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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

RESTREINT UE



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NOTE

Subject : Conservation and sustainable use of biodiversity in marine areas beyond the limits of national jurisdiction

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Conservation and sustainable use of biodiversity in marine areas beyond the limits of national jurisdiction

- EU position 2nd draft -

NOTE: The draft EU position is to be submitted to WPIEI biodiversity, and the Working Party on External Fisheries. The Working Party on External Fisheries (28 April) is invited to consider this paper and to focus in particular on the fisheries aspects of the position. WPIEI Biodiversity (02 May) is invited to consider this paper and to focus in particular on the biodiversity aspects of the position. After discussion by WPEF (28 April) and WPIEI (02 May) the EU position is to be finalized in COMAR (13 May).

Introduction

1. At the COMAR meeting of 6 December 2004, the Netherlands has offered to provide a draft of a EU position on “the conservation and sustainable use of biodiversity in marine areas beyond the limits of national jurisdiction”. The objective of the present paper is to formulate an EU position on the basis of the discussions held at COMAR, WPIEI biodiversity, and the Working Party on External Fisheries. It is a follow up to the non-paper COREU CFSP/PRES/HAG/0939/04.
2. Within the EU there is consensus that there is at present no adequate and effective integrated framework for the conservation and sustainable use of biodiversity in marine areas beyond the limits of national jurisdiction. The general opinion within the EU is that the conservation and sustainable use of biodiversity in marine areas beyond national jurisdiction is an important issue that needs to be addressed by the global community and that the EU should play a pro-active role in this discussion.

The EU underscores the urgency to consider ways to integrate and improve, on a scientific basis and in accordance with UNCLOS, the management of risks to the marine biodiversity of seamounts, cold water corals, hydrothermal vents and certain other underwater features.

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3. An EU position is necessary for a consistent EU input in amongst others:
- The first Ad Hoc Open Ended Working Group on Protected Areas of the CBD in June 2005, in Italy.
 - The ICP in June 2005, in New York.
 - The Ad Hoc Open-ended Informal Working Group (AOIWG) established by the General Assembly of the United Nations to study the issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction (See A/res/59/24, para. 73).

Short-term and medium-term tracks

4. In order to adequately address the conservation and sustainable use of biodiversity in marine areas beyond the limits of national jurisdiction it is important to differentiate between the medium-term track and the short-term track.

5. The medium-term track should be the development of an implementing agreement of UNCLOS. In the short-term enhanced cooperation between the different fora dealing with Law of the Sea and marine biodiversity issues should be achieved. In addition, urgent action to address destructive practices and to protect marine biodiversity and ecosystems should be considered, as well as, support for certain other (e.g. private) initiatives.

6. **Short-term track**

a) enhanced co-ordination between fora

Enhanced co-ordination between *e.g.* the secretariats of UN, ISBA, IMO, FAO, CBD, RFMO's and UNEP regional sea programmes should be promoted. This could inter alia be achieved by exchange between the secretariats of information and personnel involved with the conservation and sustainable use of marine biodiversity in areas beyond the limits of national jurisdiction.

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b) urgent action

Urgent action is required to address destructive practices that have adverse impacts on marine biodiversity and ecosystems, including seamounts, hydrothermal vents and cold water corals (See A/res/59/24 para. 70). Urgent action should address immediate concerns. The urgent action should allow the international community time to assess the gaps in scientific knowledge, management and ocean governance necessary to ensure sustainable deep-sea fisheries on the high seas and protect deep-sea biodiversity.

The urgent action should concern all damaging activities (See Report A/59/62, paras. 229 - 250). Urgent action should be based on the best available scientific information and on the application of the precautionary principle. Such action could e.g. include regulation of damaging activities and the identification of areas of high biological diversity and vulnerable ecosystems as well as steps towards the protection of such areas (e.g. the establishment and management of marine protected areas and/or “no take zones”). RFMO's should have a crucial role in these actions.

c) supporting certain (private) initiatives

The EU should support current initiatives aimed at (the facilitation of) regulation, such as codes of conduct. The 2004 Report of the Secretary General on Oceans and the Law of the Sea has already identified a few examples of such initiatives concerning marine research and seabed tourism (See Report A/59/62, para. 249).

7. **Medium-term track**

implementing agreement of UNCLOS

At the ICP of 2004 the EU stated to be in support of developing an instrument within the framework of UNCLOS that will provide for the conservation and management of marine biological diversity in areas beyond the limits of national jurisdiction (See EU statement at http://europa-eu-un.org/articles/en/article_3568_en.htm).

It is proposed that the AOIWG should recommend to UNGA 2006 - and formulate the terms of reference for - the establishment of an Intergovernmental Negotiating Committee (INC) that should eventually result in the adoption of a legal instrument by a diplomatic conference.

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Guiding principles for the EU in the negotiations should inter alia be the precautionary principle, integrated management approach, ecosystem approach, and best scientific information.

The terms of reference of the INC should include:

- (i) identification of vulnerable ecosystems and species in marine areas beyond the limits of national jurisdiction;
- (ii) the regulation of human activities such as marine scientific research, destructive fishing practices, and deep-sea tourism in marine areas beyond the limits of national jurisdiction;
- (iii) the establishment of an integrated network of marine protected areas beyond the limits of national jurisdiction to protect vulnerable marine ecosystems; and
- (iv) international coordination with bodies responsible for deep seabed mining and the use of genetic resources with a view to promoting integrated management based on the ecosystem approach.

NOTE:

COMAR has not addressed deep sea bed mining in this discussion, as this matter is dealt with under Part XI of UNCLOS and the Implementing Agreement. COMAR considered that bio prospecting, and the use of genetic resources should not be included in the terms of reference for the INC, given ongoing discussions in other fora, but would welcome views of the other working parties on this issue.

Action requested

8. COMAR, the External Fisheries Group and WPIEI Biodiversity are invited to consider the above stated draft EU position and to agree on using the views formulated in this paper in all relevant discussions concerning the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction in all relevant international fora.