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SUBSIDIARY BODY ON SCIENTIFIC,
TECHNICAL AND TECHNOLOGICAL ADVICE
Twenty-second meeting
Montreal, Canada, 2-7 July 2018
Agenda item 8

Marine and coastal biodiversity Draft recommendation submitted by the Chair

The Subsidiary Body on Scientific, Technical and Technological Advice

1. *Recalls* paragraph 13 of decision XIII/12, and paragraphs 8 and 11 of decision XII/22;
2. *Requests* the Executive Secretary to prepare a draft revision, as necessary, of the terms of reference of the informal advisory group on ecologically or biologically significant marine areas,¹ based on recommendations by the Subsidiary Body with respect to the tasks and responsibilities outlined concerning the modification of existing ecologically or biologically significant marine areas and the description of new ecologically or biologically significant marine areas, as proposed in the annex to these recommendations, and submit the draft revision for the consideration of the Conference of the Parties at its fourteenth meeting;
3. *Recommends* that the Conference of the Parties at its fourteenth meeting adopt a decision along the following lines:

The Conference of the Parties,

Ecologically or biologically significant marine areas

Reaffirming decisions X/29, XI/17, XII/22 and XIII/12 on ecologically or biologically significant marine areas,

Reiterating the central role of the General Assembly of the United Nations in addressing issues relating to the conservation and sustainable use of biodiversity in marine areas beyond national jurisdiction,

[Recalling that United Nations General Assembly resolution 64/71 reaffirms that the United Nations Convention on the Law of the Sea sets out the legal framework within which all activities in the oceans and seas must be carried out,]

1. *Welcomes* the scientific and technical information contained in the summary reports prepared by the Subsidiary Body on Scientific, Technical and Technological Advice at its twenty-second meeting, annexed to the present draft decision, based on the reports of the two regional workshops for describing ecologically or biologically significant marine areas in the Black Sea and the Caspian Sea, and in the Baltic Sea,² and *requests* the Executive Secretary to include the summary reports in the EBSA repository, and to submit them to the United Nations General Assembly and its relevant processes, as well as Parties, other Governments and relevant

¹ Decision XIII/12, annex III.

² CBD/EBSA/WS/2017/1/3 and CBD/EBSA/WS/2018/1/4.

international organizations, in line with the purpose and procedures set out in decisions [X/29](#), [XI/17](#), [XII/22](#) and [XIII/12](#);

2. *Also welcomes* the report of the Expert Workshop to Develop Options for Modifying the Description of Ecologically or Biologically Significant Marine Areas, for Describing New Areas, and for Strengthening the Scientific Credibility and Transparency of this Process,³ held in Berlin from 5 to 8 December 2017, and [*endorses*][*takes note of*] the set of options, as contained in the annex to the present decision;⁴

3. *Requests* the Executive Secretary to work with Parties, other Governments and relevant organizations to facilitate implementation of this set of options through the provisioning of scientific and technical support to Parties, other Governments and relevant competent intergovernmental organizations, as appropriate;

4. *Calls for* further collaboration and information-sharing among the Secretariat of the Convention on Biological Diversity, the Food and Agriculture Organization of the United Nations, the International Maritime Organization and the International Seabed Authority, as well as regional fishery bodies, regional seas conventions and actions plans, and other relevant international organizations, regarding the use of scientific information related to ecologically or biologically significant marine areas [in the application of relevant area-based management tools], with a view to contributing to the achievement of the Aichi Biodiversity Targets and relevant Sustainable Development Goals;

5. *Reaffirms* that the sharing of the outcomes of the process under the Convention for the description of areas meeting the criteria for ecologically or biologically significant marine areas does not prejudice the sovereignty, sovereign rights or jurisdiction of coastal States, or the rights of other States;

Other matters

6. *Takes note* of the continued work of the Executive Secretary on the compilation and synthesis of information related to:

(a) The impacts of anthropogenic underwater noise on marine and coastal biodiversity, and means to minimize and mitigate these impacts;

(b) Experiences with the application of marine spatial planning;

7. *Encourages* Parties, other Governments and relevant organizations to use this information, including in their efforts to minimize and mitigate the impacts of anthropogenic underwater noise and to apply marine spatial planning;

8. *Recalls* decisions XIII/10 on marine debris and XIII/11 on biodiversity in cold-water areas, *notes* the outcomes of the United Nations Conference to Support the Implementation of Sustainable Development Goal 14,⁵ and *urges* Parties to increase their efforts with regard to:

(a) Minimizing and mitigating the impacts of marine debris, in particular plastic pollution, on marine and coastal biodiversity;

(b) Addressing the potential impacts of deep-seabed mining on marine biodiversity;

(c) Protecting biodiversity in cold-water areas;

³ CBD/EBSA/EM/2017/1/3.

