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Convention on Biological Diversity

Technical expert workshop to review modalities for modifying the descriptions of ecologically or biologically significant marine areas and describing new areas
Oslo, 20–24 November 2023

Report of the Technical Expert Workshop to Review Modalities for Modifying the Descriptions of Ecologically or Biologically Significant Marine Areas and Describing New Areas*

Note by the Secretariat

I. Introduction

1. At its tenth meeting, in 2010, the Conference of the Parties to the Convention on Biological Diversity requested the Executive Secretary to work with Parties and other Governments as well as competent organizations and regional initiatives, such as the Food and Agriculture Organization of the United Nations (FAO), regional seas conventions and action plans, and, where appropriate, regional fisheries management organizations (RFMOs) to organize a series of regional workshops to facilitate the description of ecologically or biologically significant marine areas (EBSAs) through the application of the scientific criteria given in decision IX/20, annex I.

2. Between 2011 and 2019, the Secretariat convened 15 regional workshops to facilitate the description of EBSAs. Organized in collaboration with Parties, other Governments and international organizations and with significant input from experts from around the world, these workshops have facilitated the description of 338 areas meeting the criteria.[1]

3. While the process has been successful, the Conference of the Parties has been discussing ways to improve it since 2014, by developing practical options to further enhance scientific methodologies and approaches to describe areas meeting the scientific criteria (decisions XII/22, XIII/12, and 14/9). Discussions on that issue, most recently held at the fifteenth meeting of the Conference of the Parties, have brought forth valuable insights, but the Conference of the Parties has unfortunately not yet been able to agree on modalities for modifying the descriptions of ecologically or biologically significant marine areas and for describing new areas through means other than regional workshops organized by the Secretariat.

4. With a view to advancing discussions on those issues, the Conference of the Parties, in its decision 15/26, requested the Executive Secretary to convene two expert workshops to, respectively:

(a) Review the technical aspects of the modalities under consideration;

* The present document is being issued without formal editing.
[1] See www.cbd.int/ebsa/.

(b) Review the legal issues pertaining to those modalities, on the basis of the outcomes of the technical workshop.

5. Pursuant to those requests, with financial support from the Governments of Belgium, Canada, Germany, Norway and Sweden, the Executive Secretary convened the technical expert workshop to review modalities for modifying the descriptions of ecologically or biologically significant marine areas and describing new areas from 20 to 24 November 2023, in Oslo. The workshop was followed by the legal expert workshop[2] from 23 to 27 November 2023, with two overlapping days of joint sessions on 23 and 24 November 2023, to give participants in both workshops the opportunity to share views that relate to both technical and legal matters, and to ensure a common understanding among participants.

6. The workshop was conducted entirely in plenary sessions, which included thematic presentations with question-and-answer sessions, and moderated discussions. Mr. Moustafa Fouda (Egypt) and Mr. Gunnstein Bakke (Norway) were selected as co-chairs of the workshop, on the basis of their experience and expertise.

7. The workshop was attended by experts from Albania, Antigua and Barbuda, Bosnia and Herzegovina, Brazil, Canada, Chile, China, Colombia, Comoros (remote participation), Cook Islands, Côte d'Ivoire, Egypt, Germany, Israel (remote participation), Kuwait, Madagascar, Malaysia, Mozambique, Norway, Peru, Philippines, Romania, Russian Federation, Senegal, South Africa, Sweden, Türkiye, United Kingdom of Great Britain and Northern Ireland, Deep-Ocean Stewardship Initiative, European Bureau for Conservation and Development, GEO-BON, International Collective in Support of Fishworkers, International Seabed Authority, IUCN, Heriot-Watt University/IUCN-WCEL, The Nature Conservancy and the Women's Caucus.

8. The organization of work is contained in annex I.

9. A list of documents for the workshop were made available on the workshop webpage, www.cbd.int/meetings/EBSA-EM-2023-01.

10. The workshop was conducted in English.

Item 1
Opening of the workshop

11. H.E. Cecilie Myrseth, Minister of Fisheries and Ocean Policy of Norway, delivered a special address. She welcomed participants to Oslo and noted that her ministry, The Ministry of Trade, Industry and Fisheries, was a co-organizer of this workshop, along with the Ministry of Climate and Environment of Norway. She explained that Norwegians have long depended on the sea for resources, opportunities and their very identity. She noted also that Norway is at the forefront of many sea-based industries and is a leader in efforts to secure a blue future. She stated that her country wants to see further growth and development from ocean industries, producing more seafood, to create more jobs, more value and increased exports. She emphasized that sustainability is a non-negotiable pre-condition, however, and noted the challenge this poses. Reducing the impact on the environment will require further efforts in terms of knowledge, technology, management and policy. She noted the importance of this workshop, given that, at the global level, marine and coastal areas are deteriorating. For conservation and sustainable use to be possible in practice, based on the ecosystem approach, we need to know where the special areas in the oceans are. She noted the importance of the EBSA process for the new Kunming-Montreal Global Biodiversity Framework as well as the Biodiversity Beyond National Jurisdiction Treaty and emphasized the need to keep the process up to date, making headway in the description of new areas, and keeping the scientific description of existing areas accurate. She noted that this work will play an important role in achieving the biodiversity targets – such as effectively conserving 30 per cent of marine and coastal areas globally by 2030. There is a need to work together and create synergies to find solutions instead

[2] Documents for the legal expert workshop are available at www.cbd.int/meetings/EBSA-EM-2023-02.

of competing for areas and resources and to protect the ocean so that we can meet human needs sustainably while exerting less impact on the oceans. In concluding, she noted that despite the knowledge of Norwegians about the ocean and its resources, there is always more to learn: as we get better, the bar gets higher. She appealed to the participants, experts in their field, to continue to work together to increase our common knowledge –helping not only Norway, but the rest of the world, and wished them an inspiring and fruitful workshop.

12. A representative of Mr. David Cooper, Acting Executive Secretary of the Convention on Biological Diversity, delivered opening remarks. Mr. Cooper welcomed the participants to the workshop and thanked the Government of Norway for hosting it, providing the venue and arranging onsite support. He also thanked the Governments of Belgium, Canada, Germany and Sweden for providing the financial support that made these workshops possible. Mr. Cooper highlighted the importance of these workshops to advance discussions on the future of the EBSA process, an issue on which the Conference of the Parties has thus far been unable to agree. He reminded participants that this process was launched more than a decade ago, at the tenth meeting of the Conference of the Parties to the CBD in Japan (2010). Shortly thereafter, the CBD community embarked on an epic journey around the world to map and describe areas that are the most important to the healthy functioning of the global marine ecosystem – known as "ecologically or biologically significant marine areas". This journey has included more than 500 experts from more than 150 countries and described more than 338 EBSAs around the world; it has gained widespread global recognition and enhanced the conservation and sustainable of marine biodiversity. With the support of generous donors like the Japan Biodiversity Fund and the European Union, the many Governments that have kindly hosted and supported regional EBSA workshops, and valuable scientific partners, the EBSA process has now covered nearly every part of the of the global ocean and shown us where our conservation and management activities need to focus.

13. He pointed out that, along the way, the EBSA process has also facilitated regional-scale collaboration, partnerships and information-sharing, helped to elevate attention and catalyse action for improved management, and identified knowledge gaps and areas in need of further research. He noted that the success of the Kunming-Montreal Global Biodiversity Framework, as well as other important instruments, such as the BBNJ Agreement, will depend not only on robust scientific information on marine biodiversity, but also on the scientific collaboration and synergies that the EBSA process has helped to build. He noted that different views have emerged on what the future of the EBSA process should look like, and that insufficient time and attention was available for the in-depth discussions needed to resolve these different views at recent meetings of the SBSTTA and COP, due to the focus on the development of the Framework. Nevertheless, it has been clear that that Parties see the outcomes of the EBSA process as one of the most valuable achievements of work under the Convention, and that EBSAs will be a critically important resource to support enhanced implementation of the goals and targets of the Framework. In closing, Mr. Cooper wished participants a fruitful meeting and stressed that this was an important opportunity to improve this process, in which so many governments, experts and organizations have invested so much.

Item 2
Workshop background, objectives, scope and expected outcomes

14. Under this agenda item, a representative of the CBD Secretariat delivered a presentation on the background, objectives and purpose of the workshop, and a presentation on the meeting documents.

15. Summaries of the above presentations, and a summary of the question-and-answer and discussion period that followed, are provided in annex III.

16. The above was followed by a brief round of self-introductions by workshop participants.

Item 3
Understanding the process under the Convention to facilitate the description of ecologically or biologically significant marine areas

17. Representatives of the Secretariat delivered a presentation providing an overview of the process under the Convention to facilitate the description of ecologically or biologically significant marine areas and another presentation on the criteria for describing ecologically or biologically significant marine areas, followed by a question-and-answer session.

18. Summaries of the above presentations, and a summary of the question-and-answer and discussion period that followed, are provided in annex III.

Item 4
Reflections on the process under the Convention to facilitate the description of ecologically or biologically significant marine areas

19. Under this item, reflections from experiences in previous CBD regional workshops to facilitate the description of ecologically or biologically significant marine areas were shared by:

(a) Workshop participants who has served as co-chairs of previous CBD regional EBSA workshops to facilitate the description of ecologically or biologically significant marine areas;

(b) Workshop participants who had also participated in previous CBD regional EBSA workshops; and

(c) Teams that provided data support for all of the previous CBD regional EBSA workshops.

20. Summaries of the above, and a summary of the question-and-answer and discussion period that followed, are provided in annex III.

Item 5
Sharing experiences on the use of information related to ecologically or biologically significant marine areas and on the application of the scientific criteria for identifying ecologically or biologically significant marine areas

21. A representative of the Global Ocean Biodiversity Initiative delivered a thematic presentation based on the results of the impact study on ecologically or biologically significant marine areas.

22. Participants then heard presentations on national experiences from Canada, Norway and South Africa.

23. Summaries of the above presentations, and a summary of the question-and-answer and discussion period that followed, are provided in annex III.

Item 6
Experiences from other processes on the description of marine areas of significance

24. A representative of the Global Ocean Biodiversity Initiative delivered a presentation based on the results of the impact study on ecologically or biologically significant marine areas.

25. A representative of the International Maritime Organization delivered a presentation on the process for identifying Particularly Sensitive Sea Areas (PSSAs).

26. A representative of the International Seabed Authority delivered a presentation on the Regional Environmental Management Plans (REMP) process.[3]

[3] This presentation was delivered during the overlap day with the "legal workshop", rather than chronologically under the other presentations under this agenda item.

27. Summaries of the above presentations, and a summary of the question-and-answer and discussion period that followed, are provided in annex III.

Item 7
Improvements in data and knowledge related to marine biodiversity and implications for ecologically or biologically significant marine areas

28. An expert from Duke University presented the results of the gap analysis on ecologically or biologically significant marine areas.

29. A representative of the Group on Earth Observations Biodiversity Observation Network delivered a presentation on relevant work carried out under the Network.

30. A representative of the Deep-Ocean Stewardship Initiative presented on improving knowledge of the deep sea.

31. A representative of the International Collective in Support of Fishworkers delivered a presentation on traditional and local knowledge.

32. Lastly, a representative of the Global Ocean Biodiversity Initiative presented on ecologically or biologically significant marine areas in potential need of revision.

33. Summaries of the above presentations, and a summary of the question-and-answer and discussion period that followed, are provided in annex III.

Item 8
Ecologically or biologically significant marine areas in the developing international ocean framework

34. A representative of the Secretariat delivered a presentation on the role of ecologically or biologically significant marine areas in supporting the implementation and monitoring of the Kunming-Montreal Global Biodiversity Framework.

35. A representative of the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat delivered a presentation on 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 potential role of ecologically or biologically significant marine areas.

36. Summaries of the above presentations, and a summary of the question-and-answer and discussion period that followed, are provided in annex III.

Item 9
Sharing perspectives on the future of the process under the Convention to facilitate the description of ecologically or biologically significant marine areas

37. Under this item, a representative of the Secretariat delivered introduced the topic of the future of the EBSA process for discussion, highlighting relevant contextual issues to inform this discussion.

38. A summary of the above presentation, and a summary of the question-and-answer and discussion period that followed, are provided in annex III.

Item 10
Modification of descriptions of ecologically or biologically significant marine areas and description of new areas

39. A representative of the Secretariat provided an overview and explanation of the draft modalities for the modification of descriptions of ecologically or biologically significant marine areas and the description of new areas, which were made available to the workshop participants as document CBD/EBSA/EM/2023/1/2.

40. Participants were then invited to review and discuss the draft modalities under each of the following subitems:

(a) General considerations in the modification of descriptions of ecologically or biologically significant marine areas and the description of new areas;

(b) Repository and information-sharing mechanism;

(c) Reasons for the modification of descriptions of ecologically or biologically significant marine areas;

(d) Proponents for the description and modification of ecologically or biologically significant marine areas;

(e) Modalities for modification and description.

41. A summary of the presentations and ensuing discussions is provided in annex IV.

Item 11
Other documents related to the modalities for modification and description

42. Under this item, it was expected that a representative of the Secretariat would deliver a presentation on guidance documents related to the modalities, namely, the draft terms of reference for the relevant expert advisory body, and the draft voluntary guidance for peer-review processes, followed by a review and discussion by participants. However, in light of the main focus of the workshop (reviewing and discussing the modalities) and the large number of issues within the modalities that still required discussions, there was not sufficient time to discuss this agenda item.

