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Information note to UNEP MAP for the UN GA on High Seas and Biodiversity Conservation in the Mediterranean

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Information note to UNEP MAP for the UN GA on High Seas and Biodiversity Conservation in the Mediterranean

Reporting material for the Report of the Secretary-General on oceans and the law of the sea to the General Assembly (Contributions from United Nations agencies, programmes and bodies as well as other intergovernmental and non-governmental organizations)

Preface

The Sessions of the United Nations General Assembly include a report of the Secretary-General on oceans and the law of the sea to the General Assembly. The reporting material for such report incorporates contributions from United Nations agencies, programmes and bodies as well as other intergovernmental and non-governmental organizations.

General Assembly resolution A/RES/58/240, inter alia invited relevant global and regional bodies to investigate how to address biodiversity in areas beyond national jurisdiction, including threats, risks, conservation and management, through existing treaties and other instruments. The Resolution requested the Secretary-General to submit a report on this topic to the GA 59th Session, as an addendum to his annual report on Oceans and Law of the Sea.

The Regional Seas Branch of UNEP at Nairobi demanded inputs on the matter to MAP intended for the 59th Session of the United Nations General Assembly. This information document presents the Input provided by RAC/SPA to MAP for the above mentioned UNEP report. The General assembly document: **A/59/62/Add.1 "Oceans and the law of the sea. Report of the Secretary-General. Addendum"** synthesised main paragraphs presented, and can be downloaded from:

[http://www.un.org/depts/los/general_assembly/
general_assembly_reports_old.htm#A/59/62/Add.1](http://www.un.org/depts/los/general_assembly/general_assembly_reports_old.htm#A/59/62/Add.1)

High Seas and Biodiversity Conservation in the Mediterranean

High Seas are those parts of the world's oceans that lie outside the territorial sea and Exclusive Economic Zones (EEZ) and above the "outer continental shelf" of coastal nations. They cover an estimated 50% of the Earth's surface and include the water column and the seabed beyond national jurisdiction, as well as some of the deepest, most mountainous, and most thermally active parts of the ocean.

High seas are the largest habitat of life on earth, which is the cradle of new species, habitats and undiscovered ecosystems, while providing 10 to 20% of total commercial sea catch and significant mineral resources, but these areas are now under increasing pressure.

Urgent measures are needed to protect High Seas biodiversity and ecological integrity, including rare and unique ecosystems and species found nowhere else on the planet.

One of the most urgent actions to be undertaken is to enable the establishment of a Marine Protected Areas (MPA) network in the High Seas. High Seas protected areas and marine parks are urgently needed, as today less than 1% of the entire oceans' surface is declared as protected and only a small portion of this is effectively managed. High Seas are identified as a critical gap in the global representative protected areas system. All existing treaties and instruments have to join forces to ensure long-term protection and wise use of ecosystem processes, biological diversity and productivity beyond national jurisdiction.

Within the Durban Action Plan is remarked that, for achieving an interconnected global system of protected areas (outcome 3), one necessary step (key target 5) is to carry out intergovernmental action to protect ecosystems of regional seas and species groups in need of particular attention such as fish (including sharks). It is also underlined the need to develop a system of habitat protection and management on the high seas involving international collaboration. Linked international actions are recommended also to preserve those wide-ranging migratory species, where areas protection measures alone will not be adequate.

The CBD COP-7 further notes the increased risks to biodiversity in marine areas beyond national jurisdiction and the need for international cooperation and action on behalf of these areas. It recommended its executive Secretary to support the work of UNGA in identifying appropriate mechanisms for the future establishment and effective management of marine protected areas in such locations.

Conservation and sustainable use of deep-sea genetic resources beyond national jurisdiction are also specifically addressed in CBD COP-7. Cooperation with UNEP for this purpose is specifically mentioned to further on the knowledge and preservation of these resources in areas beyond national jurisdiction.

The Mediterranean is -geographically speaking- a semi-enclosed sea, but it does not respond to both criteria established by the article 122 of the Convention of Montego

Bay (CMB) for the enclosed or semi-enclosed seas, since it does not follow the criterion of being entirely or mainly constituted by the territorial seas and the EEZ of several states. Its riparian countries have very diverse juridical and economical status. Although there is not a distance to the coast higher than 200 nm in this sea, most of the Mediterranean waters are High Seas, since the riparian countries have not established their EEZ in the Mediterranean. Apart from the sovereignty spaces, most of them claimed up to 12 nm offshore (all the CMB Parties), the Mediterranean waters are a free space subject to the High Seas regime. Therefore the importance of cooperation among the riparian states of a semi-enclosed sea, envisaged by the article 123 of the CMB.

The complexity of marine biodiversity is obvious also for marine pelagic and deep sea benthic systems, which are still largely unknown, since extended prospecting of these habitats is very limited by physical constraints and cost of operations.

Natural resources and habitats of the High Seas are threatened by unregulated fishing, CO₂ dumping, oil exploration and exploitation of gas hydrates.

Fishing trawlers damage deep-sea corals causing long-term damage to such ecosystem. Damages inflicted to seamounts habitats can be also important. Bycatch of sensitive species at high seas is out of riparian fisheries bodies' control and this is of special concern for the proper management of transboundary pelagic fishes takes, and the conservation of cetaceans, sea turtles and sea birds. Hydrothermal vents have proven to be fragile hotspots of biodiversity and they have been identified also in the Mediterranean Sea. Drilling down to 2000 m to exploit oil and gas is now technologically possible and damage to deep-sea ecosystems, including sea canyons, by leaks and mud dispersal to those depths is unpredictable. Uncontrolled military operations, without scientific advice may produce sound damage to high seas habitats and species populations

Cooperative action through and among international organisations is needed to review issues of conservation and sustainable use of pelagic waters and deep seabed resources beyond the limits of national jurisdiction and to propose appropriate recommendations.