⁴ Contained in CBD/SBSTTA/22/7.

⁵ See General Assembly resolution [71/312](#) of 6 July 2017.

9. *Requests* the Executive Secretary to inform the United Nations Environment Assembly's Ad Hoc Open-Ended Expert Group on Marine Litter of the relevant work undertaken by the Convention, and also to participate, as relevant, in the work of the Expert Group;⁶

10. *Welcomes* the work of the Executive Secretary in compiling information on the mainstreaming of biodiversity in fisheries, including through the ecosystem approach to fisheries,⁷ and *encourages* Parties and *invites* other Governments and relevant organizations to make use of this information;

11. *Welcomes* the capacity-building and partnership activities being facilitated by the Executive Secretary through the Sustainable Ocean Initiative at the national, regional and global levels in collaboration with Parties, other Governments and relevant organizations, *expresses its gratitude* to the Governments of Japan, France, the Republic of Korea and Sweden, and to the European Union and many other partners, for providing financial and technical support for the implementation of activities related to the Sustainable Ocean Initiative, and *requests* the Executive Secretary to continue these activities under specific themes within the framework of the Sustainable Ocean Initiative;

12. *Also welcomes* the collaborative efforts among the Secretariat, the United Nations Environment Programme, the Food and Agriculture Organization of the United Nations, regional seas conventions and action plans, regional fisheries bodies, large marine ecosystem projects/-programmes and other relevant regional initiatives to strengthen cross-sectoral cooperation at the regional scale in order to accelerate progress to achieve the Aichi Biodiversity Targets and relevant Sustainable Development Goals,⁸ including through the Sustainable Ocean Initiative Global Dialogue with Regional Seas Organizations and Regional Fisheries Bodies, and *requests* the Executive Secretary to transmit the outcomes of the first and second meetings of the Sustainable Ocean Initiative Global Dialogue to relevant global and regional processes, and to collaborate with Parties, other Governments, relevant organizations and donors to facilitate on-the-ground implementation of these outcomes;

13. *Invites* the Food and Agriculture Organization of the United Nations and regional fisheries bodies to contribute scientific information, experiences and lessons learned, as appropriate, including relevant reporting from the Code of Conduct for Responsible Fisheries Questionnaire, as an input for the fifth edition of the *Global Biodiversity Outlook*;

14. *Welcomes the cooperation between the Food and Agriculture Organization of the United Nations, the Fisheries Expert Group of the Commission of Ecosystem Management under the International Union for Conservation of Nature, and the Secretariat to support, and improve reporting on, the achievement of Aichi Biodiversity Target 6, and requests the Executive Secretary to continue this cooperation.*

⁶ *Noting* United Nations Environment Assembly resolution 3/7 on marine litter and microplastics and, in particular, the invitation to relevant international and regional organizations and conventions, including the Convention on Biological Diversity, as appropriate within their mandates, to increase their actions to prevent and reduce marine litter and microplastics and their harmful effects, and coordinate, where appropriate, to achieve this end, as well as the decision to convene an Ad Hoc Open Ended Expert Group under the United Nations Environment Assembly to further examine the barriers to, and options for, combating marine plastic litter and microplastics from all sources, especially land-based sources.

⁷ "Compilation and synthesis of experiences in mainstreaming biodiversity in fisheries" (CBD/SBSTTA/22/INF/15).

⁸ See General Assembly resolution [70/1](#) of 25 September 2015 entitled "Transforming our world: the 2030 Agenda for Sustainable Development".

