promote the adoption of relevant measures through such [IFBs], in accordance with their respective mandates.*

2. *In taking decisions under article 22, the COP shall respect the competences of, and not undermine, [IFBs].*

Another important consultation provision is in article 22(3): the Conference of the Parties (CoP) shall make arrangements for regular consultations to enhance cooperation and coordination with and among IFBs with regard to area-based management tools, including marine protected areas, as well as coordination with regard to related measures adopted under such IFBs. The CoP may discuss these arrangements in the pending BBNJ PrepCom meetings on 18-29 August 2025 and at its additional meeting which will take place in 2026 (probably March 23- April 2; to be confirmed).

Annex 1 of the BBNJ Agreement sets out Indicative Criteria for Identification of Areas, including: uniqueness, rarity, vulnerability, including to climate change and ocean acidification, and fragility.

It is worth noting that the protection of vulnerable marine ecosystems (VMEs) would meet the criteria in Annex 1 of the Agreement for an MPA in numerous respects, including fragility, vulnerability, sensitivity, connectivity, slow recovery and viability.

BBNJ Implications for ABMTs and SIOFA

SIOFA already has tools for cooperation with other organizations in Article 16 of its Agreement, and article 4(f) requires protection of biodiversity in the marine environment. Article 6 (d) requires the MoP to 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.

It would be reasonable to expect that the procedures outlined in Part III of the BBNJ Agreement on ABMTs will require responses by SIOFA in instances where ABMTs proposed under the BBNJ Agreement overlap with SIOFA's geographic mandate. To support the implementation of ABMT provisions of BBNJ, SIOFA should begin considering the procedures and modalities necessary to adopt in order to: (1) collaborate with parties interested in developing BBNJ ABMT proposals; (2) participate in any general coordination efforts organized by BBNJ; (3) respond to invitations to consult on ABMT proposals which are relevant for SIOFA; and (4) consider the adoption of SIOFA management measures which would advance consistency with ABMTs adopted by BBNJ.

The particular occasions for interaction with BBNJ include, but may not be limited to:

- a) consultations led by Parties on the development of potential BBNJ ABMT proposals (Art. 19);
- b) invitations by the BBNJ Secretariat to SIOFA to consult on ABMT proposals (Art. 21(2));
- c) recommendations by BBNJ to SIOFA to promote the adoption of relevant measures (Art. 22(1)(c));
- d) regular consultations with other IFBs and with BBNJ (Art. 22(3));

- e) calls for BBNJ parties to promote the adoption of measures within IFBs (such as SIOFA) to support the implementation of decisions and recommendations made by the CoP under Part III (Art. 25(4));
- f) invitations to provide information to the CoP on implementation of measures SIOFA has adopted to achieve the objectives of ABMTs (Art. 26); and
- g) emergency measures considered under article 24.

BNJ Environmental Impact Assessments and SIOFA

The BBNJ Agreement in Part IV sets out measures and provisions for Environmental Impact Assessments. There are two situations in which SIOFA will need to carry out environmental impact assessments (EIAs): bottom fisheries impact assessments (BFIAs) and new and exploratory fisheries assessments.

Bottom Fisheries Impact Assessments

The UN General Assembly in the [sustainable fisheries resolution](#) in December 2024 recalled that, in “*The future we want*”, States committed to enhance actions to protect vulnerable marine ecosystems [VMEs] from significant adverse impacts, including through the effective use of impact assessments, consistent with international law, the applicable international instruments and relevant General Assembly resolutions and guidelines of the Food and Agriculture Organization of the United Nations.

On deep-sea fisheries, the same resolution called on States and RFMO/As to “ensure that impact assessments, including for cumulative impacts of activities covered by the assessment, are conducted for all types of bottom-fishing activities consistent with the Guidelines, particularly paragraph 47 thereof, are reviewed periodically and are revised thereafter whenever a substantial change in the fishery has occurred or there is relevant new information, and that, where such impact assessments have not been undertaken, they are carried out as a priority before authorizing bottom-fishing activities”, and to ensure that the precautionary approach is applied, including in the utilization of impact assessments to inform management decisions and consideration of significant adverse impacts on VMEs, including their associated and dependent species (para. 227).

