



Convention on Biological Diversity

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CONFERENCE OF THE PARTIES TO THE
CONVENTION ON BIOLOGICAL DIVERSITY
Fifteenth meeting – Part II
Montreal, Canada, 7-19 December 2022
Agenda item 20A

Ecologically or biologically significant marine areas: further work

Draft decision submitted by the Chair of Working Group II

The Conference of the Parties,

Reaffirming Articles 4 and 22 of the Convention as well as decisions X/29, XI/17, XII/22, XIII/12 (in particular paragraph 3) and 14/9 of the Conference of the Parties,

Recalling United Nations General Assembly resolution [76/72](#) on oceans and the law of the sea and its preambular paragraphs on the United Nations Convention on the Law of the Sea,^{1,2}

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

Noting the negotiations underway in the intergovernmental conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, following United Nations General Assembly resolution [72/249](#),

Also noting the report of the Preparatory Committee established by General Assembly resolution 69/292 on the development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction and the recommendations contained therein, which address, among other issues, area-based management tools, including marine protected areas, in marine areas beyond national jurisdiction, including standards and criteria for areas requiring protection through the establishment of area-based management tools, as well as the designation, implementation, and monitoring and review of area-based management tools,

Further noting the competence of the International Maritime Organization and the Food and Agriculture Organization of the United Nations with respect to shipping and fishing in marine areas beyond national jurisdiction, respectively, and the competence of the International Seabed Authority with respect to the exploration and exploitation of mineral resources in the international seabed Area,

¹ Türkiye dissociates itself from the reference made to the United Nations Convention on the Law of the Sea, to which it is not a party. Participating in this conference cannot be construed as a change in the well-known legal position of Türkiye with regard to the said instrument.

² Colombia reaffirms that the United Nations Convention on the Law of the Sea is not the only legal instruments governing all of the legal activities carried out in the oceans and seas. The participation of Colombia in this conference does not affect its status or rights, nor can it be interpreted as a tacit or express acceptance of the provisions of the United Nations Convention on the Law of the Sea, an instrument to which Colombia is not a party.

Noting that the description of ecologically or biologically significant marine areas (EBSAs) is an important scientific and technical process which may contribute to the implementation of the post-2020 global biodiversity framework,

1. *Expresses its appreciation* to the Governments of Belgium and Germany for their financial support for the organization of the Expert Workshop to Identify Options for Modifying the Description of Ecologically or Biologically Significant Marine Areas and Describing New Areas, and *takes note* of the report of the workshop;³

2. *Welcomes* the capacity-building activities facilitated by the Executive Secretary at the regional level in collaboration with Parties, other Governments and relevant organizations to facilitate efforts to describe EBSAs, *acknowledges* that such activities may comprise an important element of an updated programme of work on marine and coastal biodiversity, and *requests* the Executive Secretary to continue facilitating such capacity-building activities in support of the implementation of the post-2020 global biodiversity framework;

3. *Decides* to extend the term of the Informal Advisory Group on Ecologically or Biologically Significant Marine Areas;

[4. *Requests* the Executive Secretary, subject to the availability of resources, to convene an expert workshop to review the technical aspects of the modalities outlined in the annex to recommendation 24/10 of the Subsidiary Body on Scientific, Technical and Technological Advice,⁴ and an expert workshop to review the legal issues pertaining to these modalities, on the basis of the outcomes of above-noted workshop, to provide the outcomes of this work for discussion through virtual modalities, such as global and/or regional webinars, open comment by Parties and other Governments, and discussion by the Informal Advisory Group, and to provide the outcomes of this work to a future meeting of the Subsidiary Body on Scientific, Technical and Technological Advice and/or of the Subsidiary Body on Implementation, for consideration prior to the sixteenth meeting of the Conference of the Parties, with a view to adopting modalities for modifying descriptions of ecologically or biologically significant marine areas and for describing new areas at the sixteenth meeting of the Conference of the Parties;

5. *Requests* the Executive Secretary to develop draft terms of reference for a “relevant expert advisory body” in the context of modalities for modifying the descriptions of ecologically or biologically significant marine areas and describing of new areas, annexed to recommendation 24/10 of the Subsidiary Body on Scientific, Technical and Technological Advice,⁵ without prejudicing future discussions on this issue, for subsequent consideration by the Subsidiary Body on Scientific, Technical and Technological Advice prior to the sixteenth meeting of the Conference of the Parties;

6. *Also requests* the Executive Secretary, under the guidance of the Bureau of the Subsidiary Body on Scientific, Technical and Technological Advice, to develop voluntary guidelines on peer-review processes for the description of areas meeting the criteria for ecologically or biologically significant marine areas and other relevant compatible and complementary scientific criteria, for subsequent consideration by the Subsidiary Body on Scientific, Technical and Technological Advice prior to the sixteenth meeting of the Conference of the Parties;

7. *Encourages* Parties and *invites* other Governments to take into consideration the experiences and outcomes of the EBSA description process in the deliberations on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

³ CBD/EBSA/WS/2020/1/2.

⁴ Also considering the information contained in documents CBD/SBSTTA/24/INF/41 and CBD/EBSA/OM/2022/2/1.

⁵ Also considering the information contained in documents CBD/SBSTTA/24/INF/41 and CBD/EBSA/OM/2022/2/1.

8. *Invites* Parties and other Governments to take into account the experiences and outcomes of the EBSA description process when analyzing the risks and implications of deep-seabed mining, including in the context of deliberations under the International Seabed Authority;

9. *Encourages* further collaboration and information-sharing between the Secretariat of the Convention on Biological Diversity and the Food and Agriculture Organization of the United Nations, the International Maritime Organization, the International Seabed Authority, UN Division for Ocean Affairs and the Law of the Sea, the Intergovernmental Oceanographic Commission of UNESCO and the secretariats of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services and the Intergovernmental Panel on Climate Change, as well as regional fishery bodies, regional seas conventions and actions plans, and other relevant international organizations, regarding the use of information on ecologically or biologically significant marine areas, including the best available scientific information and the traditional knowledge of indigenous peoples and local communities with their free, prior and informed consent⁶ as one of the key pieces of information that can be used, inter alia, for guidance and cross-learning regarding the use of area-based management tools, including vulnerable marine ecosystems, particularly sensitive sea areas, and areas of particular environmental interest, important marine mammal areas, among other approaches, with a view to contributing to the achievement of the post-2020 global biodiversity framework and relevant Sustainable Development Goals.

⁶ In this decision, free, prior and informed consent refers to the tripartite terminology of “prior and informed consent” or “free, prior and informed consent” or “approval and involvement”