43. Furthermore, a number of participants noted that, overall, the role envisaged for a relevant expert advisory body in the context of the modalities as discussed at the workshop is already contained within the mandate of the Informal Advisory Group on EBSAs. It was also stressed that significant amount of discussion is still needed on the modalities themselves, and that the limited time available at the twenty-sixth meeting of the Subsidiary Body should be dedicated to arriving at consensus on the modalities, rather than discussing these documents.

Item 12
Workshop outcomes

44. The co-chairs provided an overview of the workshop outcomes, which participants were invited to review and discuss. Observer participants from the legal expert workshop had the opportunity to ask questions.

Item 13
Next steps

45. To conclude the meeting, a representative of the Secretariat explained the approach to the preparation of the report of the meeting, as well as the preparations for discussions on this topic at the twenty-sixth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice on the basis of the outcomes of the technical and legal expert workshops. He noted that the technical and legal expert workshops would have their own respective reports, and that, due to the limited time available to prepare documents for the twenty-sixth meeting of the Subsidiary Body, it would not be possible to solicit views and comments from participants on the workshop report. He also noted that the draft modalities to be provided to the twenty-sixth meeting of the Subsidiary Body will be a combination of the outcomes of the technical and legal workshops. Thus, they may not be identical to the outcomes of each workshop.

46. He also described additional planned steps prior to the twenty-sixth meeting of the Subsidiary Body that are intended to facilitate improved understanding of the issues addressed in the modalities and to support productive discussions on this issue by the Subsidiary Body, namely:

(a) Development of an information document to provide further explanation and clarification of the modalities will be made available for the Subsidiary Body;

(b) Convening of a webinar to provide explanation and clarification of the modalities;

(c) Soliciting of views (via notification) on the modalities to be provided to the Subsidiary Body prior to its twenty-sixth meeting.

Item 14
Next steps

47. The meeting closed at 4 p.m. on 23 November 2023.

Annex I

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Annex II

Summaries of presentations and plenary discussion under items 2-9

Item 2. Workshop background, objectives, scope and expected outcomes

Workshop background, objectives and purpose, and meeting documents

Joseph Appiott, CBD Secretariat

Mr. Appiott delivered a presentation outlining the background, objectives and purpose of the workshop, and introducing the meeting documents. During this presentation, he provided a brief background and history on the EBSA process and a review of its progress, but noted that this would be further explained in a subsequent presentation by another representative of the Secretariat. He also provided background and an overview of the issues to be discussed at the workshop and how these discussions have evolved over time. He noted that these discussions have taken different forms, with elements of the issues emerging in discussions during the thirteenth meeting of the Conference of the Parties in the context of means to incorporate best available scientific information and knowledge from various sources into the EBSA process. He highlighted that different scientific, technical and political views have been put forward throughout these discussions and that progress has been made, albeit slowly, in arriving at a common understanding and a potential resolution. He noted that a more detailed review of the background and history of these discussions is provided in CBD/EBSA/EM/2023/1/INF/1, which was provided as information for the workshop. Finally, he explained how the outcomes of this workshop, together with the outcomes of the legal workshop, will provide the basis for the discussions on this issue at the forthcoming twenty-sixth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice.

Item 3. Understanding the process under the Convention to facilitate the description of ecologically or biologically significant marine areas

15 years of EBSAs: A history of the CBD EBSA process

Jacqueline Grekin, CBD Secretariat

Ms. Grekin explained that the term "ecologically or biologically significant marine areas" (EBSAs) first appeared in the context of the CBD in 2006, when the Conference of the Parties requested the Secretariat to develop a set of criteria for identifying these "special places in the ocean". At the time, different sets of global goals and targets were calling for the conservation and management of the oceans using diverse approaches and tools, and Parties needed a way to decide where to focus their attention. A year later, at a workshop held in Azores, Portugal, experts drafted a set of seven proposed scientific criteria for identifying EBSAs (1. Uniqueness or rarity; 2. Special importance for life history stages of species; 3. Importance for threatened, endangered or declining species and/or habitats; 4. Vulnerability, fragility, sensitivity or slow recovery; 5. Biological productivity; 6. Biological diversity; 7. naturalness). The criteria were adopted the following year, at the ninth meeting of the Conference of the Parties. At their next meeting, the Conference of the Parties requested the Executive Secretary to organize a series of regional workshops to facilitate the description of EBSAs using these criteria (decision X/29, paragraph 36) and provided extensive guidance on the nature of those workshops and their expected outputs. Ms. Grekin highlighted paragraph 26 of decision X/29, whereby the COP emphasized that the application of the criteria is "a scientific and technical exercise, that areas found to meet the criteria may require enhanced conservation and management measures, and that this can be achieved through a variety of means, including marine protected areas and impact assessments, and emphasizes that the identification of ecologically or biologically significant areas and the selection of conservation and management measures is a matter for States and competent intergovernmental organizations, in accordance with international law, including the United Nations Convention on the Law of the Sea". With this

guidance in hand, 15 CBD EBSA workshops were held between 2011 and 2019, covering more than 75 per cent of the ocean, involving more than 500 experts from 144 countries. and resulting in the identification of 338 "special areas of the ocean" around the world. Supported by a technical team that provided access to relevant data and mapping capabilities, these workshops have brought together experts from governments, global and regional organizations, academia and civil society, in developing and developed countries, catalyzing partnerships and building capacity toward the ultimate goal of improving conservation and sustainable use of biodiversity. With that rich history, she emphasized the importance of ensuring that EBSAs also have a bright future.

Overview of the EBSA scientific criteria

Joseph Appiott, CBD Secretariat

Mr. Appiott provided a brief overview of the EBSA scientific criteria referred to in the previous presentation. He explained that, when these criteria were adopted by the Conference of the Parties, they were accompanied by some explanation about how they can be understood in the context of different features. He stressed, however, that the regional workshops to facilitate the description of EBSAs helped enormously to deepen our understanding about how the criteria can be used to describe a wide range of different features. He emphasized that the criteria were intentionally broad, so that many different types of information could be used to describe how many different types of features potentially meet the criteria. He noted that certain criteria have proven more difficult than others to apply but that overall the criteria have proven to be a solid foundation for the work on EBSAs.

Item 4. Reflections on the process under the Convention to facilitate the description of ecologically or biologically significant marine areas

Reflections from co-chairs of previous CBD regional EBSA workshops

Mr. Jake Rice, co-chair of the regional EBSA workshops for the Arctic and the North Pacific, and chair of the regional EBSA workshop for the North-West Atlantic

Mr. Rice shared his reflections on the EBSA criteria, the EBSA process and the future. Regarding the criteria, he noted that all the criteria were used in the regional workshops and while many were found to be individually sufficient, rarely was only single criterion triggered. He further noted that most functioned as more relative judgements rather than absolute signals, and he emphasized that it was necessary to know the ecological background in order to apply the criteria effectively. In terms of the process, he noted that it was challenging to get newcomers to appreciate the concept of "enhanced risk aversion relative to background management framework", which is inherent in the EBSA process. He noted that the workshops were much better at confirming (or not) suspected areas than discovery of new ones, which would require significant analytical work to be conducted prior to the workshop. He noted that the workshops were invaluable in interpreting patterns from diverse perspectives. He also pointed out that EBSA boundaries were affected by politics, which prevented some areas from being addressed, and noted that ecologists need to understand some of the constraints involved. Looking to the future of the process, he noted that while the EBSA label does not trigger any management actions, it does allow other agencies to use their own tools to enhance conservation in a particular area. Given that the process works better for confirmation than discovery, he asked how to protect it from advocacy confirmation bias. Another challenge is how to bring traditional knowledge into the process effectively. Finally, he noted that it would be important to review what has been done with EBSAs since descriptions, to see if they are supporting enhanced risk aversion with the full range of spatial management measures.

Mr. Alexander Shestakov, co-chair of the regional EBSA workshop for the North Pacific

Mr. Shestakov reflected on his experience as co-chair of the North Pacific regional EBSA workshop. He noted that the choice of experts, who should be scientific and technical experts, and the

preparation done prior to the workshop is extremely important, while the political elements come mostly at SBSTTA and COP. He expressed his appreciation to the technical team from Duke University, who brought an enormous wealth of global and regional data to support the deliberations of the workshop and to support experts from countries with limited capacity. He noted that in most cases, suggestions from Parties for areas meeting the EBSA criteria were accepted by the experts present, although sometimes challenged the rankings against the criteria or requested additional information to support that ranking. He noted that there were substantial differences in size between EBSAs in national jurisdiction and those in areas beyond national jurisdiction, which tended to be much larger. He also pointed out that the four different types of EBSAs were first identified during this workshop. He noted that given that the workshops were regional in scale, the criteria were applied based on the regional experience of experts present. He noted that some countries declined to bring their national jurisdiction into the workshop, as they already had their own national processes. In conclusion, he recommended that in future modalities, the collaboration with technical experts, such as those from Duke University, be continued.

Mr. Moustafa Fouda, co-chair of the regional EBSA workshops for the North-West Indian Ocean and the Mediterranean

Mr. Fouda reflected on his experience as co-chair of both the CBD EBSA workshop for the North-West Indian Ocean and the Mediterranean. He noted that the Parties participating in these two workshops did not have a clear idea of what they were expected to do when they arrived. It turned out, however, that at both workshops, participants knew more about their regions than they anticipated. Like Mr. Shestakov, he noted that the technical experts from Duke University supplemented the information that was brought by participants. He noted that some experts were able to deliver strong descriptions, while others were reluctant to include descriptions in their national waters.

Reflections from previous EBSA workshop participants

Workshop participants who had also participated in previous EBSA regional workshops articulated the following regarding the previous workshops:

- The previous EBSA workshops were very well done, using a robust process that focused on the ecological and biological aspects of the ocean, using the best available scientific knowledge.
- Despite the focus on scientific information, political issues had some impact on the workshops discussions in some cases.
- The workshops also acted as a peer review process, with breakout groups comprised of experts from a variety of disciplines reviewing the scientific justification for the description of specific features against the EBSA criteria, and all of the workshop outputs being reviewed and adopted by each workshop as a whole.
- The workshops provided a valuable opportunity for regional-scale networking and capacity building.
- While there were challenges in some cases in getting participants holding traditional knowledge to attend the workshops, many of the workshops succeeded in doing so.
- Regional intergovernmental organizations, namely regional seas conventions and action plans (RSCAPs) and regional fishery bodies (RFBs) played a key role in getting strong participation and in pre-workshop data compilation.
- There was limited time for quality assurance with respect to the data during the workshops, and it was demanding for the participants to finalize the work.
- It will be difficult to resolve the modalities without getting into politics, as there are contentious issues that will continue to emerge. To move ahead, it is important to ensure that the EBSA modalities are flexible enough to deal with these kinds of changes without getting into political issues, and that they focus on the scientific and technical issues.

- It was clear at the workshops that there were certain features and areas for which data was limited and information was rapidly expanding. As such, it is important to revisit existing EBSA descriptions as new information becomes available.

Reflections from the CSIRO team on the EBSA regional workshops

Mr. Piers Dunstan, Commonwealth Scientific and Industrial Research Organisation

Mr. Dunstan explained that the team from the Commonwealth Scientific and Industrial Research Organisation of Australia began working with the CBD Secretariat in 2009, to provide scientific and technical support for the EBSA process. Their team supported the first CBD EBSA workshop, held in Fiji in 2011, as well as subsequent regional EBSA workshops in Mauritius, Namibia, United Arab Emirates, Sri Lanka and China. He explained that the regional workshops have tried to capture and synthesize the best available scientific information to support expert judgement on the description of areas meeting the EBSA criteria and to provide it in a way that it is understandable and usable. In reflecting on the process of information-gathering and understanding throughout these six workshops, he noted that each workshop had been a learning experience, based on the different ways that participants have interacted with the process. He noted that the EBSA process has advanced our understanding of many marine ecosystems that were previously poorly described and provided them with international attention. Mr. Dunstan reflected on the fact that early in the process, there was a perception that very little was known about the deep sea, in particular, but that the knowledge that has been more broadly synthesized since then has been transformative, filling in many of the gaps in our knowledge about the most important areas in the oceans. He stressed the importance of collaboration in CBD expert workshops, which include people from very diverse backgrounds coming from intergovernmental organizations, non-governmental organizations and community organizations—a diversity of participants that brings into play diverse views that would not always be present in scientific gatherings. He noted that the make-up of these workshops has facilitated a much broader set of ideas but can also bring tensions. He noted that the lessons learned at CBD expert workshops have been extended to capacity-building workshops at the national level and provided some examples of the way that the EBSA criteria have influenced similar efforts in Australia.

Mr. Jesse Cleary and Mr. Patrick Halpin, Duke University

Mr Cleary began with a global overview of EBSAs and workshop boundaries, highlighting the nine workshops covered by the technical team from the Marine Geospatial Ecology Lab of Duke University. He recapped the workshop data preparation procedure and highlighted the value of efforts to prepare EBSA descriptions from other processes such as that of the International Important Bird and Biodiversity Areas process, which is coordinated by BirdLife International. The presentation also described an emergent spatial typology of described EBSAs with mention of how the typology could inform monitoring strategies and support links to other planning processes. The talk also recapped the difference between the EBSA criteria at a site level and the network criteria, such as representativity and adequacy, which have not been part of the EBSA process to date. Mr Cleary then offered concluding remarks on the utility of the existing approach and some future needs to improve the portfolio of described EBSAs.

