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Existing mechanisms to provide support to Developing States under Article 13 of the SIOFA Agreement

SIOFA Secretariat

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Abstract	<p>This paper provides an overview of the existing mechanisms to provide support to Developing States under Article 13 of the Agreement, focusing on the needs of the Developing States bordering the Area, the cooperation between the parties, and the provision of a financial assistance to eligible country.</p>

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² Documents available only to members invited to closed sessions.

Recommendations

The CC and the MoP to consider

- R1 : Identify what is a Developing country in SIOFA

- R2 : introduce vulnerability indices to identify the needs of any CCP more precisely

- R3 : Put in place an Agreement or an MoU with the CCP concerned detailing the issues, the goals, the needs and actions required and the timeline

1. Introduction

During the 11th Meeting of the Parties (MoP) recommended the establishment of a standing agenda item on the implementation of Article 13 of the Agreement and tasked the Secretariat, in preparation for the next ordinary meetings, to develop a paper that outlines the existing mechanisms to provide support to Developing States and other relevant information relating to Article 13.

Article 13 of the Agreement in annex 1, emphasizes three main topics related to the requirements of Developing States. First, the importance of recognition and addressing the needs of Developing States bordering the maritime area, particularly the least developed and small island Developing States. Second, the cooperation required between Cooperating and Contracting Parties (CCP), and third the assistance in terms of human and technical resources, as well as financial support.

A working paper, SC-10-25, on this topic was presented to the 10th SIOFA Scientific Committee (SIOFA SC). The comments made by SIOFA SC paragraph 581 of SC10 Report were included in this paper.

This note details the existing mechanisms regarding these three topics. The topics raised by the Article 13 will be exposed in the next paragraph while *the existing mechanisms will be detailed in italic* as being considered as the SIOFA's mechanisms to tackle the concerns raised in each paragraph of the Article. The relevant paragraph is explained and indicated in parenthesis before the demonstration of each existing mechanism.

2. The needs of Developing States bordering SIOFA maritime area

The first topic raised the Article 13 (paragraph 1 and 2) consists in a recognition by SIOFA members of the needs of the Developing States bordering the Area, in particular the least developed among them and the Small Island Developing States (SIDS), with regard to the conservation and management of fishery resources and the sustainable development of these resources. This recognition is built on the consideration of reliance on fisheries resources of these countries in terms of subsistence, as well as the impacts on artisanal fishers. It should also ensure that SIOFA's conservation and management measures do not have a major impact on riparian States, in particular the least-developed among them and SIDS.

(addressing paragraphs 1 and 2.b) The fisheries exploited in SIOFA's area³ are contained in high seas and most of them are deep-sea fisheries. The impact of deep-sea fishing in the high seas depends on the species exploited and the fishing gears used. An analysis of the impact of fisheries, as well as bottom fisheries, or harvest strategies is done by SIOFA SC to report on whether the exploitation of resources and/or the fishing techniques used have an impact on ecosystems bordering the Area.

(2.b) The developing contracting parties who exploit these areas and whose exploitation represents a major impact for the country, whether in terms of subsistence and nutrition requirements (direct consumption) or economic impact (local jobs, fishworkers, sales, exports) must fall under consideration.

³ SIOFA's area also referred to as the Area.

(2.c) According to Article 13, SIOFA's Conservation and Management Measures (CMMs) should not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto Developing States bordering the Area, in particular the least-developed among them and small island Developing States. Looking at the seventeen CMMs currently in progress, no report identified a significant impact on a bordering developing country.

3. Cooperation by the Contracting Parties

The second topic raised by Article 13 (paragraph 3) deals with the cooperation by the Contracting Parties to:

- (3.a) Enhance the capacity of Developing States bordering the Area to conserve and manage fishery resources and to develop their own fisheries for such resources.

Offering support to a CCP, identified as Developing State, to strengthen its capacity requires identification of the needs to be considered from that State. A survey, extended to the Cooperation Non-Contracting Parties (CNCP), has been carried out on November 29th, 2024, among the States considered as Developing States at MoP11 to define their needs. Once the needs are identified, it should be possible to suggest a working plan to enhance the capacity of targeted States.

- (3.b) Enable them to participate in fisheries for such resources, including facilitating access in accordance with this Agreement.

Several resources, as oil fish, squid, sea cucumber, lobsters, are studied to ensure that a reasonable exploitation is done, in full respect of the neighbouring ecosystems. The Scientific Committee monitors these fisheries and has the role to give recommendations to the MoP if there are concerns on resources stocks or any other scientific topic.

4. Provision of assistance

The third topic of Article 13 (paragraph 4) deals with the provision of assistance with regards to human resources development, technical assistance, transfer of technology as well as financial support. The assistance should be directed specifically towards:

(4.a and 4.b) The improvement of conservation and management of fishery resources and straddling stocks occurring in waters under national jurisdiction adjacent to the Area is made through collaboration with others RFMO's but not directly with the Developing States. SIOFA promotes a better exchange of information through the diffusion of reports and other documents concerning the impact of fishing activities, which are publicly available on SIOFA's website.