Annex

OPTIONS FOR MODIFYING THE DESCRIPTION OF ECOLOGICALLY OR BIOLOGICALLY SIGNIFICANT MARINE AREAS, FOR DESCRIBING NEW AREAS, AND FOR STRENGTHENING THE SCIENTIFIC CREDIBILITY AND TRANSPARENCY OF THIS PROCESS

I. MODIFICATION OF EBSA DESCRIPTIONS

A. Introduction

1. The description of areas meeting the criteria for an ecologically or biologically significant marine area (EBSA) comprises⁹ both a textual description and a polygon of the area, as contained in the relevant decisions of the Conference of the Parties to the Convention, including decisions XI/17, XII/22, and XIII/12, and included in the EBSA repository.
2. Modifications of EBSA descriptions constitute modifications affecting the textual descriptions of the areas meeting the EBSA criteria, as contained in the decisions noted above, and/or the polygons of the areas contained in the EBSA repository. The descriptions contained in the EBSA repository, as requested by the Conference of the Parties in decisions XI/17, XII/22 and XIII/12, can be modified through decisions by the Conference of the Parties.

B. Reasons for modification of EBSA descriptions

3. Reasons for the modification of EBSA descriptions are the following:
 - (a) There is newly available/accessible scientific and technical information, including through advanced expertise, methodological approaches or analytical methods, as well as newly accessible [indigenous and local][traditional] knowledge, on features associated with an area;
 - (b) There has been a change in the information that was used in the description of the EBSA;
 - (c) There has been a change in the ecological or biological feature(s) of an EBSA, which may lead to a change in the ranking of the area against the EBSA criteria or a change in the polygon of the area;
 - (d) There have been scientific errors identified in EBSA descriptions;
 - (e) There have been modifications to the EBSA template;
 - (f) Any other reason based on scientific and technical information.

C. Actors that can propose modification of EBSA descriptions

4. The following actors can propose, at any time, modification of EBSA descriptions:

Option 1

- [(a) For EBSAs within national jurisdiction: the coastal State with jurisdiction over the area;
- (b) For EBSAs within the national jurisdiction of multiple States: the coastal State(s) in whose jurisdiction the modification is proposed, in consultation with the other State(s) concerned;
- (c) For EBSAs in areas beyond national jurisdiction: any State and/or competent intergovernmental organization(s), with provision of notice to all States, [without prejudice to developments in the [United Nations General Assembly process on biodiversity in marine areas beyond national jurisdiction] [*Intergovernmental Conference on an International Legally Binding Instrument*

⁹ As described in decision XIII/12, footnote 1.

under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of the Areas Beyond National Jurisdiction];

(d) For EBSAs with features in areas both within and beyond national jurisdiction: relevant State(s) and/or competent intergovernmental organizations, in consultation with the relevant State(s).]

Option 2

[(a) For EBSAs, or parts of EBSAs, within national jurisdiction: coastal State [which exercises sovereignty, sovereign rights or] [with] jurisdiction over the area;

(b) For EBSAs, or parts of EBSAs, in areas beyond national jurisdiction: Any State and/or competent intergovernmental organization, with provision of notice to all States, without prejudice to developments in the [United Nations General Assembly process on biodiversity in marine areas beyond national jurisdiction] [*Intergovernmental Conference on an International Legally Binding Instrument under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of the Areas Beyond National Jurisdiction*].]

5. Knowledge holders, including scientific research organizations, non-governmental organizations and holders of [indigenous and local][traditional] knowledge, should be encouraged to draw the attention of actors defined in sub-section C, paragraph 4 above to any of the above reasons for modifying existing EBSA descriptions and to support those actors, if requested, in the preparation of modification proposals.

D. Modalities for the modification process

6. The modalities for modifying EBSA descriptions are the following:

For areas beyond national jurisdiction and, where the coastal States so wish, for areas within national jurisdiction:

(a) The Secretariat compiles the proposals for modifications made by the actors defined in sub-section C, paragraph 4;

(b) On the basis of the compiled proposals, the informal advisory group advises the Executive Secretary on the proposed modification, in line with guidance/criteria on significant or minor modifications developed by the informal advisory group on EBSAs;

(c) Modalities for significant or minor modifications are as follows:

(i) For a significant modification: The procedure outlined in section II, paragraph 11 (c) and (d) of this document will be utilised. The CBD Secretariat convenes a workshop following the procedures for regional workshops contained in decision X/29, the report of which is submitted to SBSTTA and COP for their consideration;

(ii) For a minor modification: The CBD Secretariat prepares, after consulting the relevant State(s) or regional experts, a report on modifications, which is submitted to SBSTTA and COP for their consideration.