Summary of the question-and-answer session and plenary discussion

Participants discussed the following:

- **EBSA evolution:** Evolution and development of the EBSA process and how the criteria were applied, and of data interpretation processes. There were practices that became standard later in the process. The evolution of the EBSA typology over time was also noted, with increased thinking about dynamic areas.
- **Evolution of approaches used in the workshops:** In workshops that took place early in the process, there were challenges in considering how to apply the EBSA criteria in very different types

of ecosystems and how to use different types of information. Subsequent workshops learned from these experiences and, as such, attendees at workshops convened later in the process were much better prepared and equipped.

- **EBSA approach and criteria in other processes:** A number of countries have already undertaken national-level EBSA processes or processes using criteria that are similar to the EBSA criteria. As well, other international processes have used information from the EBSA description and/or have used an approach similar to the approach of the EBSA workshops in their respective processes.
- **Efficiency in describing new EBSAs:** Discussion on how we can be more efficient in describing new EBSAs, in the high seas, e.g., suggesting using remote sensing and collaboration with scientists to describe new areas. It was noted that there have been global and data-heavy analyses using conservation planning tools, to map out areas of the ocean. However, while more efficient, these analyses are often focused on data-rich areas, thus they should be considered as complementary to the regional approach rather than a replacement. Expert-driven regional processes, perhaps slightly less efficient, can often be a better way of working in data-poor areas.
- **Boundaries and three-dimensional features:** Workshops often faced in challenges in defining clear boundaries of areas, especially as some features are inherently dynamic. It was noted that the value of the boundaries is primarily as a spatial index for the material in the EBSA workshop report. But, since oceanographic physics and chemistry are also inherently dynamic, it is important to consider new technologies that would allow to display three-dimensional features in the ocean, and how such technologies can help us better describe such dynamic features and processes for decision-makers and managers.
- **Global prioritizations studies:** Participants noted various global prioritizations published in the literature (at the time of the workshop), not only in data-rich areas, but also for data-rich taxa, than can be useful for use of the EBSA information as well as for future EBSA description efforts.
- **Language challenges:** Lots of scientific data remains in languages other than English and may not be easily accessible, thus more work is necessary to address this issue. Workshop reports were often translated into other languages, depending on the region they were focusing on. Live interpretation was available during some of the workshops. Working with partners from the respective regions was also particularly valuable in accessing and using information that was not available in English.
- **Pre-workshop data compilation:** Pre-workshop data compilation was extremely valuable to get best available information. This focused on global and regional datasets, as well as data provided directly by countries participating in the workshops. As well, some participants from governments were able to ensure strong engagement in the workshops through prior work and coordination with other scientists in their country.
- **Capacity-building:** The workshops provided a valuable means of capacity building, exposing scientists from various parts of the world to various types of data and analytical approaches that they did not have prior experience with.
- **Challenge with using a prioritization scheme:** Some participants raised the idea of using some kind of prioritization scheme to rank EBSAs that are more urgent for protection (e.g., due to climate change). However, others noted that would be challenging as EBSAs describe a range of features that are vulnerable in different ways to different types of pressures, and appropriate management interventions differ significantly across the range of EBSAs.
- **Consideration of scientific expertise:** It was noted that the type of expertise present at the workshop had a significant influence on the types of features described and that certain areas and features may have received less attention due to the lack of expertise among participants of these workshops.
- **Highly dynamic EBSAs:** Over time, experience grew in terms of how to describe dynamic features. Often, the approach was to draw a boundary around the entire range within which the important features would be moving, thus including a larger area, recognizing that there may be variability. The value in this case is primarily the scientific compilation, not necessarily the precise lines.

- **Question of how best to use information contained in large EBSA descriptions:** Some EBSAs are very large, with most of those being located in areas beyond national jurisdiction. It is expected that this information could be used in different ways by various sectoral authorities and inform of the work under the new BBNJ Agreement, although experience is still emerging, in this respect.

Item 5. Sharing experiences on the use of EBSAs and the EBSA criteria

Sharing EBSA uptake experiences: The use of EBSAs and the EBSA criteria (by Mr. David Johnson, Global Ocean Biodiversity Initiative)

To provide context, Mr. Johnson provided a presentation on sharing EBSA uptake experiences, focusing on recent examples of the use of EBSAs and the EBSA criteria. He pointed out that EBSAs are areas of relatively high importance to surrounding areas. Thus, they are not the only areas that might require management for marine biodiversity but they reflect society's values, indicating what we should be concerned about and at what scale. In 2021, the Global Ocean Biodiversity Initiative supported the Secretariat to produce an impact study summarizing a decade of describing EBSAs. This publication contains case studies, several of which reflect sharing of EBSA uptake. In particular it is useful to reflect on uptake by specialised United Nations agencies and the International Seabed Authority. For example, in June 2023 the Marine Environmental Protection Committee of the International Maritime Organization declared a Particularly Sensitive Sea Area designation for an area of the North-West Mediterranean also covered by the North-western Mediterranean Pelagic Ecosystems EBSA. The draft regional environmental plan of the International Seabed Authority for the Northern Mid-Atlantic Ridge identifies sites in need of protection including the hydrothermal vent fields described in the North-west Atlantic EBSA Workshop. At a regional scale the OSPAR Commission held an Arctic Workshop in October 2023, involving representatives of Arctic Indigenous Homelands and Arctic Council representatives, developing an "Arctic Synthesis Report" using results of the Arctic EBSA Workshop. Efforts by MarViva to secure a governance framework and appropriate protection for the Costa Rica Thermal Dome are on-going: integrating EBSA information for the Eastern Tropical Pacific with subsequent marine protected area designations and research under the SARGADOM Project. National efforts to consider EBSAs and EBSA criteria include those supported by the CBD's Sustainable Ocean Initiative, such as the workshops held in Thailand in November 2022 and Oman in October 2023. In future Mr Johnson felt that EBSAs had an important role to play providing a focus for Parties considering implementation of the BBNJ Treaty and targets enshrined in the Kunming-Montreal Global Biodiversity Framework. He concluded that for scientific credibility it is imperative to keep the EBSA portfolio as "best available science"—relevant and updated, acknowledging that there are gaps and inconsistencies to be addressed. This information can then continue to be promulgated widely to inform decision-makers.

Selected national experiences on the use of EBSAs and the EBSA criteria

Snapshot of Canada's EBSA process and experiences (by Ms. Jasmine Jarjour, Canada)

In her presentation, Ms. Jarjour showcased the approach that Canada has undertaken to identify Ecologically and Biologically Significant Areas domestically. The historical context was provided, including the implementation of the Oceans Act in 1997, and the need to find a way to characterize special ecological places in Canada's oceans to ensure these areas could be considered in ocean management decisions. The genesis and the application of the EBSA criteria was described, including the formal peer-review process, coordinated by the Canadian Science Advisory Secretariat (CSAS). This peer-review process is conducted according to the principles of: providing timely and responsive advice; employing the most appropriate and credible scientific methods; involving a range of expertise and perspectives along with experts from within and external to the Government of Canada; and transparency by providing an accessible public document trail through the CSAS website. The marine spatial planning atlases were presented, as well as an example of an EBSA modification process. EBSAs are a foundational knowledge tool used in a variety of ocean management processes in Canada, including conservation planning, environmental assessments and

emergency response. She stressed that the development of EBSAs has been valuable to improving our understanding of the ecological and biological significance of various components of the ocean and providing a solid knowledge base to better inform ocean management decisions. EBSAs provide information that is not only useful for management, but also provide a focus for research and monitoring of various features in the ocean. Furthermore, the EBSA workshop process has facilitated collaboration, networking and capacity-building. Participation by the full breadth of interests and knowledge holders is essential for the identification of EBSAS to be considered credible and legitimate. Consequently, the process for the identification of EBSAs needs to be inclusive from the start.

Tailoring EBSAs to South Africa's spatial biodiversity management needs (by Mr. Steve Kirkman, South Africa)

In 2019, South Africa increased its marine protection from less than 0.5 per cent to 5.4 per cent, by declaring 20 new marine protected areas. Two sites that were first prioritized in a regional CBD EBSA workshop went on to become marine protected areas, and all but two of South Africa's EBSAs overlap with marine protected areas. From 2014 to 2020, South Africa updated its EBSA network to enhance the usefulness of its EBSAs for biodiversity-inclusive spatial planning and other spatial management processes, such as the expansion of marine protected areas. This included describing new EBSAs for features that were neglected in the regional workshop process and modifying descriptions of existing EBSAs – these included boundary re-delineations, changes to rankings against criteria, and name changes. Furthermore, management options for EBSAs were considered, to inform marine spatial planning. This was done through zoning and proposing management guidelines in line with the management objectives of zones, in terms of which sea uses or activities are compatible or incompatible with the management objectives. EBSAs have provided a basis for the development of marine spatial planning in South Africa, and transboundary EBSAs processes have identified scope for transboundary marine protected areas.

Particularly valuable and vulnerable sea areas in the Norwegian management plans (by Ms. Eva Degré, Norway)

Management plans for Norwegian sea areas have been developed since 2005 as white papers to Parliament. Since then, plans covering all sea areas (Barents sea, Norwegian sea and North sea-Skagerrak) have been developed. Description of particularly valuable and vulnerable sea areas (SVO) is a central part of the knowledgebase for the management plans and of the management plans themselves. The SVO designation does not have any direct effect in the form of restrictions on commercial activities but signals the importance of exercising particular caution in these areas. It is used, for example, as a basis for setting a framework for petroleum activities in the management plans. The scientific knowledge describing the SVO is also important for the management when taking measures and as a basis for sustainable use. The management plans will be updated every four years, and a new knowledge base will be developed for every new plan. Extensive work on updating the knowledge base on SVOs using the EBSA criteria was done between 2019 and 2023 for all three sea areas. This important work has provided a good knowledge base for an updated plan and will also feed into other management processes. A new plan including potential update of SVOs is now being developed at a political level.

Summary of the question-and-answer session and plenary discussion:
In response to a question posed by a participant, the discussion under this agenda item focused on how changes to EBSAs are recorded and archived in national processes.

Canada: EBSAs are reviewed regularly, on a five-to-ten-year basis, as resources allow, through Science Advisory Reports coordinated by the Canadian Science Advisory Secretariat.

South Africa: The results of a lengthy modification process were submitted to the Secretariat in 2020. The submission included updated EBSAs previously described at CBD EBSA workshops, and new ones described through the regional Benguela Current Marine Spatial Management and Governance (MARISMA) Project. This involved changes in boundaries, scoring against the criteria, names and textual descriptions. The new and revised EBSAs were subject to a national and international review process and went through all applicable national approval processes.

Norway: the first EBSA-like descriptions were produced for the Barents Sea, Norwegian Sea and North Sea in 2005 and the knowledge base updated between 2019 and 2023; some political discussions around the updates have not yet been completed, however, the updated information is meaningful nonetheless.

Item 6. Sharing experiences from other processes

Robust science informing the EBSA portfolio

(by Mr. David Johnson, Global Ocean Biodiversity Initiative)

Mr. Johnson presented work undertaken by the Global Ocean Biodiversity Initiative International Climate Initiative (GOBI-IKI), funded by the Government of Germany, which aims to provide robust science to inform the EBSA portfolio. Focussing on taxa-specific areas for seabirds (International Bird and Biodiversity Areas, IBAs) and marine mammals (Important Marine Mammal Areas, IMMAs), he explained that the success of these areas has inspired work on Important Shark and Ray Areas and Important Turtle Areas. Marine IBAs have taken advantage of BirdLife International's Seabird Tracking Database, compiling over 11 million positions for 116 species, drawing on more than 190 scientific contributions. The marine IBA e-atlas, featuring confirmed, proposed and candidate IBAs, is a resource that should complement and update the EBSA portfolio. Similarly, IMMAs (and the IMMA e-atlas) are publicly available online (www.marinemammalhabitat.org/imma-eatlas) as concrete results of the process overseen by the IUCN Marine Mammal Task Force. This focus on migratory species is filling an important gap given that these species are wide-ranging; they are susceptible to common threats; the knowledge base has hitherto been limited; and they represent a common biological resource. This commonality, at different scales, has been brought together to inform area-based planning by the Migratory Connectivity in the Ocean (MiCO) tool, supported by the GOBI-IKI work. Regional/global thematic connectivity analysis provides supplemental analysis to inform future regional EBSA expert update workshops.

Particularly Sensitive Sea Areas

(by Mr. Andrew Birchenough, International Maritime Organization)

Mr. Birchenough introduced Particularly Sensitive Sea Areas (PSSAs), areas that need special protection through action by the International Maritime Organization (IMO) because of their significance for recognized ecological, socio-economic, or scientific attributes where such attributes may be vulnerable to damage by international shipping activities. The ecological criteria applied to the identification of PSSAs are very similar to the seven scientific criteria for identifying EBSAs, and those used by other bodies, such as the International Seabed Authority, the Food and Agriculture Organization and the United Nations Educational, Scientific and Cultural Organization, for their sectoral conservation criteria in declaring protection areas. He explained that an application for PSSA designation should contain a proposal for one or more associated protective measures (APMs), for example, routeing measures (areas to be avoided or traffic separation schemes) or the strict application of ship's discharges (MARPOL), aimed at preventing, reducing or eliminating the risk from shipping activities. To date, 16 PSSAs have been identified and designated, including some of the world's best known and iconic maritime locations, such as the Great Barrier Reef and the Galapagos Islands. The latest is the North-Western Mediterranean Sea PSSA, designated in July 2023 to improve the protection of cetaceans against the risk of collisions with ships in this area by

implementing several recommendatory APMs, including speed reductions and appropriate safety distances. PSSAs may be coincident with marine protected areas or EBSAs, and may complement and contribute to MPA conservation objectives. The legal significance of PSSAs depends on the types of APMs IMO Member States agree to adopt, and many relevant IMO measures are voluntary or take the form of nonbinding recommendations as States cannot usually impose restrictions to navigation by international shipping without IMO's involvement.

