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Southern Indian Ocean Fisheries Agreement
Accord relatif aux Pêches dans le Sud de l'Océan Indien

10th Meeting of the SIOFA Compliance Committee (CC10) and 13th Meeting of the Parties to SIOFA (MoP13)

Savoy Seychelles Resort & Spa, Beau Vallon, Seychelles, 1–3 July and 6–10 July 2026

MoP-13-15

*Developments related to 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*

The SIOFA Secretariat

Meeting	Compliance Committee <input type="checkbox"/> Meeting of the Parties <input checked="" type="checkbox"/>
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Abstract At its 12 th Annual Meeting, the Meeting of the Parties to SIOFA (MoP) noted the importance of SIOFA staying abreast of developments related to the <i>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</i> (BBNJ Agreement) and other relevant fora, recalling that RFMOs can use advice provided by other international instruments organisations such as the Food and Agriculture Organization of the United Nations (FAO), but Regional Fisheries Management Organisations (RFMOs) are to remain independent and to develop their own management measures. In conclusion to those discussions, the MoP tasked the Secretariat with gathering, where possible in the course of its activities, information on developments related to the BBNJ Agreement and other fora relevant to SIOFA, and with submitting information papers on this information to future meetings of the MoP.	

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Noting the significance of the progress made, the Secretariat has prepared this working paper to provide an update on developments relating to the BBNJ Agreement since the conclusion of the 12th MoP, including relevant outcomes of the Preparatory Commission (PrepCom) process and the Secretariat's engagement in discussions of relevance to SIOFA. The paper also notes that the entry into force of the BBNJ Agreement may require explicit guidance from the MoP regarding the Secretariat's interaction with processes and work undertaken under the BBNJ Agreement.

Recommendations

- That the MoP **notes** the recent developments related to the BBNJ Agreement, including its entry into force (17 January 2026) and the forthcoming first Conference of the Parties (COP1).
- That the MoP **notes** the relatively limited engagement of domestic fisheries administrations in discussions related to the BBNJ Agreement, particularly on matters intersecting with the work of RFMOs, and **encourages** CCPs to participate more proactively in these discussions.
- That the MoP **provides** further guidance, if any, to the Secretariat on how it wishes the Secretariat to continue engaging with the BBNJ process.

Developments related to 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*

Background

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) was adopted by the United Nations General Assembly on 19 June 2023, following nearly two decades of international discussions and negotiations. The Agreement represents the first comprehensive international legally binding instrument specifically dedicated to the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction (ABNJ), which cover approximately two-thirds of the global ocean. The origins of the BBNJ process can be traced back to discussions within the United Nations Ad Hoc Open-ended Informal Working Group established in 2004 to study issues relating to the conservation and sustainable use of marine biodiversity beyond national jurisdiction.

The areas of focus of the BBNJ Agreement are as follows:

- i. Area-based management tools (ABMTs), including MPAs
- ii. Environmental impact assessments (EIAs)
- iii. Fair and equitable sharing of benefits arising from marine genetic resources
- iv. Capacity building and transfer of marine technology (CBTMT)

Following the adoption of the BBNJ Agreement, and prior to its anticipated entry into force, the United Nations General Assembly through resolution 78/272 decided to establish a *Preparatory Commission for the Entry into Force 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 and the Convening of the First Meeting of the Conference of the Parties to the Agreement* (PrepCom), which would cease to exist at the conclusion of the first meeting of the Conference of the Parties (COP) to the BBNJ Agreement. This post-adoption PrepCom process has focused on operationalizing the institutional and administrative arrangements necessary for implementation of the BBNJ Agreement, including:

- rules of procedure for the COP and subsidiary bodies;
- financial rules and funding arrangements;
- arrangements for the Secretariat;
- modalities for cooperation and coordination with existing instruments, frameworks and bodies, including RFMOs;
- reporting arrangements;
- the clearing-house mechanism; and
- establishment of subsidiary bodies such as the Scientific and Technical Body and compliance-related mechanisms

With the entry into force of the BBNJ Agreement, the First Meeting of the Conference of the Parties (COP1) is expected to be convened in January 2027. COP1 is anticipated to focus primarily on advancing the operationalisation of the Agreement, including consideration and adoption of the draft decisions, recommendations and institutional arrangements developed through the PrepCom processes.

Secretariat Engagements with the BBNJ Process Since MoP12

The 12th Meeting of the Parties to SIOFA (MoP12) underscored the importance of SIOFA staying informed about developments in the BBNJ and other relevant international fora. In doing so, the MoP recalled that, while RFMOs may draw upon advice and information from other international organisations and instruments, they remain independent bodies responsible for developing and adopting their own conservation and management measures.