The requirement to carry out EIAs was specified in [UNGA resolution 61/105](#) (2006) in paragraph 83(a): “To assess, on the basis of the best available scientific information, whether individual bottom fishing activities would have significant adverse impacts on vulnerable marine ecosystems, and to ensure that if it is assessed that these activities would have significant adverse impacts, they are managed to prevent such impacts, or not authorized to proceed.” The importance of the assessments was underlined in [UNGA resolution 64/72](#) (2009) para 119, calling on States and RFMO/As to “Conduct the assessments called for in paragraph 83 (a) of its resolution 61/105, consistent with the Guidelines, and to ensure that vessels do not engage in bottom fishing until such assessments have been carried out” as well as

calling for them to be publicly available and promoted on the RFMO/A websites (para 22(b)).⁵

Article 29 of the BBNJ Agreement addresses the relationship between the BBNJ Agreement and IFBs such as SIOFA. In addition, article 38 provides for standards and/or guidelines to be developed. SIOFA should participate actively in this process, including collaborating with the scientific and technical body (STB) (article 29(3)) though of course it will not commence until after BBNJ is in force. SIOFA will need to assess its IA procedures against the provisions of article 29 of the BBNJ Agreement.⁶

Public notification is provided for in article 32 of the BBNJ, and includes access to information related to the EIA process (article 32(7)), and public notification and consultation must be inclusive and transparent and be conducted in a timely manner (article 32(4)). Notification and opportunities for participation, including through the submission of comments, shall take place throughout the EIA process, including when identifying the scope of an environmental impact assessment under article 31(1)(b) and when a draft EIA report has been prepared under article 33, before a decision is made as to whether to authorize the activity.

Finally, BBNJ in article 29(5) requires Parties to ensure the EIA is published through the Clearing-House Mechanism and to monitor and review activities and ensure that

⁵ UNGA Sustainable Fisheries Resolutions as recently as 2024 call upon RFMOs to:

- identify where VMEs occur or are likely to occur
- assess significant adverse impacts,
- ensure that impact assessments, including for cumulative impacts of activities covered by the assessment, are conducted consistent with the FAO Deep-sea Fisheries Guidelines, are reviewed periodically and are revised whenever a substantial change in the fishery has occurred or there is relevant new information, and that,
- where such impact assessments have not been undertaken, they are carried out as a priority before authorising bottom fishing activities,
- ensure that CMMs are based on and updated on the basis of the best available scientific information, noting in particular the need to improve effective implementation of thresholds and move-on rules

⁶ Article 29(4) addresses in some detail the issue of EIAs carried out by IFBs. It is not needed to carry out another assessment if (b):

- (i) the assessment already undertaken for the planned activity is equivalent to the one required under this Part, and the results of the assessment are taken into account; or
- (ii) the regulations or standards of the relevant IFB arising from the assessment were designed to prevent, mitigate or manage potential impacts below the threshold for environmental impact assessments under this Part, and they have been complied with.

The process for determining equivalence under paragraph (i) has not been determined, but clearly the SIOFA EIA needs to be “equivalent” to a BBNJ one to qualify. In terms of paragraph (ii), the threshold for EIAs under Part IV is provided for in articles 31(1)(d) and 34(2) of BBNJ: namely, to avoid significant adverse impacts.

monitoring and review reports are published through the Clearing-House Mechanism (article 29(6)).

EIAs and new and exploratory fishing

SIOFA CMM 17/2024, the Conservation and Management Measure for New and Exploratory Fisheries in the Agreement Area, requires in paragraph 5(i) if the proposed fishing activity is bottom fishing, as defined in paragraph [3.b.] of CMM 01(2024), the assessment of the impact of the proposed fishing activity, prepared pursuant to the SIOFA Bottom Fishing Impact Assessment Standard (BFIAS), as defined in paragraph [3.e.] of CMM 01(2024)

Paragraphs 5 and 6 require a fisheries operation plan (FOP) accompanied by a Data Collection and Analysis Plan (DCAP) for the proposed fishery identifying the data needed and any operational research actions needed to obtain data from the proposed fishery to enable an assessment of the stock, the feasibility of establishing a fishery and the impact of the proposed fishing activities on non-target, associated or dependent species and the marine ecosystem in which the fishery occurs.

These requirements will need to be updated to take account of the BBNJ Part IV EIA requirements.⁷

Conclusion

It is important that SIOFA modifies its procedures to prepare for the entry into force of the BBNJ Agreement. Establishing a standing agenda item on BBNJ readiness would be one simple step. Establishing a working group under the MoP would be one effective route. One output could be development of a draft Conservation and Management Measure for submission by a Member to guide the implementation of future area-based management tools. At the same time, examination of necessary actions by the Secretariat would be useful. In addition, examination of BFIAs and the new and exploratory fisheries measure would be useful to ensure they are consistent with BBNJ provisions.

⁷ But the FOP is far short of an environmental impact assessment. In contrast, CCAMLR Conservation Measure [21-02](#) requires in the Fishery Operations Plan biological information on the target species from comprehensive research/survey cruises, such as distribution, abundance, demographic data and information on stock identity; details of dependent and related species and the likelihood of their being affected by the proposed fishery, and information from other fisheries in the region or similar fisheries elsewhere that may assist in the evaluation of potential yield. CCAMLR CM21-02 combined with CM22-06 provides bottom fishing assessments. These assessments are for individual notified vessels and include a required pro-forma (Annex 22-06/A) for submitting preliminary assessments of bottom fishing activities.

Further, the FOP, as an EIA, should be placed on the web with a comment period and with the intended fishing Member taking comments into account.