Regional environmental management plans in the Area
Ms. Wanfei Qiu and Ms. Lea Kolmos Weis, Secretariat of International Seabed Authority

This presentation covered both legal and scientific aspects of regional environmental management plans (REMPs) in the Area and highlighted the specific and exclusive mandate of ISA to act as the competent organization through which States Parties to UNCLOS shall organize, regulate and control activities in the Area. The REMPs are instruments of environmental policy and adopted by a decision of the Council of the International Seabed Authority in 2012. REMPs are not directly mentioned in UNCLOS nor the 1994 Agreement, but the legal basis can be derived from articles 145, 162(1) and 209(1) of UNCLOS. Currently, one REMP has been approved and implemented in the Clarion-Clipperton Zone, under which a total of 2 million square kilometres of seafloor are protected from future mining activities. Additional REMPs are also being developed in other priority regions, through an inclusive expert process led by the Legal and Technical Commission, and a standardized procedure is furthermore being developed. The development of REMPs highlighted the need to consider regional environmental characteristics, build on existing experiences such as those from the EBSA process, and to have a regular review process based on newly available knowledge.

Summary of the question-and-answer session and plenary discussion
Participants discussed the following:

- **Similarities and differences between the EBSA process and the Vulnerable Marine Ecosystems (VME) process:** Regional Fisheries Management Organizations (RFMOs) with competence to regulate benthic fishing have been identifying VMEs, which involve legally binding measures, such as fisheries closures, to protect these ecosystems from bottom-fishing activities. VME criteria are included in the Food and Agriculture Organization's (FAO) Deep-sea Fisheries Guidelines, and FAO has a database of all VMEs already identified (e.g., deep-water corals, sponges, seamounts). The VME criteria are similar to the EBSA criteria. VMEs are identified by RFMOs and entail a range of regulatory measures. In addition, RFMOs undertake annual reviews as part of the VME process, and they revise VMEs based on new information.
- **Corner Rise Seamounts and New England Seamounts in the Northwest Atlantic:** Originally, they were identified as VMEs, and later on they were described as EBSAs. Further assessment of the impacts of activities on those ecosystems found that there is a need to better regulate the midwater trawl gear and for a ban on bottom fishing. The EBSA description contributed a lot of scientific information to this assessment, which further contributed to the recent identification of these areas as other effective area-based conservation measures (OECMs).
- **Reference to Rice et al. (2022)**: The study compares criteria such as those for EBSAs, VMEs, PSSAs, Areas of Particular Environmental Interest (APEIs), and Locally Managed Marine Areas (LMMAs), and looks at the biological and ecological features, governance, threats and pressures, and other considerations. It was noted that the management actions triggered by each of the labels are different, as are the processes that lead to their identification.
- **Regional focus of the EBSA process and other processes:** A combination of biogeographic factors and geopolitical factors led to defining the 15 different regions in which the CBD EBSA workshops have been held. Given that this is a Party-driven process, it was noted that geopolitical issues are hard to avoid. The EBSA process has focused on getting the participation of experts nominated by all coastal countries in the region in question. If any country did not nominate a participant, then areas in their waters were not considered in the scope of the workshop. It was pointed out that the Important Bird Areas (IBA) process is global, and other processes, such as the

Important Shark and Ray Areas (ISRAs), or Important Marine Mammal Areas (IMMAs), are proceeding through regional workshops, but are not aligned exactly with the regional approach of the CBD EBSA workshops. There is value to the regional approach in applying the criteria, but it has its own problems and challenges.

Item 7. The evolving data landscape and implications for EBSAs

The evolving data landscape and implications for EBSAs: EBSA gap analysis
(by Mr. Jesse Cleary, Patrick Halpin, Daniel Dunn, Duke University)

Mr. Cleary presented an overview of a spatial and data gap analysis of the global EBSA dataset and workshop boundaries. A subset of the gap analysis was presented, including geographic coverage and assessment of the coverage of different ocean biogeography datasets. He offered thoughts on the gaps, both in terms of workshop boundary coverage as well as potential gaps within workshop boundaries where attendee expertise or datasets may have been missing. The gap analysis also included coverage by primary ecosystem type as obtained from a re-reading of all the EBSA workshop reports and justifications. The ecosystem gaps were further subdivided to look at coverage across ecosystem by jurisdictional forms, from individual exclusive economic zones, to EBSAs entirely in areas beyond national jurisdiction. The presentation included an assessment of the representation of two forms of spatial connectivity within the EBSA descriptions. Mr. Cleary then offered some concluding remarks about ways forward to complement the existing spatial approach with thematic workshops and other formats to help address these coverage gaps.

Global marine systematic conservation planning of biodiversity
(by Mr. Mark Costello, GEO-Bon, Nord University)

Mr. Costello summarized how systematic conservation planning methods prioritize where most biodiversity (or a measure of it, such as species or habitats) can be protected in an optimized network; for example, it could recommend where 70 per cent of biodiversity could be protected in 30 per cent of an area. For species conservation, countries already give greater priority to globally threatened species. They should similarly give greater priority to areas of global importance when protecting biodiversity. This methodology is being applied by the Horizon Europe "MPA Europe" project, which is combining newly modelled geographic ranges of thousands of species, a data-driven classification of ecosystems, and distributions of seabed habitats to design an optimal network for marine biodiversity and seabed carbon stores in all European seas.

Mr. Costello noted that the amount of global data for species, habitats, biomes, realms of endemicity and ecosystems available for such analyses is impressive and improving every year. To date, five data-driven, global and marine prioritizations have been published in the peer-reviewed literature plus over 18 studies with expert-identified biodiversity "richspots". This evidence-based methodology avoids questions about expert, political and/or confirmation bias influencing the labelling of places as of special importance for biodiversity. There is significant overlap between these studies, despite their different data and methods. This synthesis indicates where the most globally important areas for biodiversity occur, and these should be prioritized for EBSA and national marine protected area designation, just as globally threatened species are the most highly prioritized for conservation.

Deep-sea data and knowledge improvement: Implications for the EBSA process
(by Ana Colaço, Deep-Ocean Stewardship Initiative)

Ms. *Colaço* noted that the deep-sea (> 200m) is the largest biome on Earth, occupying 70 per cent of its surface and more than 90 per cent of its habitable volume. The deep ocean is not just "out there"; rather, it comprises a significant percentage of national waters and seabed. Three-quarters (73 per cent) of all the sovereign nations and territories (169 out of 231) have deep ocean within their exclusive economic zones (EEZs). The deep ocean plays a key role in providing provisioning (e.g.,

fisheries supporting diets and livelihoods), regulating (e.g., climate regulation via carbon sequestration and storage) supporting services (e.g., nutrient cycling, habitat, biodiversity, primary and secondary production) and cultural services (e.g., spiritual significance). Since the mid-twentieth century, technological improvements have led to improved knowledge of the different deep-sea habitats, acquiring abiotic and biological variables, and increasing our understanding of ecosystem functions and how those functions provide ecosystem goods and services. The acquired data led to improved understanding of several ecological and biological processes, biological interactions, life history aspects, the function of the habitats, temporal and spatial variability, among several other aspects. It also showed that the photic layers are connected to the deep sea, not only by marine snow, but also, by habitat use by tuna, sharks, manta rays, and other species that stay for hours in depths greater than 400 metre, showing that they also use the deep sea for their ecological functions.

This acquired knowledge is essential for the description of EBSAs. Several EBSA have used this newly acquired knowledge, and it is hoped that in the future, these efforts will continue to be used to acquire more knowledge to improve the description of existing EBSAs and describe new ones. The technology and expertise to study the deep sea is not equitably distributed around the world, with large discrepancies from North to South, even in Europe. Cooperation, interaction, knowledge, and technology exchange between countries is and will continue to be of paramount importance to this process.

Integrating traditional and indigenous to knowledge to the EBSA process
(by Ms. Sivaja Nair, International Collective in Support of Fishworkers)

Ms. Nair began with a critique of the current EBSA process, which has largely used information from the certain types of knowledge systems. One of the major challenges that hinders the community participation in the current EBSA process is the lack of clear protocols or mechanisms to integrate the knowledge systems of indigenous peoples and local communities in the process. As much as the identification of EBSA is a positive exercise, the top-down approach in identifying EBSAs has hindered a more holistic and comprehensive understanding of our ecosystems. Ms. Nair thereafter stressed the need to integrate indigenous and local knowledge to the process, considering the communities as knowledge holders and rights holders. The communities hold immense wisdom on coastal and marine ecosystems through their intergenerational interaction and direct dependency on these systems for their social, economic and cultural well-being and they have the right to participate in the governance systems concerning their lives—upholding the principles of a human rights-based approach and beholding the spirit of the United Nations Declaration on the Rights of Indigenous Peoples and the International Labour Organization Convention 169. Meaningful and strong collaborations with communities are pertinent to build a holistic approach to the EBSA process and bridge the gaps in the current modalities. This has to be done through participatory approaches, building trust with the communities, knowledge exchange and capacity-building, legal recognition and protection of indigenous and local knowledge. Co-creation of knowledge, equitable participation and collaborative decision-making processes has to be essential components in the process from the early stages of EBSA identification. The capacity-building needs of the communities to cater to these requirements has to be fulfilled and the intellectual property rights of indigenous knowledge holders have to be protected through clear protocols for recording and sharing information during the process. The presentation reiterated that scientific processes that lack community participation will become "biological successes" but "social failures", making their sustainability questionable. To conclude, involving local communities in the identification of EBSAs will foster a sense of ownership and responsibility among local communities, leading to more effective conservation outcomes. And by adhering to the best practices mentioned above, the integration of indigenous and traditional knowledge in the EBSA process can be a collaborative, respectful and effective endeavour, leading to more holistic and sustainable conservation outcomes.

An evolving data landscape
(by Mr. David Johnson, Global Ocean Biodiversity Initiative)

Mr. Johnson provided a further presentation informing the workshop of assessments provided previously to the CBD Secretariat. He noted that expert analysis of the EBSA criteria has confirmed their efficacy and that EBSAs had also been categorized into four types: single static features, groups of static features, ephemeral features and dynamic features. Climate change is affecting species distributions and will likely change EBSA descriptions. A gap analysis of EBSAs conducted by GOBI in 2020 took stock of coverage of biogeographic features and jurisdictional coverage. For SBSTTA 24, GOBI set out indicative examples of EBSAs for which new knowledge might merit a modification to the EBSA description and features that could be considered for description as EBSAs on the basis of emerging knowledge. In 2022, building on the gap analysis, GOBI convened a workshop on EBSAs in areas beyond national jurisdiction. In the deep sea and open ocean scientific cruises continue to explore areas and find new data, even for the most recently described EBSAs, such as the Charlie-Gibbs Fracture Zone EBSA, described in 2019. Mr Johnson suggested how new science for EBSAs can contribute to stronger protection and argued that the EBSA process should continue to be an important element in the global effort to better understand, protect and restore marine ecosystems.

Summary of the question-and-answer session and plenary discussion:
Participants discussed the following:

- **Geographical gaps**: It would be helpful to have a map of EBSAs that includes those described under national processes. The geographical gaps would look different with the inclusion of Canadian and Australian waters, for example, and such a map would be useful.
- **Data gaps:** In response to the observation that some countries have large data gaps and conduct limited monitoring, the need to encourage data publication was emphasized. To assist with this task, it was suggested that Ocean Biodiversity Information System nodes or Global Biodiversity Information Facility nodes in a given country could help researchers to convert their data to the right format and publish it. It was suggested that the CBD encourage governments to publish their data in the latter.
- **Comparing and prioritizing gaps**: It was suggested that further thought be given to which gaps really need to be filled—they cannot all be filled, given limited resources and the risk of diluting their acceptance and application to ecosystem-based management. It was clarified that there is no target or threshold to be reached, and that the gap analysis simply records what level is currently covered, rather than saying that we need to attain a certain threshold.
- **The evolving data landscape:** it was pointed out that, in some cases, EBSA boundary delineations were drawn in a rush at regional workshops and that some refining often needs to be done afterward to make the information more useful for spatial planning. Also, in some cases, boundaries were drawn a certain way because of political considerations, ending abruptly at a neighbouring country's exclusive economic zone for political reasons, rather than due to a data gap, for example. In short, boundaries are not always defined solely by data availability.
- **Thematic workshops**: Interest was expressed in considering thematic workshops in the future, involving experts in a particular species or feature, rather than particular countries, especially for areas beyond national jurisdiction. The view was expressed that thematic workshops might be better able to avoid political complications and keep the process scientific by looking at ecosystems rather than geographical boundaries, helping to describe new areas or better describe existing ones. It was pointed out that this is already being done to some extent for some species by the processes associated with Important Marine Mammal Areas (IMMAs), Important Shark and Ray Areas (ISRAs) and BirdLife International, but there are other themes that could be explored.
- **Ecological connectivity**: the view was expressed that we have limited knowledge about which EBSAs rely on connectivity with other regions outside them or other EBSAs and that we should seek to further understand. It was noted that there is more work to be done there.
- **Local knowledge**: In response to a question about whether local knowledge is integrated into the maps produced by the data teams, it was explained that workshop attendees are relied upon to produce this local-level, detailed data, as the data teams tend to concentrate on the larger-scale data

across the region. This has been done more successfully in some workshops than in others. It was noted that a global effort to include these types of data into digital cartographic forms would be a valuable effort. It was noted that the CBD EBSA process has faced challenges in efforts to include local knowledge. In some cases, local knowledge has been used to strengthen descriptions, but in other cases, this was not possible, sometimes due to the broader political context. In many cases, indigenous people have attended CBD EBSA workshops but the country in which they reside had decided not to include their waters, so their knowledge could not be applied. It was asked how these considerations could be embedded in new modalities, to allow this knowledge to be included. There remain practical challenges, some of which we can and others we cannot address within the process. It was pointed out that if something is missing from the modalities for describing new areas or modifying existing ones that allows us to better include traditional knowledge, this issue should be discussed at the workshop. Given that many of the targets of the Kunming-Montreal Global Biodiversity Framework contain explicit reference to indigenous peoples and local communities, and that the concept of sustainable use has always been one of the pillars of the Convention, it was suggested that, rather than trying to reinvent the wheel, we look at solutions that are already available, such as those contained in the Methodological Assessment of the Diverse Values and Valuation of Nature and the Sustainable Use Assessment of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES).