Following these discussions, the MoP tasked the Secretariat, where possible in the course of its activities, with monitoring and gathering information on developments related to the BBNJ Agreement and other relevant fora, and reporting on such developments to future meetings of the MoP through information papers.

Since MoP12, the Secretariat has participated in the following meetings related to the BBNJ Agreement:

Meeting	Location	Dates	Attendee
Regional Workshop on the BBNJ Agreement ³	Addis Ababa, Ethiopia	1 – 5 December 2025	Compliance Officer
PrepCom III ⁴	United Nations Headquarters, New York, USA	23 March - 2 April 2026	Compliance Officer

³ Regional Workshop on the BBNJ Agreement for African States on the coasts of the Indian Ocean, Gulf of Aden and Red Sea, and landlocked States in these regions, as well as States of the Benguela Current Convention

⁴ Preparatory Commission for the Entry into Force 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 and the Convening of the First Meeting of the Conference of the Parties to the Agreement (Third session)

Regional Workshop on the BBNJ Agreement (1 – 5 December 2025)

The SIOFA Secretariat was invited to this Regional Workshop on the BBNJ Agreement as an RFMO to contribute to discussions on Regional and Subregional Instruments, frameworks, and bodies (IFBs) under the BBNJ Agreement that will support the implementation of its provisions, notably Part III on Measures, such as Area-Based Management Tools (ABMTs), including Marine Protected Areas. The SIOFA Secretariat sat on two panels that provided much-needed insight into the work of RFMOs, including how we function, our governance arrangements, decision-making processes, and compliance monitoring schemes. The discussions also provided insight into how RFMOs will potentially interact with the BBNJ Agreement, recalling that while Part III of the BBNJ Agreement contains provisions that may have implications for fisheries, the Agreement also recognises the existing mandates and competencies of RFMOs, and further requires the COP and its subsidiary bodies to consult with relevant RFMOs when considering matters and measures relating to ABMTs.

During the discussions, it was noted that continued dialogue between the COP and its subsidiary bodies, and RFMOs, will be necessary to promote greater awareness and understanding of the work of RFMOs, including their roles, functions, and the outcomes they have achieved over time, which remain insufficiently understood among relevant stakeholders participating in the COP and other BBNJ-related processes. The discussions also highlighted that, while the agreement includes a mechanism to involve RFMOs in discussions on ABMTs, its practical application remained unclear. As such, continued dialogue among RFMOs, the COP, and other relevant stakeholders will be necessary to ensure RFMOs are included in these processes once the BBNJ agreement enters into force.

The workshop also strengthened the Secretariat's understanding of the BBNJ Agreement and its potential implications for the work of SIOFA and RFMOs more broadly, thereby enhancing its capacity to inform and support CCPs in understanding the Agreement, its associated processes, and its relevance to the work of RFMOs. This enhanced understanding will further enable the Secretariat to engage more effectively in future discussions and to facilitate informed and constructive dialogue with the COP and other relevant stakeholders.

PrepCom III (23 March - 2 April 2026)

The SIOFA Secretariat attended the third Session of the Commission (PrepCom III), held from 23 March to 2 April 2026. This session was preceded by the Commission's first and second sessions, convened at United Nations Headquarters from 14 to 25 April 2025 and from 18 to 29 August 2025, respectively.

Prepcom III addressed the following matters:

- Financial rules governing the funding of the Conference of the Parties to [the BBNJ Agreement]
- Terms of reference and modalities for the operation of, and rules of procedure for, the subsidiary bodies, including the selection process for their members
- Arrangements to enhance cooperation with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies (IFBs)
- Operationalization of other provisions on financial resources and mechanism under [the BBNJ Agreement], including operationalizing the special fund
- Arrangements with the Global Environment Facility to give effect to the relevant provisions on funding of [the BBNJ Agreement]
- Arrangements for the functioning of the secretariat, including its seat

- Draft rules of procedure for the Conference of the Parties to [the BBNJ Agreement]
- The operationalization of the Clearing-House Mechanism under [the BBNJ Agreement]
- Draft terms of reference and modalities for the operation of, and rules of procedure for, the subsidiary bodies established under [the BBNJ Agreement]
- Draft financial rules governing the funding of the Conference of the Parties to [the BBNJ Agreement] and the funding of the secretariat and any subsidiary bodies
- Draft memorandum of understanding between the Conference of the Parties to [the BBNJ Agreement] and the Council of the Global Environment Facility

A number of discussions at PrepCom III concerned the institutional setup of the BBNJ Agreement. However, several agenda items were of direct interest and, in some cases, potential concern to SIOFA. These include, inter alia:

Rules of procedure for the Conference of the Parties to [the BBNJ Agreement]:

The PrepCom has been considering a draft Rules of Procedure (RoP) since its first session, which will be presented to COP1 for consideration and adoption. The Draft RoP includes provisions on meeting modalities, observers, meeting proceeds, representation and credentials, the bureau of the Conference of the Parties (COP), subsidiary bodies, the decision-making process, and the duties of the Secretariat, among other matters.

