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European Union

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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

Delegations will find annexed comments from the United Kingdom delegation concerning doc. 8339/05 on the conservation and sustainable use of biodiversity in marine areas beyond the limits of national jurisdiction.

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PROTECTION OF BIODIVERSITY IN MARINE AREAS BEYOND

1. NATIONAL JURISDICTION

2. SUMMARY

The UK supports: development of new implementation agreement; encourages identification of key areas of work set out in the Netherlands papers; supports exclusion from proposed implementation agreement of work covered by ISBA and issues covered by Antarctic Treaty regime; supports work on genetic resources being facilitated by UN expert group; recognises key role of RFMOs in taking effective action regarding destructive fisheries practices; does not support use of a blanket, high seas moratorium on all bottom trawling; supports use of moratoria where no RFMOs exist; supports establishment of new RFMOs and strengthened conservation powers; supports improved inter-agency / governmental co-operation, including role of UN Oceans.

3. DETAIL

1. The UK thanks the Netherlands for seeking to develop an EU position on biodiversity, and fully supports this initiative. We recognise the need for the international community to develop a more effective and co-ordinated approach, with the EU taking a leading role. This approach will need to inform EU positions not just in the fora mentioned in the Netherlands paper, but also in other fora where sectors impact on biodiversity. We note in this context the helpful and effective way the Luxembourg Presidency has sought views across Council working groups.

2. It is useful to look at measures to be pursued in the short and medium term tracks, but effective action should be taken at the earliest opportunity. The UK emphasises its support for the EU position that UNCLOS and its implementing agreements provide the legal framework within which activities in the oceans and seas are carried out, and that UNCLOS itself should not be amended.

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3.1. Medium term track

3. The UK supports the proposal for the development of an implementation agreement under UNCLOS. This offers a coherent and integrated approach to conserving marine biodiversity within the broader context of the EU's international sustainable development policies. We draw attention to growing pressure on marine biodiversity in areas beyond national jurisdiction, the importance of applying the ecosystem and precautionary approaches, weaknesses in the oceans governance structure and the associated need to implement our international commitments and targets on sustainable fisheries, poverty reduction, biodiversity loss and protected areas.

4. The Dutch papers identify key aspects to be considered in taking forward work on an implementation agreement. These are identification of vulnerable ecosystems and species; consideration as to the type and regulation of particular human activities; and the identification and application of tools and mechanisms such as marine protected areas and their networks.

5. Close co-operation with a range of bodies and interests will be important. We welcome the decision by the Secretary-General to establish an informal working group to study issues relating marine biodiversity in areas beyond national jurisdiction. It will be important that this group co-operates closely with the open-ended working group on protected areas established through the CBD, and that they comprise a broad representation of relevant organisations - MEAs, RFMOs, FAO, UNEP, ISBA, regional seas conventions and IMO, for example.

6. Exclusions: the UK agrees that the regulation of seabed mining within the scope of the 'Area' as established by UNCLOS should be excluded. ISBA has a clear mandate here, including consideration of environmental impacts.

7. The UK recognises the sensitivity of the use of genetic resources and associated bio prospecting, and thus the pragmatic basis for the Netherlands excluding this area of work from a proposed implementation agreement. At the same time, current international approaches to developing consensus are problematic and this is an issue of some importance for biodiversity conservation,

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leaving aside questions of access to, and share in, benefits of such resources. It would be helpful if the EU takes this opportunity to signal the importance we attach to making progress. We could suggest that the UN expert group mentioned above should look at promoting consensual solutions to the basis on which the exploitation and use of genetic resources in areas beyond national jurisdiction might proceed, and the implications for biodiversity conservation. In so doing, we could leave open the possibility of an implementation agreement being used if consensus emerges.

8. Antarctica: the UK believes (as an earlier Netherlands Presidency paper remarked) that 'a special situation exists for Antarctica' given the role of the Antarctic Treaty System, which includes the conservation and management of the marine biodiversity of the Antarctic maritime area. In due course we assume the EU position will reflect the need to make an appropriate exclusion of Antarctica.

3.2. Shorter term track/ongoing actions and processes

(a) enhanced co-ordination between fora and processes

9. The UK supports this proposed focus of action in the Netherlands papers. Current efforts by States and relevant organisations should continue and be enhanced, as we work towards more medium and longer term solutions. Shorter-term actions can, for example, entail improved inter-agency and inter-governmental co-operation and co-ordination. We draw attention to the establishment of UN Oceans, which has now held its first meeting and has established a Task Force on marine biodiversity in areas beyond national jurisdiction. The EU can support UN Oceans in promoting enhanced co-operation and co-ordination between fora. The establishment and close working of the expert groups mentioned at paragraph 6 will also assist. The EU is well placed to encourage opportunities in fora such as UN's Informal Consultative Process, the FAO and through regional mechanism for cross-sectoral attendance and dialogue.

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3.3. RFMOs, and moratoria

10. The UK supports full implementation of the UN Fish Stocks Agreement and the strengthening of regional fisheries management organisations. The importance of effective RFMOs with appropriate regulatory and ecosystem based management powers needs to be reflected in the development of an EU position.

11. The UK is committed to tackling fishing practices destructive of vulnerable biodiversity in areas beyond national jurisdiction. We welcome the outcome from last year's UN General Assembly resolutions on oceans fisheries, requiring States and regional fisheries management bodies to take urgent action to protect vulnerable biodiversity based on scientific evidence and the precautionary principle. Properly done, this allows for effective targeted action to be taken including stopping bottom trawling if judged destructive by the appropriate RFMO. We note that this targeted policy has been pursued effectively by the North East Atlantic Fisheries Commission. Accordingly, the UK does not support a blanket moratorium on bottom trawling in areas beyond national jurisdiction.

12. The UK welcomes the call in last year's UN fisheries resolution for the establishment of new RFMOs in areas beyond national jurisdiction where there are currently none, in order to promote effective fisheries management and conservation of vulnerable biodiversity; and by the same token to extend the powers of existing RFMOs where current management powers are inadequate.

13. The UK also recognises that to establish new bodies, or extend remits of current RFMOs, may take time. Accordingly, the UK supports the use of moratoria in relation to particular fisheries practices in areas of the high seas where RFMOs do not currently exist, or where their management and regulatory powers are inadequate to effectively conserve vulnerable marine ecosystems and species. We note that the most recent draft EU position paper from the Netherlands removes reference to the use of moratoria, notwithstanding the clear support for moratoria by other Member States in the circumstances outlined above. The UK looks forward to the restoration of the use of moratoria in these particular circumstances in a revised EU position paper. We also recognise that other approaches are available for conserving biodiversity, and moratoria may not always be the best option.

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14. Finally, the UK draws attention to the contribution that can be made by effective, urgent action in tackling illegal, unreported and unregulated (IUU) fishing in areas beyond national jurisdiction. This is essential in moves towards broader improved oceans governance, including the strengthening of RFMOs, as well as working towards more sustainable, ecosystem based fisheries. Developing countries suffer particular losses from IUU fishing, in terms of food and livelihood hardship, as well as lost revenue. Making this linkage to improved oceans governance will help the EU make the case for actions in conserving biodiversity in areas beyond national jurisdiction.

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