Item 8. EBSAs in the developing international framework

Role of EBSAs in supporting the implementation and monitoring of the Kunming-Montreal Global Biodiversity Framework

(by Mr. Joseph Appiott, CBD Secretariat)

Mr. Appiott provided a brief overview of the Kunming-Montreal Global Biodiversity Framework, explaining that the Framework is part of a package of decisions on (i) resource mobilization, (ii) capacity-building and development, and technical and scientific cooperation, (iii) monitoring framework, and (iv) digital sequence information on genetic resources. Outlining the 4 outcome-oriented global goals to be achieved by 2050, and 23 action-oriented global targets to be achieved by 2030, Mr. Appiott emphasized, in particular, those targets for which EBSAs and EBSA information can support implementation and monitoring. These include targets 1-8 focused on reducing threats to biodiversity, targets 10-12 aiming toward meeting people's needs through sustainable use, and targets 14, 20, and 21, outlining tools and solutions for implementation and mainstreaming.

Mr. Appiott noted that key opportunities for EBSAs lie in identifying areas for spatial planning (target 1), restoration (target 2), protected areas and other effective area-based conservation measures (target 3), conservation of threatened species (target 4), and addressing the impacts of invasive alien species (target 6), pollution (target 7), and climate change and ocean acidification (target 8). EBSA information can also play a crucial role in informing sectors in support of sustainable use (targets 5 and 10). Furthermore, of relevance is how EBSAs contribute to ecosystem functions and services (target 11) and the creation of blue spaces (target 12). Lastly, Mr. Appiott highlighted the linkages between EBSAs and biodiversity mainstreaming (target 14), capacity-building and development (target 20), and best available data, knowledge and information (target 21). He concluded by stressing the importance of integrating EBSAs into the planning process for implementing the Framework.

BBNJ Agreement and the potential role of EBSAs

(by Mr. Bingzhuo Li, Division for Ocean Affairs and the Law of the Sea)

Mr. Bingzhuo Li provided an overview 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 (the BBNJ Agreement), and drew attention to the potential role of the scientific and technical information from the EBSA process in supporting the future implementation of the BBNJ Agreement, including in relation to its provisions on area-based management tools,

including marine protected areas, environmental impact assessments, as well as capacity-building and transfer of marine technology. Furthermore, he noted that the scientific and technical information from the EBSA process could continue to inform other ocean-related processes of the United Nations General Assembly, including, among others, the United Nations Informal Consultative Process on Oceans and the Law of the Sea, the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects, which produces the world ocean assessments, and the UN Ocean Conference. As to next steps, he noted that in resolution 77/321, the United Nations General Assembly approved the assumption by the United Nations Secretary-General of the functions assigned to him under the Agreement, including the performance, through the Division for Ocean Affairs and the Law of the Sea, of the secretariat functions under the Agreement until such time as the secretariat to be established under the Agreement commences its functions. He further noted that, in line with the specific requests in that resolution, the Division had developed a programme of activities to promote a better understanding of the Agreement and prepare for its entry into force and would welcome further opportunities to work with all stakeholders to deliver these activities.

Summary of the question-and-answer session and plenary discussion

Participants discussed the following:

- **Contribution of EBSAs to Target 3 of the Kunming-Montreal Global Biodiversity Framework:** EBSAs can contribute to the identification, placement and management of area-based conservation tools, and can also help with the qualitative elements of Target 3. EBSAs should not be confused with management tools, like other effective area-based conservation measures or marine protected areas and are not always appropriate or feasible for the latter. While EBSAs are important for the 30x30 target, it is also important to look beyond this and at broader linkages between the targets.
- **Contribution of EBSAs to other targets of the Framework:** Marine issues are relevant to all 23 targets of the GBF, in comparison with the Aichi Biodiversity Targets, in which marine issues were the particular focus of just a few of the targets. Apart from Target 3, EBSAs are strongly relevant for Target 1 on spatial planning and effective management, and many other targets, including Target 13 on genetic resources. It is important to know why we continue working on EBSAs and identify the linkages where EBSA information can contribute to the targets.
- **EBSAs and the monitoring framework:** EBSAs were discussed during the negotiations on the monitoring framework, and they were initially proposed as one of the headline indicators but there were concerns regarding the associated consequences. It was noted that by putting them into the monitoring framework, they would become tied to specific management actions, which brings different, not as helpful, elements. EBSAs are descriptions, and as such they may inform the discussion at the national level regarding marine protected areas or other effective area-based conservation measures, perhaps more on the latter. It was also noted that EBSAs could potentially play a role as part of the complementary indicators for several targets, rather than headline indicators.

Item 9. Sharing perspectives on the future of EBSAs and the EBSA process

Summary of the moderated discussion

To facilitate the moderated discussion regarding the future of EBSAs and the EBSA process, the following questions were asked:

- How do you see the EBSA process moving forward?
- What role do we see for EBSAs in the global framework and in on-ground implementation?

Participants discussed the following:

Value and purpose of EBSAs:

- It was noted that the EBSA process is an information-gathering process to inform planning, research and decision-making. However, this scientific process is nested within the political process the Convention on Biological Diversity. There is a need to consider the purpose of EBSA information, why it should be updated, and the nature of future EBSA work under the CBD. It should be further considered whether the EBSA process should be strictly formal, or rather more transparent and flexible following specific rules and ensuring the best level of data quality available at the time. With respect to how the EBSA information can be used, it was discussed whether it needs to be prescribed or rather left up to those who will use it for different purposes.
- The value and purpose of EBSAs lie in the fact that they are not related to any particular sectoral interest. EBSAs provide neutral scientific information that does not have a specific management and/or sectoral focus and thus can inform and be used by any sector, which is particularly useful for global processes. For regional processes, EBSAs crossing jurisdictional boundaries can be approached more holistically when considering ecosystem-based management, and EBSA information is also important for these cases.
- It was noted that the initial intention of EBSAs was to prioritize areas to inform conservation and/or sustainable use. But, it should be further discussed why gaps in EBSAs should be addressed, and what we are trying to achieve, as for some EBSAs it is not quite known what exactly the area is being prioritized for. Some EBSAs are not suitable for protection or management.
- EBSAs can inform all three objectives of the CBD; it should be further considered how they can inform the third objective on the fair and equitable sharing of benefits arising from utilizing genetic resources.
- The value of EBSA information also lies in it being a global scientific exercise under the CBD umbrella. The EBSA process has been successful in establishing trust in the process, in the scientists, and in the national processes that collect the information.
- Specific value of EBSAs may vary in different countries, regions, and sectors.
- The purpose of EBSAs is to provide easily accessible information to countries and other actors that wish to use it. Ultimately, it is up to the competent governance authority to decide what they wish to do after an EBSA is described.
- EBSA workshops have been valuable as a starting point for many CBD Parties that lack resources to initiate such a process in their own waters. As well, many countries have used the EBSA process to strengthen similar ongoing efforts at the national level in their respective countries. As the process is embedded in a political process, it inevitably brings political attention and the attention of donors as well.

Importance of updated and usable information:

- EBSA information is valuable to fill knowledge gaps in the marine environment, including in the deep sea, in order to implement the Kunming-Montreal Global Biodiversity Framework. EBSA information will also contribute to the implementation of the BBNJ Agreement, as well as other processes. EBSAs have already informed processes in areas beyond national jurisdiction.
- It is important for the EBSA information to be accurate, updated, and on a manageable scale. If not, it is of limited use for improving planning and management. It was pointed out that, for example, key biodiversity areas are more targeted, and as such, they can often be more easily taken on board for management. However, it was also noted that not all existing EBSAs need updating, and further thinking should go into where efforts are particularly needed.
- The importance of the EBSA process and information to be practical, accurate and up-to-date in order to be an appropriate and useful tool for implementing the GBF was noted. It was also noted that some countries are currently revising their National Biodiversity Strategies and Action Plans (NBSAPs), for which they have used EBSA information.

Human rights perspectives: The Kunming-Montreal Global Biodiversity Framework incorporates a human rights-based approach, ensuring the participation of indigenous peoples and local communities and women, and gender equity. It should be further considered how to integrate a human

rights-based approach into the EBSA process, so that it also strengthens the implementation of the Framework. The need for capacity-building, in particular on practices for incorporating traditional knowledge and the perspectives of indigenous peoples and local communities, was noted.

Contribution to the global statistical system: The United Nations Department for Economic and Social Affairs (specifically the United Nations Statistics Division) maintains a database of global data contributed by United Nations Member States that can be freely used by anyone. There are high standards for maintaining data quality. Given that the ocean is underrepresented in the data, a working group has been created to fill this gap. It was noted that there is an opportunity to contribute to the data, both within and beyond national jurisdiction.

Addressing concerns of Parties: It was noted that some Parties to the Convention on Biological Diversity need continued assurance that EBSAs are simply an information tool, and that Parties can use EBSA information for whatever purpose they wish. This has been a concern for Parties, particularly in the context of the negotiations on the BBNJ Agreement and on the development of indicators for the Kunming-Montreal Global Biodiversity Framework. It was noted that EBSAs will have a future if they can be relevant and updated, and finalizing the modalities is necessary to do so, but that it is also important to carefully address political concerns of some Parties.

Follow-up and/or monitoring system: It was noted that some Parties in West Africa have been establishing marine protected areas or other management approaches, sometimes following the EBSA criteria or based on traditional knowledge. It is important to consider how a follow-up and/or monitoring system could be put in place to see how EBSA information is being used.

Question of boundaries: It was pointed out that biodiversity components and oceanographic processes are transboundary, while the human world, including national governments, function based on borders and boundaries. EBSA modalities must therefore reflect both political and scientific considerations.

EBSAs and national processes: From its inception, the CBD EBSA process has acknowledged that national governments have their own similar processes in their national waters. It was expressed that some of these national processes, which may or may not be using the EBSA criteria, are well established and should be accounted for, and that such differences need to be accounted for in the modalities.

National experience of Madagascar: Madagascar has been working to identify their national EBSAs, using the criteria for Key Biodiversity Areas, in order to have a solid scientific basis to be able to propose new marine protected areas and locally managed marine areas. Other factors, such as social and economic factors, are being considered. For this purpose, they have created a national coordination group that includes stakeholders from the government, private sector, academia, as well as local representatives.

Future of EBSAs:

- The importance of updating EBSA information for EBSAs to remain relevant was noted. EBSAs make information available to improve the science-policy dialogue. EBSAs can help to identify areas that may need increased risk-averse management, whether within or beyond national jurisdiction. EBSA exercises can be considered as instruments of risk assessment. Currently, new information cannot be taken into account, as current EBSA modalities are a static process. The importance of discussing how new modalities that would allow for flexibility can be developed was also pointed out. However, while flexibility is important, it is essential that the EBSA process remains a robust scientific process and fit for purpose.
- It was also noted that to move forward, future modalities should allow for EBSAs to cease to exist.

Annex III[4]

Summary of discussion under item 10

Item 10 (a) General considerations in the modification of descriptions of ecologically or biologically significant marine areas and the description of new areas

Following a brief introduction by the Secretariat, the participants discussed this issue, which is summarized below:

Document prepared for the workshop:

- A concern was expressed by a participant regarding the document prepared for discussion at this workshop, Draft modalities for the modification of descriptions of ecologically or biologically significant marine areas and the description of new areas (CBD/EBSA/EM/2023/1/2). They noted that in its decision 15/26, the COP had requested the Secretariat to convene this expert workshop based on the annexes to recommendation 24/10 of the Subsidiary Body on Scientific, Technical and Technological Advice, which is the last official document available on this subject. They felt that there is are important substantive differences between the modalities referred to in the document prepared for this workshop, when compared to the above-noted annex.
- In response, the Secretariat noted that the request in decision 15/26 also contains a footnote that reads, "Also considering the information contained in documents CBD/SBSTTA/24/INF/41 and CBD/EBSA/OM/2022/2/1". As such, and in order to facilitate productive discussions at the workshop, the Secretariat prepared a document that combined the content of the annexes to recommendation 24/10 with the content of documents CBD/SBSTTA/24/INF/41 and CBD/EBSA/OM/2022/2/1 and that aimed reduce certain areas of repetitiveness in the modalities as contained in the annexes to recommendation 24/10. The Secretariat also noted that workshop participants had the right to put forward any content they wish, including content from the annexes to recommendation 24/10 that may not appear in document CBD/EBSA/EM/2023/1/2.