Of concern to the Secretariat (and other RFMO Secretariats) was that:

- Observer status of IFBs would not be automatic, and can be rejected if two-thirds of the Parties object to the request for observer status
- There was no agreement that observer states should be perpetual, meaning that observers, including RMFOs, may have to seek observer status at each Meeting of the Conference of the Parties and its subsidiary bodies. This may affect these observers' participation, adding an administrative burden on smaller secretariats to attend meetings, including when the matter under discussion intersects with or overlaps their respective mandates.
- There was no agreement to formally recognise and prioritise engagements with IFBs with mandates that will intersect and overlap with the BBNJ agreement, especially RFMOs

Arrangements to enhance cooperation with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies (IFBs)

Article 5.2 of the BBNJ Agreement provides that the Agreement shall be interpreted and applied in a manner that does not undermine relevant IFBs, which include RFMOs, and that the Agreement shall promote coherence and coordination with those IFBs. Article 8.1 of the Agreement further requires that the Parties (to the agreement) shall *endeavour* to promote the objectives of the BBNJ Agreement when participating in decision-making under other relevant legal instruments, frameworks, or global, regional, subregional, or sectoral bodies, including RFMOs.

As such, there were extensive discussions both in the PrepCom plenary sessions and on the margins of the PrepCom on how to operationalise these provisions in the form of a draft decision for the first Conference of the Parties on *Arrangements to enhance cooperation with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies*.

The key outline of this draft decision for the consideration by the first COP was that it agreed that all cooperation with IFBs, including RFMOs, shall be guided by:

- the need for regular engagement and consultations with relevant IFBs on matters related to the Agreement and facilitation of their participation, as observers, in the work of the COP and its Subsidiary bodies;
- the need for a gradual approach towards a strategic prioritisation of early cooperation arrangements with IFBs whose mandates directly intersect with the objectives of the Agreement;
- the recognition of mandate complementarity and various synergies between the Agreement and relevant IFBs by leveraging the expertise and best practices of IFBs and existing cooperation and coordination arrangements and platforms;
- the promotion of equity and inclusiveness, including by taking into account the needs and interests of all relevant stakeholders, as well as the prioritisation of the full participation of developing states, in particular SIDS, LDCs, and LLDCs; and
- the need for a flexible approach to cooperation under the Agreement and the need to maintain a flexible approach to operationalising such cooperation that allows for cooperation arrangements to adapt to emerging needs and priorities that evolve over time, while taking into account the practicality of arrangements and complementarity in activities, as well as existing legal obligations and standards.

A prominent concern raised during the discussions was the need to ensure that cooperation supports the objectives of the agreement while also respecting the mandates of other IFBs, avoiding duplication, and effectively leveraging existing expertise and arrangements. To this end, RFMO secretariats present were of the view that engagements with IFBs should prioritize engagement with organizations with *established regulatory mandates over activities in areas beyond national jurisdiction, such as, first and foremost, the regional fisheries management organizations*. This shall ensure that the implementation of the Agreement builds upon existing governance frameworks, avoids duplication of mandates or processes, optimises coordination, prevents conflicts in interpretation and implementation, and promotes useful synergies.

The RFMOs also suggested that the PrepCom should improve the current draft “Terms of Reference” of the Scientific and Technical Body (STB) of the Agreement, as the current provision merely permits the STB to draw advice from relevant bodies, which does not guarantee that the outputs of the long-established scientific bodies of RFMOs will be systematically integrated into its work. The RFMOs were of the view that a clear requirement should be established for the STB to systematically consult RFMOs and their scientific bodies, and to appropriately take into account the information, data, and advice they provide. Failing to do so risks duplicating, or even undermining, the well-established, science-based frameworks that have long supported governance in areas beyond national jurisdiction. These frameworks reflect decades of accumulated expertise and should be recognised and utilised as a key asset rather than treated as secondary.

RFMOs emphasised the importance of timely consultations, noting that their established decision-making cycles involve sequential consideration by scientific committees and other subsidiary bodies, followed by consultations with members before decisions can be adopted. Depending on the processes of each RFMO, this can take a full calendar year or more. In this context, it was stressed that the COP should take these timelines into account when considering measures that may affect RFMOs, and reflect this in its procedures, guidelines, or relevant decisions to ensure effective and meaningful engagement.