For areas within national jurisdiction:

[(a) Building on the procedure set out in paragraph 7 of decision XII/22, the coastal State may provide an update of the description contained in the EBSA repository or the information-sharing mechanism, as per the reasons outlined above, and submit information on the scientific and technical process, as well as the peer-review process, supporting the update, [for the subsequent consideration of SBSTTA and COP.] [and *request* the Executive Secretary to include it in the repository or the information-sharing mechanism and submit a progress report to SBSTTA and COP]

E. Key considerations for modifications

7. Parties and other Governments, as well as competent intergovernmental organizations, should be informed of the submission of any proposals for the modification of EBSA descriptions through a CBD notification and the EBSA website (www.cbd.int/ebsa).

8. The following considerations need to be taken into account:

(a) The importance of incorporating [indigenous and local][traditional] knowledge in the process of modification of EBSA descriptions, and ensuring the full and effective participation of indigenous peoples and local communities;

(b) Enhancing the incorporation of [indigenous and local][traditional] knowledge may require revision of the EBSA template;

(c) The need for a strong scientific and technical basis, including based on [indigenous and local][traditional] knowledge, for any proposed modification;

(d) The importance of transparency in the modification process;

(e) Opportunities to use cost-effective modalities;

(f) The need to maintain a record of information about any previously described EBSAs that were modified or deleted from the repository.

II. DESCRIPTION OF NEW AREAS MEETING THE EBSA CRITERIA

A. Actors that can initiate the description of new areas meeting the EBSA criteria

9. The following actors can initiate the description of new areas meeting the EBSA criteria:

Option 1

[(a) Within national jurisdiction: the coastal State with jurisdiction over the area;

(b) Within the national jurisdiction of multiple States: coastal States in whose jurisdiction the description is proposed in consultation with the other State(s) concerned;

(c) In areas in beyond national jurisdiction: any State and/or competent intergovernmental organization(s), with provision of notice to all States, [without prejudice to developments in the [United Nations General Assembly process on biodiversity in marine areas beyond national jurisdiction] [*Intergovernmental Conference on an International Legally Binding Instrument under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of the Areas Beyond National Jurisdiction*]];

(d) For areas with features both within and beyond national jurisdiction: State(s) and/or competent intergovernmental organizations; in consultation with the other State(s) concerned];

Option 2

[(a) Within national jurisdiction: coastal State [which exercises sovereignty, sovereign rights or] [with] jurisdiction over the area;

(b) In areas beyond national jurisdiction: any State and/or competent intergovernmental organization, with provision of notice to all States, without prejudice to developments in the [United Nations General Assembly process on biodiversity in marine areas beyond national jurisdiction;] [*Intergovernmental Conference on an International Legally Binding Instrument 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*]];

10. Knowledge holders, including scientific research organizations, non-governmental organizations and holders of [indigenous and local][traditional] knowledge, should be encouraged to draw the attention of actors defined in sub-section A, paragraph 9, to any of the needs/reasons to initiate the description of new areas meeting the EBSA criteria.

B. Modalities to undertake the description of new areas meeting the EBSA criteria

11. Modalities for the description of new areas include the following steps:

- (a) New information is submitted (using the EBSA template), at any time, to the Secretariat;
- (b) Any proposals for the description of new areas is transmitted by the Secretariat to Parties, other Governments, relevant competent intergovernmental organizations and the informal advisory group on EBSAs;
- (c) The informal advisory group on EBSAs reviews the proposals and advises when a new regional workshop is needed. A scientific gap analysis can inform this review process and identify the need for thematic analysis, which can complement regional workshops;
- (d) The description of new areas through regional workshops follows the existing process of submission to the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties for consideration and possible inclusion in the EBSA repository.

12. National exercises for describing new areas meeting the EBSA criteria are described in section III, sub-section C below.

C. Key considerations for the description of new areas meeting the EBSA criteria

13. The following considerations need to be taken into account:

- (a) Parties and other Governments, as well as competent intergovernmental organizations, should be informed of any submission of proposals for the description of new areas through a CBD notification and the EBSA website (www.cbd.int/ebsa);
- (b) The importance of incorporating [indigenous and local][traditional] knowledge in the process of new EBSA descriptions, and ensuring the full and effective participation of indigenous peoples and local communities;
- (c) The need for a strong scientific and technical basis for any new proposal;
- (d) The importance of transparency in the process for new description;
- (e) Opportunities to use cost-effective modalities;
- (f) Inter-regional differences in data availability and research efforts should be taken into account when describing new EBSAs.