Overall impressions of the draft modalities as contained in document CBD/EBSA/EM/2023/1/2

- Appreciation was also expressed for the document prepared by the Secretariat as a useful basis for discussion.
- A desire to retain the multiple-annex structure, such as that most recently presented in SBSTTA recommendation 24/10, was expressed, as was a desire to consider the sequence thereof. It was suggested to move annex 1 to the body of the document and begin with annex II to provide clarity, to proceed with annexes III and IV and to split annex V into two annexes, to separate areas within and beyond national jurisdiction.
- It was suggested that the annexes begin with the description of EBSAs, followed by the modification thereof, in the same annex, to follow the logic of the process.
- It was noted that there are multiple annexes because there are so many different combinations of variables to consider and that we need to find efficient ways to simplify.

Discussion on capacity-building

Participants stressed that some Parties will need capacity-building and support to develop and/or refine proposals. It was noted that past regional workshops have been preceded by capacity-building sessions, and that access to data has been improved through these regional EBSA workshops. The need for further capacity-building with respect to specific expertise (e.g., deep sea, genetic resources) was also noted, with suggestions to link capacity-building with future workshops. It was agreed that the need to continue capacity-building associated with the EBSA process (e.g., under the Sustainable Ocean Initiative or separately) can be included in the body of the draft recommendation.

[4] The points in the summary of discussion provided in this annex are grouped according to the topic they address and may not necessarily reflect the chronological order in which points were raised in the workshop.

Item 10 (b) Repository and information-sharing mechanism

Following a brief introduction by the Secretariat, the participants discussed this issue, which is summarized below:

Under this item, discussions focused on annex II of document CBD/EBSA/EM/2023/1/2, on the repository and information-sharing mechanism. Participants were reminded that paragraph 1 of this document describes a scenario where the repository is reserved for areas that were considered by the Conference of the Parties. It was noted that sub-paragraphs 2a) and 2f) were important the transparency aspect that is sought in this process.

Participants agreed that the only EBSA descriptions (including modified EBSA descriptions) that can be contained in the repository are those that were considered by the Conference of the Parties, regardless of whether they are located within or beyond national jurisdiction. They further agreed that previous versions of an EBSA originally contained in the repository and later modified must not be lost—there is a need to keep track of the history of an area that was modified or deleted/withdrawn and to keep this information publicly available.

Workshop participants also discussed that all versions of modified EBSAs (current as well as previous versions, in cases where EBSA descriptions are modified) in areas beyond national jurisdiction should be held in the repository.

With respect to areas within national jurisdiction, participants had differing views on how to keep track of the history of an area that has been modified or deleted/withdrawn, nor where these versions, as well as those replacing them, should be held. Some proposed that previous versions of areas in national jurisdiction should be held in the information-sharing mechanism (following para 2f of CBD/EBSA/EM/2023/1/2), whereas others felt that it should remain in the repository, as a library of all EBSAs that were approved by the COP, but be clearly marked as an old version of the EBSA description.

In this regard, two options were discussed:

Option 1: any EBSA description, regardless of whether the area is in national waters or beyond jurisdiction, that is entered into the repository remains there, unless the COP decides to remove it, with any modification recorded in the repository. Suggestions and questions included:

- If an EBSA description in the repository is modified, it would be clearly indicated that the original version was superseded or retracted and a link provided to a new version, also in the repository. This would help to provide a history of an area, because all the information would be contained in one place. Old versions would not be deleted from the repository but designated as superseded.
- It was asked whether it is technically feasible to use the repository as an archive, or whether the superseded entries should go to the information-sharing mechanism.
- It was asked whether a Party that wants to remove its EBSA from the repository can decide to move it to the information-sharing mechanism instead. What type of system would allow national authorities to exercise their sovereignty over their EBSAs? Participants did not make a recommendation on this matter, referring it instead to the legal workshop.

Option 2: EBSAs in national jurisdiction removed from the repository would enter an archive in the information-sharing mechanism, including the textual information and the polygons. Participants noted that the visual aspects of how this is shown would be important.

Other points of the discussion:

- It was understood that the term "modification" includes "deletion" or "withdrawal". In the past, some Parties were uncomfortable with the terms "deletion" and "withdrawal". As such, the term "modification" is understood to refer to cases in which an EBSA is modified as well as when an EBSA no longer exists.
- Some participations questioned the need to differentiate between areas within and areas beyond national jurisdiction when dealing with the placement of previous versions of EBSA descriptions that had been modified and preferred to keep the same approach for both cases.

Reasons for the modification of EBSA descriptions

This workshop did not see a need to focus discussions on reasons 1(a) through 1(e) in annex III of document CBD/EBSA/EM/2023/1/2. There was an attempt to simplify some of the contents, however. Discussions on reason 1(g) was only discussed in the legal workshop.

With respect to reason 1(f), the workshop participants agreed that the Secretariat should be permitted to make editorial changes to descriptions, given that an explanation is provided as to what entails an editorial revision. It was proposed that when an editorial mistake is identified, either by the Secretariat or a Party, the Secretariat would send out a notification on the subject, to indicate that an error was discovered and that it would implement the revision in a designated timeframe (e.g., within two weeks).

Some noted that, with respect to areas within national jurisdiction, States should be permitted to modify EBSA descriptions for any reason. Other participants disagreed, stressing the importance of scientific integrity of the EBSA process and approach and the need to avoid modifying EBSAs for political or other reasons. It was noted that this issue would be discussed further in the legal workshop.

Discussion on proponents (i.e., who is permitted to submit a proposal for a description or modification)

It was agreed that, with respect to areas within national jurisdiction, proposals can only be submitted by the
State(s) within whose jurisdiction(s) the EBSA is proposed. It was clarified that, as per standard CBD procedures, this would be the CBD National Focal Point. A concern was raised regarding this requirement in cases when the EBSA in question crosses multiple jurisdictions of States that cannot collaborate and submit together. It was clarified that in such cases, multiple separate submissions would allow for covering the entire EBSA in question, as one of the possible ways forward. It was also clarified that the State(s) could also choose to work with any other entity, including civil society, in the development and submission of a proposal.

With respect to areas beyond national jurisdiction, it was agreed that any State(s) can submit a proposal for a description or modification. There was also discussion regarding intergovernmental organizations and the important role they can play. Similar to the approach used in the BBNJ Agreement, participants were comfortable to use the term "State(s), individually or collectively" with the understanding that intergovernmental organizations are a collection of States and that this term would allow for such organizations to submit proposals. Many participants stressed the importance of involving civil society and relevant stakeholders in the development of proposals. It was noted that this indeed should be encouraged and will be captured in a separate relevant section.

Participants agreed that a "proposal" for a modification or a new description should be changed to a "submission" as this wording better describes the action in this case. It was then agreed that this wording also be used moving forward.

Discussion on the existing modalities to describe EBSAs through regional workshops (*refer to flowchart #1 in annex IV)*

This discussion focused on ensuring a common understanding of the current modality to describe EBSAs under the CBD (i.e., describing EBSAs through regional workshops). Participants agreed that the existing modality), would remain available for both areas within and beyond national jurisdiction. It was explained that this modality can be initiated by various means, in particular through a request by the Conference of the Parties or an informal expression of interest and/or support from Parties and/or intergovernmental organizations in a region, depending on funding availability, to conduct such a workshop. The outcome of the workshop is then considered by SBSTTA and COP, which decides whether the areas described through the regional workshop are to be included in the repository and thus gain the status as a CBD EBSA. It was noted, however, that further discussion is needed as to whether future workshops would remain regional, encompass multiple regions, or be thematically focused.

It was also explained that standard practice for all such workshops includes a notification disseminated by the CBD Secretariat requesting nominations and relevant data and knowledge. In this context, participants expressed the need to ensure clarity on standard CBD procedures which might not be explicitly indicated in the modalities, but also might not necessarily be known to everyone.

Participants further noted that Parties conducting their national exercises using the EBSA criteria or a similar set of criteria can provide information to the Executive Secretary to be placed in the information-sharing mechanism.

Discussion on the existing modality to share information on national processes through the information-sharing mechanism (*refer to flowchart #1 in annex IV)*
It was noted there is an existing modality by which countries can share information on their national exercises to describe areas meeting the EBSA criteria or other relevant compatible and complementary nationally or intergovernmentally agreed scientific criteria, which was set out by the COP in decision XIII/12. However, the decision does not give guidance with respect to individual areas emerging from these national processes and how these are to be displayed.

Developing and refining submissions through EBSA workshops
Participants discussed the value of EBSA workshops in developing and refining submissions (regardless of whether they are intended to be submitted to the repository or information-sharing mechanism). Some participants expressed support for having the option of an expert workshop, initiated by the proponent, that would discuss and develop a submission. However, it was stressed that convening a workshop for only one or a small number of interested proponents would not be an efficient use of resources and would put an unreasonable burden on the Secretariat. As such, it was noted that EBSA workshops can play an important role in reviewing, refining and helping to develop new submissions, but that it cannot be expected that the Secretariat can convene an expert workshop for any proponent requesting to convene such a workshop. It was also stressed that proponents can utilize any means they wish to develop a submission, including organizing workshop on their own or in collaboration with other proponents and stakeholders.

Discussion on new modalities for the modification of descriptions of ecologically or biologically significant marine areas and the description of new areas (annex V of document CBD/EBSA/EM/2023/1/2)
In the interest of time and clarity, discussions on this item did not focus on text. Rather, visual flowcharts were displayed in the room for reference and used as the basis for discussion. These flowcharts were being revised (as much as possible) to reflect the discussions as they progressed.

Discussions initially focused on the modalities as contained in (annex V of document CBD/EBSA/EM/2023/1/2). However, considering various issues that participants pointed out, a proposal for an alternative structure and approach was put forward by a participant, and this became

the basis for discussions moving forward. Flowcharts were developed for this alternative approach and used to facilitate discussion.

The discussion summarized in the following sections does not aim to capture the entire flow of discussion on each step of the process that led to the final version of the modalities that emerged from the workshop. Rather, key issues of discussion of captured here, in particular with respect to issues that may not be evident in the flowcharts.

Discussion on draft modalities for modifying areas or describing new areas within national jurisdiction, to be posted in the information-sharing mechanism *(refer to flowchart #2 in annex IV)*
It was explained that this modality is intended for Parties that do not wish to have their areas included in the repository, but still wish to share information on their areas with the global community. As part of this modality, any information posted in the information-sharing mechanism would be provided to SBSTTA and COP for information.

In the initial discussion, participants discussed whether these modalities were too complicated. Some participants expressed the need for complexity due to jurisdictional issues and disputed areas. Some noted that the information-sharing mechanism is a place for posting and sharing information on what others have done, for which one should not have to go through a formal and lengthy process, and argued for simplification. Others noted that posting any information on a website managed by an intergovernmental body comes with a certain degree of weight and can carry risks (in particular with respect to jurisdictional issues). As such, there should be a clear process that all Parties on. In addition, some participants noted the value of using such a process to improve and/or ensure the quality of the EBSA information and ensure transparency. Some Parties might wish for the global scientific community to review their submission, while others may not wish to discuss their areas globally but still want to share information. Some also noted that different modalities may be needed for modifications and for new descriptions as additional complexity is needed in the former case when modifying an area that has previously been considered by COP.

It was emphasized that information on the national process that led to the submission (according to annex I of CBD/EBSA/EM/2023/1/2, e.g., national expert workshop, inclusion of traditional knowledge, consultations) needs to be made available. The importance of transparency with respect to the knowledge used in the submission was discussed. It was also expressed that traditional knowledge and outputs of the Working Group on Article 8(j) should be considered and reflected in this process, including when developing a submission.

Notifications
Much discussion was focused on the role of notifications as an important tool for transparency and soliciting input on submissions. It was stressed that, in the current process, CBD regional EBSA workshops have played an important peer-review function and that notifications could also have a similar role. In the context of the CBD, notifications are formal communications sent via email from the Secretariat to Parties, Other Governments and relevant organizations, and are also posted publicly on the website of the Convention.

There were different types of notifications discussed, for different purposes:

- *Notification of intent:* Such a notification, issued by the Secretariat upon receipt of information from the proponent, would inform others that a proponent intends to submit a modification or new description. Making this information public at an early stage would allow countries that had concerns over jurisdictional issues to raise any issues in a timely manner and would also assist States to gather relevant scientific information prior to a submission, if they wish. The Secretariat explained that the CBD National Focal Point would have to send an official letter to the Secretariat expressing their intention to develop a submission and their request for the Secretariat to

disseminate this notification. There were differing views as to whether this notification should be optional or required, as some felt that it places undue burden on the proponent and the Secretariat. Some suggested that it should be encouraged.

- *Notification to inform of a submission:* This would be a notification that the Secretariat would issue immediately upon receiving a submission and prior to taking any further action. Following discussion about the various pros and cons of such a notification, participants agreed that this should be a required step for the CBD Secretariat.