(4.c) Most of the reports concerning the stock assessments and scientific research are in public access on SIOFA's website. When necessary, CCPs can access restricted documents following a specific process.

(4.d) A support has been provided regarding control and surveillance at local level to Comoros for the implementation of a BFIA.

(4.e) Since 2022, a financial assistance, enshrined in SIOFA's Financial Regulations, is granted to CCPs eligible to attend ordinary meetings.

5. Conclusions

The Southern Indian Ocean Fisheries Agreement recognizes the concerns the need for special requirements and support for Developing States. It establishes, among other goals, the promotion of a fair access to common resources to the different economies present in the Indian Ocean high seas and the conservation of the ecosystems. This paper demonstrates that SIOFA's Secretariat puts in place some measures and mechanisms to implement Article 13. Nevertheless, to meet the expectations of Article 13, and work efficiently, a clear definition of Developing State should be established in one of SIOFA's official document as a reference for future capacity building improvements and enlargement of SIOFA membership.

The Agreement seems to point out three main characteristics of a Developing State in Article 13 paragraph 2: (a) Vulnerability; (b) Dependence on fisheries/Fishery of subsistence; (c) Small-scale artisanal fishers and fish workers.

Within SIOFA we count 5 Parties that might be considered as Developing States (India, Thailand, South Africa, Kenya, Comoros) and 4 Parties that might be considered as SIDS (Comoros, Cook Islands, Mauritius, Seychelles)

Up to now, the Secretariat has considered Developing States in reference to the World Bank Classification (<https://datatopics.worldbank.org/world-development-indicators/the-world-by-income-and-region.html>). The World Bank Classification is currently used to determine annual contributions based on Gross National Income. As the world is changing, this classification evolves, and some current developing countries may achieve the status of high-income countries. Losing their eligibility might, especially for SIDS, represent a new burden that won't allow the potential growth in process. In this case, to avoid a step back from these new developed countries, a particular consideration for SIDS could be suggested regarding the reliance on fisheries, the insularity and/or the duration in which they have been considered as "High Income". For example, the establishment of a period in which former Developing State might still benefit from assistance related to Article 13 to consolidate their status as Developed Countries/ "High Income" countries by the World Bank. This would allow the Secretariat to develop an action plan with the concerned States to progressively shift toward their new status and be less dependent on external aids. Nonetheless, to implement such action plan, the targets must be identified while the CCPs must recognize their needs for them to be addressed as the Recommendation 45 of the Panel Performance Review indicates. The suggestions to build a definition are detailed in Annex 2. In the same way, it may be useful to establish what is included in "Capacity Building" for CCPs, as well as in SIOFA, might become a requirement to better identify the domains in which assistance can be granted.

Annex 1 - ARTICLE 13 - SPECIAL REQUIREMENTS OF DEVELOPING STATES

1. The Contracting Parties shall give full recognition to the special requirements of developing States bordering the Area, in particular the least-developed among them and small island Developing States, in relation to the conservation and management of fishery resources and the sustainable development of such resources.

2. The Contracting Parties recognize, in particular:

(a) the vulnerability of Developing States bordering the Area, in particular the least-developed among them and small island Developing States, that are dependent on the exploitation of fishery resources, including for meeting the nutritional requirements of their populations or parts thereof;

(b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and fish workers and

(c) the need to ensure that conservation and management measures adopted by the Meeting of the Parties do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto Developing States bordering the Area, in particular the least-developed among them and small island Developing States.

3. Cooperation by the Contracting Parties under the provisions of this Agreement and through other subregional or regional organizations involved in the management of marine living resources should include action for the purposes of:

(a) enhancing the ability of Developing States bordering the Area, in particular the least-developed among them and small island Developing States, to conserve and manage fishery resources and to develop their own fisheries for such resources; and

(b) assisting Developing States bordering the Area, in particular the least developed among them and small island Developing States, to enable them to participate in fisheries for such resources, including facilitating access in accordance with this Agreement.

4. Cooperation with Developing States bordering the Area, in particular the least-developed among them and small island Developing States, for the purposes set out in this article should include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, and activities directed specifically towards:

(a) improved conservation and management of the fishery resources and of straddling stocks occurring in waters under national jurisdiction adjacent to the Area, which can include the collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) improved information collection and management of the impact of fishing activities on the marine environment;

(c) stock assessment and scientific research;

(d) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and

(e) participation in the Meeting of the Parties and meetings of its subsidiary bodies as well as in the settlement of disputes.

Annex 2 - RFMO's characterization of Developing States and Small Island Developing States

According to the Article 13 of the Agreement, the notion of Developing States within the SIOFA might be understandable under 3 criteria stated in paragraph 2:

- (a) Vulnerability
- (b) Dependence on fishery/Fishery of subsistence
- (b) Small-scale artisanal fishers and fish workers.