Recently a global strategy for high seas marine protected areas has been launched in order to cope with this issue at a global level. It provides a base for coordinated action over a ten-year period to develop, establish and effectively manage a representative system of marine protected area networks for the high seas (HSMPAs). At regional level, a legal approach of high seas is necessary in order to identify the obstacles to the implementation of such a system and a biological approach headed to define specific hotspots of high seas biodiversity is a must to head priorities for the creation of these protected areas.

Within the framework of the United Nations Environment Programme (UNEP), the first of the Regional Seas Programmes, The Mediterranean Action Plan (MAP) was approved in 1975. Mediterranean countries also adopted one year later the legal support needed to implement the MAP Programme, known as the Barcelona Convention – Convention on the Protection of the Mediterranean Sea against Pollution.

A series of other regional seas conventions have followed. For the moment 17 regional seas programmes exist, 14 of which were initiated by UNEP. There are also three partner programmes – Arctic, OSPAR for the North-East Atlantic, and HELCOM for the Baltic.

The legal framework of the MAP programme has been enlarged and modified several times since the Barcelona Convention was adopted. After the amendments adopted in Barcelona on 10 June 1995, its new title is: Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention). Among the most important legal instruments developed and approved for the protection of the marine environment, there are six protocols dealing with different aspects of the environmental protection. One of them is the new Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean, which entered into force in 1999, replacing the Protocol concerning Specially Protected Areas adopted in 1982

The new SPA Protocol, very different from the previous instrument, and formally distinct from it, is applicable to all the marine waters of the Mediterranean, irrespective of their legal condition, as well as to the seabed, its subsoil and to the terrestrial coastal areas designated by each party, including wetlands.

The great step forward given by this new protocol at world level is provided by the definition of Specially Protected Areas of Mediterranean Importance (SPAMIs). These areas may be transboundary ones and may extend their limits partly or wholly beyond the jurisdictional waters of the involved countries, giving a legal framework to marine protected areas in the high seas, and allowing the conservation of pelagic and deep-sea species and habitats. This is the first instrument of international law legally restrictive which explicitly envisages the creation of protected areas in the high seas.

With respect to the relationship with third countries, the parties to the Protocol shall “invite states that are not parties to the protocol and international organizations to cooperate in the implementation” of the Protocol (Art 28, para. 2). It is also provided that the parties “undertake to adopt appropriate measures, consistent with international law, to ensure that no one engages in any activity contrary to the principles and purposes” of the Protocol (Art. 28 para. 2).

So far, already one of the 14 presently declared SPAMIs, the Pelagos Sanctuary for the Mediterranean Cetaceans, embraces portions beyond the declaring-countries national waters (France, Italy and Monaco). The French-Italian-Monegasque Sanctuary, set up by a tripartite agreement between the three governments and signed in Rome on 25 November 1999, covers 87,000 sq. km. in the Tyrrhenian-Corsican-Provençal part of the Mediterranean, including the littoral waters and pelagic domain of the area. The Contracting Parties agreed the listing of the sanctuary on the SPAMI list at their 12th ordinary meeting, Monaco, November 2001.

In relation to the above context, the International Maritime Organization (IMO) adopted in 1991, through its Resolution A.720 (17), Guidelines for the Designation of Special Areas and the Identification of Particularly Sensitive Sea Areas, that may

include any marine area including the high sea. The guidelines were updated by the IMO A.885 (21) Resolution of 25 November 1999, Procedures for the Identification of Particularly Sensitive Areas and the Adoption of Associated Protective Measures. The 13th ordinary meeting of the Contracting Parties to the Barcelona Convention Catania, November 2003, recommended to support the requests formulated by Parties to designate certain SPAMIs as Particularly Sensitive Sea Areas PSSAs. The proposal to establish these PSSAs had to be made by the Party or Parties concerned and would be examined by the IMO committee for protection of the marine environment.

A Strategic Action Programme to address pollution from land-based activities in the Mediterranean Region (SAP MED) was developed within MAP under a GEF grant. The project, approved by the GEF Council in April 2000, included the Preparation of a Strategic Action Plan for Biodiversity in the Mediterranean Region (SAP BIO) under the co-ordination of the MAP Regional Activity Centre for Specially Protected Areas (RAC/SPA) based in Tunis. Such a plan, adopted in November 2003, is based on national reports and national action plans of individual Mediterranean countries, as well as on regional reports for widely extended Mediterranean issues such as fisheries, tourism, wetlands, etc. It identifies biodiversity values, analyses threats and their underlying causes and sets a strategy with concrete actions to be implemented according to priorities and feasibilities.

In the framework of the SAP BIO, bioerosion owed to fishing is a central problem underlying many of the other problems confronted by marine biodiversity in the Mediterranean. A set of regional documents addresses the problematic of fisheries in the Mediterranean. They present actions needed to solve negative roles on the conservation of Mediterranean biodiversity played by trawlers, pelagic long-liners and illegal driftnets as well as by incompleteness of legislation. Measures to protect deep-sea habitats are also tackled within this documentation

With regard to these matters, and based in these in-deep undertaken scientific reviews, the SAP BIO programme envisages specifically among its planned actions the identification and protection of deep marine habitats and important pelagic ecosystems, as well as the support to the creation of PSSAs in the Mediterranean