  There were different views about whether it should be mandatory or optional to have this notification request comments (specifically with respect to submissions intended for the information-sharing mechanism). Some argued that Parties should have the opportunity to comment on submissions in order to avoid problems regarding jurisdictional issues, and to ensure sound science and transparency. Others argued for simplification of this modality, making this step optional but still allowing proponents to request and gather scientific information if they wish to do so. The need for flexibility, for example, to cater to Parties that have a well-developed national process for identifying their national EBSAs, was noted. It was further argued that if this step is mandatory, Parties may choose not to submit in the first place which would impact the availability of information. In addition, the following were discussed:
    - Comments received in response to this notification would be posted in the information-sharing mechanism.
    - It was not discussed in detail as to who can provide comments in response to this notification. Several options were briefly highlighted: (i) only Parties, (ii) Parties and competent organizations (without a clear understanding of which organizations are competent), or (iii) anyone.

  With respect to comments received in response to a notification, it was noted that proponents could either:
    - Address, or not to address, comments (if comments had been received), and revise/keep the submission in the information-sharing mechanism
    - Remove the submission from the information-sharing mechanism altogether

The proponent may also wish to decide to proceed to the repository, in which case an additional set of next steps would follow (please refer to the discussion on the repository under the next section).

Additional points raised

Further discussion took place on nationally defined EBSAs (areas considered EBSAs by the country in question, but not by the CBD) being placed in the information-sharing mechanism, and their distinction from CBD EBSAs that have been considered by COP. It was noted that the distinction between these two kinds of EBSAs will be made clear in the information-sharing mechanism. If a proponent decides to go further and proceed with the repository path, and COP decides to include the EBSA in question in the repository, this nationally defined EBSA would become a CBD EBSA.

Furthermore, there was a suggestion to include separate sections in the information-sharing mechanism, particularly separating the submissions that are in progress (e.g., going through the process of comments), from submissions that have been processed. Other suggestions included having individual "EBSA profiles" with all relevant information, in the information-sharing mechanism.

Discussion on the draft modalities for modifying areas or describing new areas within national jurisdiction, to be included in the repository (*refer to flowchart #3 in annex IV)*

It was explained that, in this modality, submissions would be considered by SBSTTA and COP. As such, this gives SBSTTA and COP the power to choose not to enter a submission into the repository

(note: this differs from the modality for submissions intended to be entered into the information-sharing mechanism, in which SBSTTA and COP is only informed of the submission but does not take a decision on it). Similar to the discussion on the information-sharing mechanism, participants noted the importance of ensuring that the process that led to the submission is a scientifically sound.

Notifications

Similar to the discussions referred to above, there was discussion on the role of notifications as an important tool for transparency and soliciting input on submissions. It was stressed that, in the current process, CBD regional EBSA workshops have played an important peer-review function and that notifications could also have a similar role. In the context of the CBD, notifications are formal communications sent via email from the Secretariat to Parties, Other Governments and relevant organizations, and are also posted publicly on the website of the Convention.

Just as with the previous section, discussions here focused on (i) notifications of intent to develop a submission and (ii) notifications to announce that a submission has been received by the Secretariat.

With respect to notifications to announce that a submission has been received by the Secretariat, there were discussions and differing views on whether responses to comments should be required or optional. Some argued that soliciting comments is an important means of peer-review that is important to ensuring the robustness of areas intended to be entered into the repository.

It was further suggested to change the wording with respect to comments from "revise" to "address" comments.

With respect to comments received in response to a notification, it was noted that proponents could either:

- Not address comments and proceed with the repository path (it was also noted, however, that the proponent should consider the comments and provide a rationale for why they chose not to address them)
- Address comments and proceed with the repository path
- Address, or not address, comments, and revise/keep the submission in the information-sharing mechanism
- Remove from the information-sharing mechanism altogether

It was noted that, since these modalities address areas within national jurisdiction, they should be flexible and offer choices to the proponents rather than follow a rigid structure.

Role of SBSTTA and COP

The next step in this process entails the CBD Secretariat preparing an official document for SBSTTA for consideration, containing the submission, comments received, and information on how the comments have, or have not, been addressed. It was suggested that SBSTTA could then either A) send the submission to COP for consideration, B) request an expert workshop to further review the submission or C) send the submission back to the proponent.

If the submission is sent to COP for consideration, it was then suggested that COP can either decide to A) include the submission in the repository, or B) not include the submission in the repository but retain all records in the information-sharing mechanism (this should be reflected in the flowcharts). It was further suggested that COP should also be able to send the submission back to the proponent to further refine, which was added as a third option. However, it was also pointed out that COP can proceed with any decision it deems appropriate.

Workshops to review submissions

Participants discussed the matter of expert workshops to review submissions, with differing views on whether they should be required/mandatory or optional:

- *Expert workshop to take place before SBSTTA:* There were differing views on whether this workshop should be mandatory or optional. This workshop would not necessarily have to be a regional workshop and could involve proponents across different regions, as needed. Some argued that this expert workshop is needed to review the submissions before SBSTTA to ensure scientific quality. Others suggested that countries may decide that they would need an expert workshop in order to address the comments effectively, but it should be their decision. Logistical and financial challenges associated with mandatory expert workshops were discussed, also considering that one expert workshop per country or EBSA is not feasible, and it would have to be defined at which point/under what conditions such a workshop could take place. There was an alternative suggestion, that a new round of regional workshops could begin following COP 16 to prepare new descriptions and/or modifications, or that periodical workshops could take place every two years.
- *Expert workshop would take place if SBSTTA or COP recommends/decides so:* SBSTTA or COP would request the workshop if they consider that further review is required. This workshop would be intended to also review already-developed submissions.
- *Peer-review process before SBSTTA, not necessarily a workshop:* Some participants expressed the need to have a peer-review process to review the submissions before they are considered by SBSTTA to ensure quality control, including through a workshop or through other modalities. Some also expressed the advantages of an online peer-review process ensuring transparency and inclusivity. However, it was also noted that a new peer-review process may not be needed because this modality already includes the process for requesting and responding to comments, and that SBSTTA has a full mandate to undertake a scientific and technical review of documents and modify the submissions as well, with COP also being able to review and modify.

There was also discussion on whether the expert workshops being referred to here would different from the regional workshops under the existing modality whereby EBSAs are described through regional workshops. The importance of ensuring clarity as to which workshop is being referred to in the next pre-session document was noted. Participants also noted that future workshops could be regional, global or thematic and could take place with a designated periodicity.

Discussion on the draft modalities for description or modification in areas beyond national jurisdiction *(refer to flowchart #4 in annex IV)*

It was agreed that any submissions in areas beyond national jurisdiction must be considered (i.e., reviewed) by SBSTTA and COP and that such submissions can only be directed to the repository, not the information-sharing mechanism. Participants agreed that this process should be more rigid/offer less flexibility than the process within national jurisdiction, which could involve a choice of paths for the proponent. Unlike the case of national jurisdiction, the only end point is the repository, which involves a series of almost exclusively mandatory steps to follow.

Notifications

- *Notification of intent:* As in the case of national jurisdiction, some maintained that, in the case of areas beyond national jurisdiction, a notification to inform others of the proponent's intention to submit a modification or new description should be mandatory, as a means of inviting States and organizations to provide information. It was not agreed, however, that this should be mandatory, with some preferring this to be an optional first step, accompanied by an invitation to provide relevant information.
- *Notification to inform of the receipt of a submission and invitation to comment:* It was agreed that this notification should be mandatory. Its purpose would be to indicate that a submission was received, but it would not contain the scientific information on the submission, which would instead be made available in the information-sharing mechanism. It would invite comments on the submission.

- *Deadline for receipt of comments regarding a submission*: There was a discussion about the deadline for comments to be received after the issuance of a notification. A period of three months was initially proposed, however, participants noted that it would be a challenge for IGOs to meet this deadline, because they would need to consult their advisory, or other bodies, which might only meet annually. It was also noted that this deadline would likely also be too short for States, given that different government departments/bodies might need to consult.

As noted above, the notification to inform of the receipt of a submission will include an invitation to provide comments. Participants did not agree on whose comments would be welcome, though there was also a proposal that comments would be posted in the information-sharing mechanism as they are received, in keeping with the role of the ISM here to provide transparency.

Role of expert workshops

- *An expert workshop should be mandatory:* Participants agreed that the expert workshop would be a mandatory part of the process for areas beyond national jurisdiction, as it would provide the opportunity to address any concerns about the submissions. Participants also agreed that workshops would be a very valuable means of sharing information and building capacity; in the case of the deep-sea, information is held by only a few countries with the capacity and infrastructure. There are great capacity and knowledge gaps.
- *Workshop modalities should be flexible*: Participants agreed that these workshops would be global in nature and that they could also be thematic. They were open as to what kind of workshops this would be, and under which modality they would operate.
- *Scheduling:* This expert workshop should take place prior to SBSTTA, following the same sequence as first established by the Conference of the Parties in its decision 10/29, and similar in sequence to what was discussed under national jurisdiction.
- *Participants*: There was a suggestion that the expert workshop should be open-ended, in principle, but there was agreement that funding of this type of workshop would be a challenge.
- *Subject for discussion*: Participants agreed that these workshops could consider any concerns about the submissions. They also agreed that submissions may come prior to the expert workshop or may be proposed and developed at the time of the workshop itself, as is currently the case for CBD EBSA workshops.

Role of the information-sharing mechanism

Participants agreed that a record of areas submitted (regardless of whether they make it through the process to the repository) should be included in the information-sharing mechanism for transparency and future reference.

Role of a relevant expert advisory body

The "relevant expert advisory body" was distinguished from the "informal advisory group", established after COP 13 to deal with the issue of modalities. It was proposed that this body could increase the quality, completeness and balance of the EBSA descriptions and therefore increase the buy-in of the global scientific and technical community. Ideas for its role included: 1) provision of technical expertise 2) assessment of whether comments have been adequately addressed, and 3) determining if there is a need for a workshop, and what kind of workshop that could be.

Participants agreed that there is a need to specify what the role of such a body would be, at what point in the process it would be needed, and whether this role could be served by other means; they questioned whether a dedicated second body was needed. It was suggested that the existing terms of reference for the informal advisory group could be adapted to fulfill any identified additional needs. It was asked whether any additional work required could instead be performed, as needed, by consultants. It was suggested that, although an advisory body would provide continuity and broader inclusiveness, which could not be provided by a single consultant, there are several disadvantages to

having this second body, including the need to maintain the group and the need to draft terms of reference and keep them up to date, which is a time-consuming task.

It was noted that no terms of reference have been drafted for an expert advisory body, and it was proposed that its establishment be postponed. Participants recommended that the Secretariat assess where support is needed and indicate this in the pre-session document for SBSTTA.

Annex IV

Flowcharts illustrating modalities by the end of the workshop

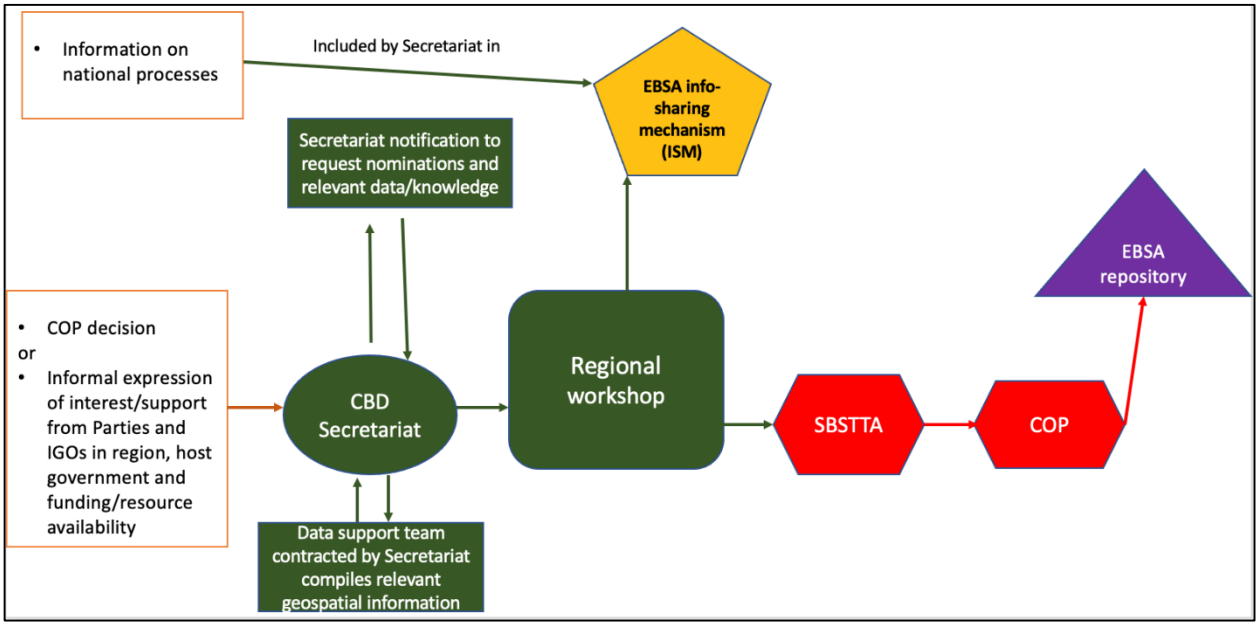
As noted in annex III, discussions on modalities for the modification of EBSA descriptions and the description of new EBSA item did not focus on text. Rather, in the interest of time and clarity, visual flowcharts were displayed in the room for reference and used as the basis for discussion. These flowcharts were being revised (as much as possible) to reflect the discussions as they progressed.

This annex contains flowcharts, and brief explanations of the steps illustrated in the flowcharts, as they were by the end of the workshop. All steps of the flowcharts were discussed by the workshop participants and areas of disagreement were captured in the flowcharts to the greatest extent possible.