Furthermore, two categories seem distinct: Developing States and Small Island Developing States (SIDS). In this case, two definitions are needed. SIDS might need additional criteria to be considered such as their insularity or their reliance on fisheries.

The Secretariat suggests that the MoP adopts a definition of “Developing States” and “Small Island Developing States” and categorizes CCPs into such categories depending on the criteria they adopted as a definition. One suggestion would be defining “Developing States” according to the World Bank categorization by “Low income”, “Middle Income” and “Upper-Middle Income” pursuant with the criteria used to determine contribution of CCPs. Knowing that, Table 2 “Criteria for prioritising the selection of eligible applications” of the Annex 1 of the Financial Regulation might be amended to consider the hierarchy between the three different categories to provide Financial Assistance to the applicants.

It is to be noted that the Cook Island are not referenced in the World Bank Classification.

Developing States and Small Island Developing States in other RFMOs in the region

Most of the RFMOs in the region don't formally define for Developing States even though they recognise their particularity, and their Contracting Parties are committed to support them. The South Pacific Regional Fisheries Management Organization (SPRFMO) Convention dedicated an article on the recognition of Developing States and the ensuing needs, Article 19 “Recognition of the Special Requirements of Developing States”.⁴

RFMOs mostly referred to the list of “Least Developed Countries” (LDCs) which was established in 1971 and is reviewed every 3 years by the United Nations. While the list of LDCs by the UN is reliable, it may appear insufficient for SIOFA as the application area of the Agreement is narrowed compared to other RFMOs.

However, the Indian Ocean Tuna Commission stands out when considering a definition of Developing Countries. It considers, in its Rules of Procedure for the administration of the IOTC meeting participation fund, a developing CPC as “any member of cooperating non-contracting party that was under the categories of “Low” or “Middle” income, according to the criteria used in the most recent calculation of the contribution”⁵.

With regards to SIDS, the United Nations defines them as “distinct group of 39 States and 18 Associate Members of United Nations regional commissions that face unique social, economic and

⁴ 2023, SPRFMO Convention. <https://www.sprfmo.int/assets/Basic-Documents/Convention-and-Final-Act/SPRFMO-Convention-2023-update-12May2023.pdf>

⁵ 2013, Rule 1. IOTC Rules of Procedures. <https://iotc.org/sites/default/files/documents/2013/11/Rules%20of%20Procedure%20For%20The%20Administration%20of%20The%20IOTC%20Meeting%20Participation%20Fund%5BE%5D%202013.pdf>

environmental vulnerabilities”.⁶ Granting a particular treatment to SIDS would be consistent with the [1992 United Nations Conference on Environment and Development](#) held in Rio de Janeiro, Brazil in which SIDS were recognized as a special case both for their environment and development. The United Nations considers the Vulnerability-Resilience Country Profiles (VRCP) to better identify the targeted countries and their needs and develop with SIDS a better path towards climate crisis and sustainable development in complement with Multidimensional Vulnerability Index (MVI). According to the Final Report of High-Level Panel on the development of a Multidimensional Vulnerability Index, VRCP “can be used by vulnerable countries to provide granularity and greater characterization of country-specific vulnerability and resilience factors. Linking the VRCP to the MVI acknowledges the variety of country contexts behind similar levels of vulnerability and identifies country-specific pathways to close the vulnerability-resilience gap.”⁷

In the MVI Report, the United Nations also introduces different definitions and aspects of vulnerability such as structural vulnerability and structural resilience and structural lack of resilience.

To summarise, the MVI consists in using a common methodology for all developing countries, which is presented via a summary index number to rank countries and determining national profiles with VRCP, prepared by individual countries, can be used, among other things, to direct support and cooperation toward addressing specific vulnerabilities that are being identified and to enhance resilience. The results of the analysis are expressed in scores. For example, a lower MVI score indicates that a country is relatively less vulnerable to the effects of external shocks.

As said by the United Nations “given the evolving nature of global challenges, including disasters, conflicts, and health pandemics like COVID-19, there is a pressing need for a nuanced understanding of vulnerability and resilience that transcends traditional economic indicators like the Gross Domestic Product (GDP) and GNI pc.”⁸

This is as many criteria and definitions on which SIOFA can build its own definition and consideration of Developing States as well as SIDS and try to be aligned with other RFMOs in the region.

⁶ About Small Island Developing States, United Nations, <https://www.un.org/ohrlls/content/about-small-island-developing-states>

⁷ Final Report of High Level Panel on the development of a Multidimensional Vulnerability Index, https://www.un.org/ohrlls/sites/www.un.org.ohrlls/files/final_mvi_report_1.pdf

⁸ Why the MVI matters, March 2024, <https://www.un.org/en/desa/why-multidimensional-vulnerability-index-mvi-matters>