Finally, it was noted that cooperation based on information exchange should take into account confidentiality requirements and data protection considerations applicable within RFMOs.

These suggestions highlight that effective and structured engagement with RFMOs will be particularly critical to the implementation of Part III of the BBNJ Agreement, which relates to “*Measures such as Area-Based Management Tools, including Marine Protected Areas*”, and to a lesser extent, the implementation of Part IV on “*Environmental Impact Assessments*”. Given the potential implications of such measures for existing RFMO mandates and management frameworks, early, meaningful, and coordinated consultation will be essential to ensure coherence, avoid conflict, and build upon established regional governance systems in areas beyond national jurisdiction.

It should be noted, however, that most of those suggestions were not reflected in the final draft decisions to be submitted to the first COP for its consideration.

Other Matters Discussed on the Margins of the Meetings

The Secretariat had the opportunity to engage with other RFMOs at various side meetings on the margins of PrepCom III. Some of the points discussed, including concerns raised, were:

- There is a need for greater recognition of ongoing work at the operational level, particularly the role and contributions of RFMOs in implementing fisheries management and governance measures.
- There is a need to strengthen the engagement of fisheries managers and administrations in the BBNJ Agreement process, as they are often not sufficiently involved in internal discussions despite being central to implementation at the national level. This gap contributes to a persistent disconnect between domestic processes related to the BBNJ Agreement and those linked to RFMOs and other RFBs, a challenge commonly observed in many RFMOs.
- Need to ensure that decisions in the BBNJ processes are evidence-based, going back to the need to ensure timely and meaningful engagement with RFMOs.
- More emphasis on the complementarity between the BBNJ and the work of RFMOs

Conclusions

The PrepCom process has now concluded, and the next formal meeting under the BBNJ framework will be COP1, tentatively scheduled for January 2027. While significant progress has been made towards the operationalisation of the BBNJ Agreement, substantial work remains to be undertaken, including the finalisation of key Terms of Reference, Rules of Procedure, and institutional arrangements necessary to support implementation. Of particular relevance to RFMOs and other IFBs, although there is broad recognition of their importance within the future BBNJ framework, the precise modalities for collaboration, consultation, and participation have yet to be fully determined.

In this context, it is recommended that the Secretariat, either independently or through relevant networks, continue to engage proactively in dialogue with the COP and its subsidiary bodies. Such engagement will be important to promote greater awareness and understanding of the mandates, roles, functions, expertise, and long-standing contributions of RFMOs, and to support informed, balanced, and evidence-based discussions within BBNJ-related processes. It will also help ensure that arrangements adopted under the BBNJ framework remain operational, coherent with existing regional fisheries governance frameworks, and complementary to, rather than duplicative of or undermining, established RFMO mandates and processes.

In particular, further attention should be given to establishing structured, predictable, and systematic modalities for engagement between the BBNJ framework and IFBs, including RFMOs, especially in relation to consultation processes under Part III of the Agreement and the work of subsidiary bodies. This should include effective consultation with RFMO scientific and technical bodies, due consideration of their outputs, alignment with established RFMO institutional and decision-making cycles, and clarification of observer participation arrangements to support stable and meaningful cooperation while avoiding unnecessary administrative burdens or discontinuity.

Further attention should be given to ensuring that any arrangements for data and information exchange are fully consistent with applicable confidentiality obligations and data governance requirements within RFMOs.

It should also be noted that the draft decisions, procedures, and institutional arrangements discussed during the PrepCom process have yet to be formally adopted by the COP. As such, while RFMO Secretariats may continue to provide recommendations and technical input on matters relevant to their mandates and expertise, it will be important for Parties to the BBNJ Agreement, including through stronger engagement of fisheries managers and administrations at the national level, to participate proactively in forthcoming COP processes to ensure that RFMO-related considerations are appropriately reflected in the final outcomes and arrangements adopted under the BBNJ framework. Such engagement will also help address the institutional disconnect that is commonly observed between domestic BBNJ-related processes and RFMO- and RFB-related processes, which may otherwise limit coherent implementation and the effective communication of RFMO concerns and expertise within COP discussions.

Overall, continued and proactive engagement by RFMOs and their Secretariats will be essential to reaffirm the principle of complementarity between the BBNJ framework and existing regional fisheries management regimes, and to ensure that future measures adopted under the BBNJ Agreement build upon, and effectively cooperate with, established regional governance structures and management frameworks.