It's important to note that these flowcharts and explanations focus only on the steps in the process to modify EBSA descriptions and describe new EBSAs, and do not illustrate other issues discussed (e.g., reasons for modification, proponents, information contained in the repository and information-sharing mechanism).

It should also be noted that these flowcharts and explanations are simplistic representations of the steps of the modalities. The version of the draft modalities to be made available for the Subsidiary Body at its twenty-sixth meeting will contain textual explanations written in the style and format typical of documents considered by the Subsidiary Body. Flowcharts will not be provided in the version submitted to Subsidiary Body. However, as noted earlier, an information document containing detailed explanations, clarifications and flowcharts will be made available to the Subsidiary Body to inform its deliberations on this topic at its twenty-sixth meeting.

Flowchart #1—Existing modalities to describe EBSAs through CBD regional workshops and to provide information on national processes to the information-sharing mechanism



With respect to areas intended to be included in the CBD EBSA repository

1. The convening of a CBD EBSA workshop is initiated by:

(a) Decision of the CBD COP, or

(b) Informal expression of interest/support from Parties and IGOs in region, host government and funding/resource availability

2. The CBD Secretariat convenes a CBD regional EBSA workshop, which entails (i) notification to request nomination of expert participants, (ii) notification to request submission of relevant data/knowledge and (iii) contracting of data support team to support workshop preparation and data compilation and mapping during workshop

(a) Information provided in response to notification is made available for the workshop and posted on the information-sharing mechanism;

(b) Workshop may develop new submissions and also review/discuss submissions developed prior to workshop;

(c) Workshop discusses areas beyond national jurisdiction and also areas within national jurisdiction when requested by the State;

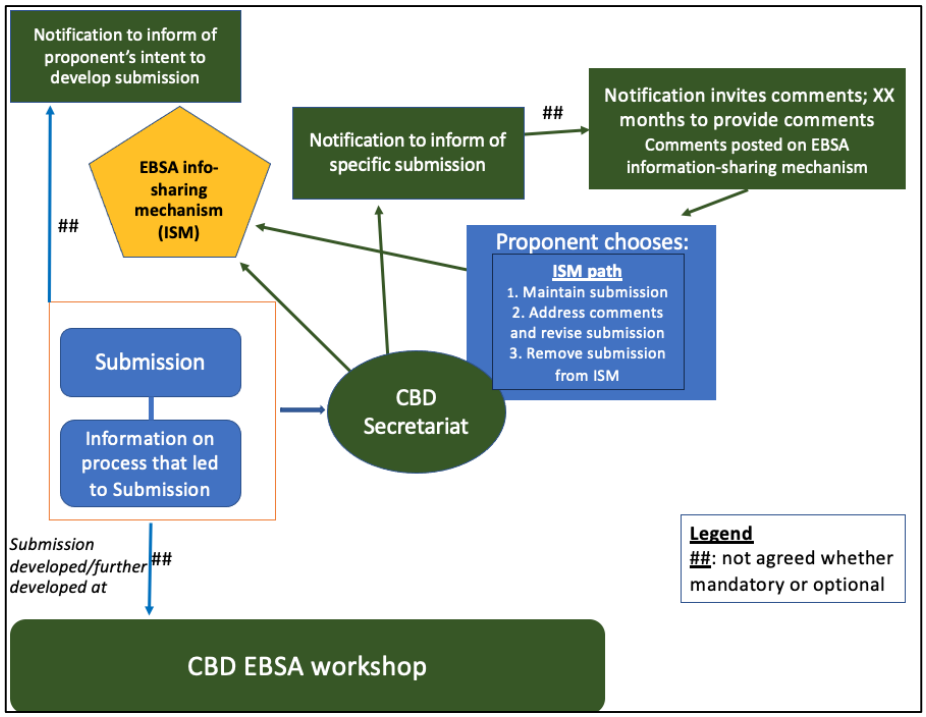
(d) Areas intended to go to the EBSA repository must be adopted by the workshop as a whole; workshop does not need to agree on areas going to the information-sharing mechanism

3. Workshop outcomes are provided to CBD SBSTTA for consideration, which decides whether to recommend to the COP that it includes the areas in the EBSA repository;

4. COP decides whether or not to include the areas into the repository, at which point they become CBD EBSAs.

There is also a modality by which countries can share information on their national exercises to describe areas meeting the EBSA criteria or other relevant compatible and complementary nationally or intergovernmentally agreed scientific criteria, which was set out by the COP in decision XIII/12.

Flowchart #2—Draft modalities for modifying areas or describing new areas within national jurisdiction, to be posted in the information-sharing mechanism



1. Proponent informs Secretariat of intent to develop submission and Secretariat issues notification (*Differing views on whether mandatory or voluntary*);

2. Submission is developed/further developed at CBD EBSA expert workshop (*Differing views on whether mandatory or voluntary*);

3. Secretariat add a record of the submission as it is received to the information-sharing mechanism;

4. Secretariat issues notification and keeps open for comment (*Differing views on whether mandatory or voluntary*);

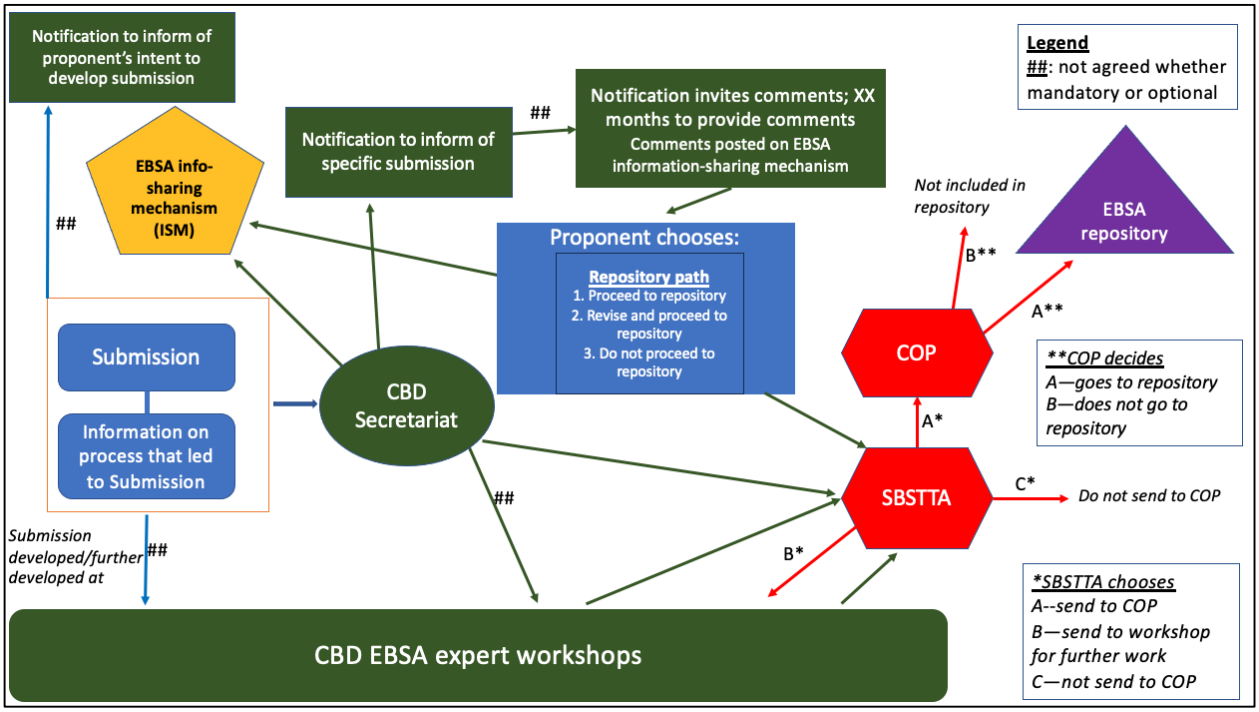
(a) Secretariat posts comments on the information-sharing mechanism and transmits comments to proponent, who then chooses either to:

(i) Maintain submission as it is in the information-sharing mechanism

(ii) Address comments (if comments had been received), and revise the submission in the information-sharing mechanism

(iii) Request the Secretariat to remove the submission from the information-sharing mechanism.

Flowchart #3—Draft modalities for modifying areas or describing new areas within national jurisdiction, to be included in the repository



1. Proponent informs Secretariat of intent to develop submission and Secretariat issues notification (*Differing views on whether mandatory or voluntary*);

2. Submission is developed/further developed at CBD EBSA expert workshop (*Differing views on whether mandatory or voluntary*);

3. Secretariat add a record of the submission as it is received to the information-sharing mechanism;

4. Secretariat issues notification and keeps open for comment (*Differing views on whether mandatory or voluntary*);

(a) Secretariat posts comments on the information-sharing mechanism and transmits comments to proponent, who then chooses either to:

(i) Maintain submission and proceed with the submission as is;

(ii) Address comments (if comments had been received), and revise the submission;

(iii) Do not proceed further;

5. If proponent wishes to proceed on path to repository, submission is discussed at CBD EBSA workshop (*Differing views on whether mandatory or voluntary*);

6. Submission is provided to SBSTTA, which chooses one of the following:

(a) Recommend to the COP that it include the draft description in the repository (thus giving it the status of a CBD EBSA);

(b) Request that submission be further revised at CBD EBSA workshop, the outputs of which are sent back to SBSTTA for consideration; or

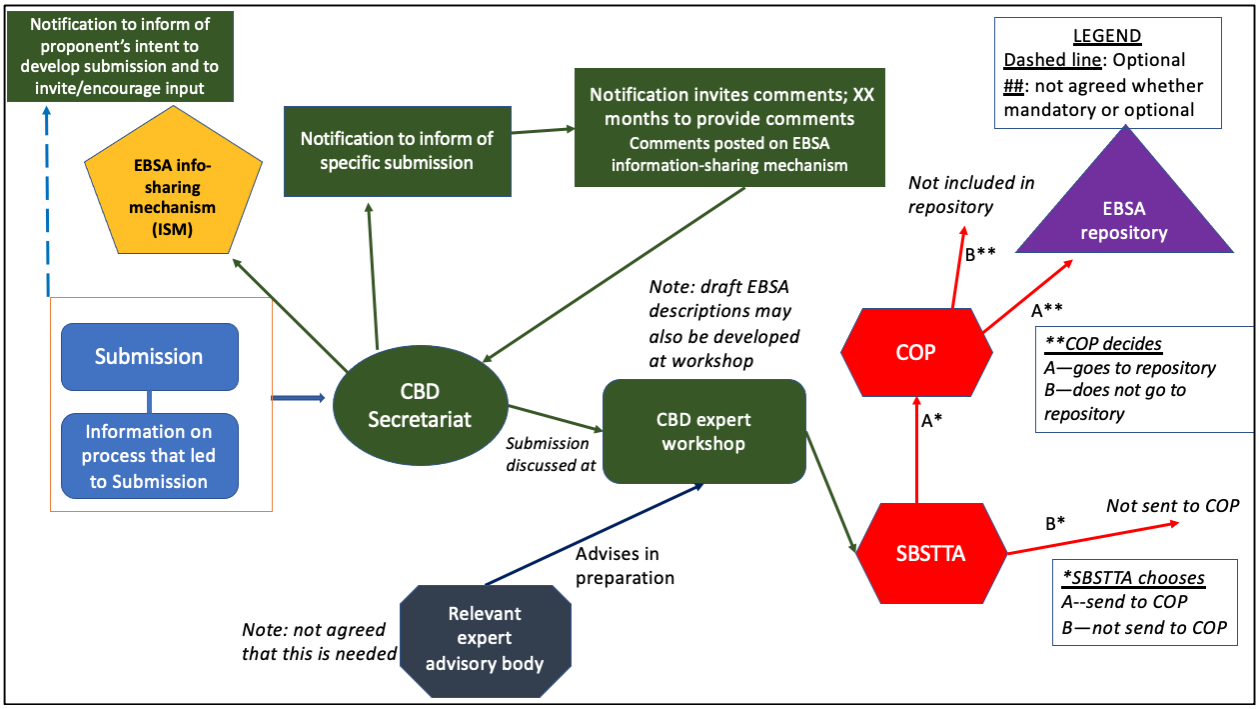
(c) Do not recommend that the submission be considered by COP;

7. On the basis of a recommendation from SBSTTA, the COP chooses one of the following:

(a) Request the Secretariat to include the submission in the repository (thus giving it the status of a CBD EBSA);

(b) Do not request inclusion of the submission in the repository

Flowchart #4—Draft modalities for description or modification in areas beyond national jurisdiction



1. Proponent informs Secretariat of intent to develop submission and Secretariat issues notification (*Differing views on whether mandatory or voluntary*);

2. Secretariat add a record of the submission as it is received to the information-sharing mechanism;

3. Secretariat issues notification and keeps open for comment;

(a) Secretariat posts comments on the information-sharing mechanism and transmits comments to proponent,

(b) Submission, and the comments received, are reviewed at a CBD EBSA workshop, the outputs of which provided to SBSTTA for consideration

4. SBSTTA chooses one of the following:

(a) Recommend to the COP that it include the draft description in the repository (thus giving it the status of a CBD EBSA);

(b) Do not recommend that the submission be considered by COP;

5. On the basis of a recommendation from SBSTTA, the COP chooses one of the following:

(a) Request the Secretariat to include the submission in the repository (thus giving it the status of a CBD EBSA);

(b) Do not request inclusion of the submission in the repository.