III. OPTIONS FOR STRENGTHENING THE SCIENTIFIC CREDIBILITY AND TRANSPARENCY OF THE EBSA PROCESS

A. Scientific credibility of the EBSA process

14. With regard to strengthening the scientific credibility of the EBSA process, the following could be undertaken:

- (a) Planning of workshops in collaboration with the informal advisory group on EBSAs to ensure the provisioning of scientific information and [indigenous and local][traditional] knowledge at appropriate scales;
- (b) Specifically addressing any imbalance across areas of expertise, including by exploring possible linkages with the CBD Global Taxonomy Initiative and strengthening networks with other relevant organizations, as appropriate.

15. The following considerations need to be taken into account:

(a) Furthering cooperation with Ocean Biogeographic Information System of the Intergovernmental Oceanographic Commission of UNESCO in accessing scientific information in support of regional workshops;

(b) Strengthening guidance, and, where necessary, mobilizing resources, for preparations at the national and regional level prior to a regional workshop in order to ensure the timely gathering of scientific information and [indigenous and local][traditional] knowledge;

(c) Providing pre-workshop training;

(d) Using the training manual on the incorporation of traditional knowledge into the description and identification of EBSAs (UNEP/CBD/SBSTTA/20/INF/21);

(e) The application of the EBSA criteria can be strengthened by referencing, as much as possible, peer reviewed publications and by incorporating [indigenous and local][traditional] knowledge.

B. Transparency of the EBSA process

16. The transparency of the EBSA process can be strengthened by making available the following:

(a) List of experts who have contributed to describing new, or reviewing existing, descriptions;

(b) Information on free prior informed consent of indigenous peoples and local communities when [indigenous and local][traditional] knowledge was incorporated in the EBSA description;

(c) The geographic scope of regional workshops in the repository;

(d) Access to data/information (e.g., satellite images, links to referenced academic papers, documentation of [indigenous and local][traditional] knowledge) used by the regional workshops.

(e) When national processes were used to describe EBSAs, the descriptions are to be accompanied by an explanation of the national processes, including how peer-review of the results was conducted.

C. National exercises

17. The results of national exercises can be included in either the EBSA repository or information-sharing mechanism through one of the following paths:

For inclusion in the EBSA repository

(a) [If the Parties so wish,] the results of their national exercises are submitted to a regional workshop, followed by consideration by the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties for possible inclusion in the EBSA repository,

(b) Building on the procedure set out in paragraph 7 of decision XII/22, the Coastal State may submit the results of national exercises on the description of areas meeting the EBSA criteria, together with information on the scientific and technical process as well as the national peer-review process, supporting the description, [for the consideration of SBSTTA and COP, for possible inclusion in the EBSA repository] [and *request* the Executive Secretary to include them in the repository and submit a progress report to SBSTTA and COP.]

For inclusion in the EBSA information-sharing mechanism

(a) Peer-review by the relevant Parties and other Governments, facilitated by the CBD Secretariat, for inclusion in the information-sharing mechanism.

18. There is a need for:

(a) Capacity-building in best practices for the application of the EBSA criteria at the national level, particularly in developing countries;

- (b) Incentives to enhance accessibility of local/national information;
- (c) Inter-agency coordination for effective national exercises;
- (d) Financial resources for national exercises.

IV. CAPACITY-BUILDING NEEDS FOR THE MODIFICATION OF EBSA DESCRIPTIONS AND THE DESCRIPTION OF NEW EBSAS

19. Capacity-building needs with regard to the modification of EBSA descriptions and the description of new EBSAs include:

- (a) Use of scientific and technical information and [indigenous and local][traditional] knowledge to describe areas meeting the EBSA criteria and modify EBSA descriptions;
 - (b) Awareness and understanding of the EBSA process;
 - (c) Dialogue between the holders of [indigenous and local] [traditional] knowledge and scientists on the use of [indigenous and local][traditional] knowledge in the description of EBSAs and modification of EBSA descriptions;
 - (d) Understanding the links between the EBSA process and other relevant processes.
-