



**Convention on
Biological Diversity**

Distr.: General
9 November 2023

English only

**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

**Legal expert workshop to review modalities for
modifying the descriptions of ecologically or
biologically significant marine areas and
describing new areas**

Oslo, 23–27 November 2023

**Draft modalities for the modification of descriptions of ecologically or
biologically significant marine areas and the description of new areas**

Note by the Secretariat

1. The main focus of discussions in the technical and legal expert workshops is the review of modalities for modifying the descriptions of ecologically or biologically significant marine areas and describing new such areas, and the annexes to the present document contain draft modalities for such modification and description.
2. The draft modalities were developed on the basis of the modalities outlined in the annex to recommendation 24/10 of the Subsidiary Body on Scientific, Technical and Technological Advice, as further revised on the basis of input received through:
 - (a) The online discussion forum on ecologically or biologically significant marine areas in preparation for the fifteenth meeting of the Conference of the Parties to the Convention on Biological Diversity (14–21 September 2022);
 - (b) Proposals submitted by Parties and observers on ecologically or biologically significant marine areas under agenda item 6 of the twenty-fourth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice;
3. The draft modalities were drafted with a view to seeking potential consensus on the text, on the basis of input received, and not as a verbatim reflection of all input received through the aforementioned sources.
4. The outcomes of the workshops will serve as the basis for deliberations on this issue at the twenty-sixth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice and the fourth meeting of the Subsidiary Body on Implementation, as appropriate.

* Reissued for technical reasons on 20 November 2023.

Annex I

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

1. Those who develop and submit proposals for the modification of descriptions of ecologically or biologically significant marine areas and the description of new such areas are encouraged to consider:

(a) Collaboration with relevant organizations, experts and knowledge holders, including indigenous peoples and local communities, as holders of traditional knowledge, with their free, prior and informed consent,¹ in accordance with the United Nations Declaration on the Rights of Indigenous Peoples and international human rights law;

(b) A strong scientific basis with sufficient information, as well as the importance of transparency;

(c) The regional dimensions of marine and coastal ecosystems and their ecological and biological features and processes, including regional differences in data availability, as well as collaboration across regions.

2.² The description of marine areas meeting the criteria for ecologically or biologically significant marine areas does not imply the expression of any opinion whatsoever concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries; nor does it have economic or legal implications. It is strictly a scientific and technical exercise. No action or activity carried out on the basis of the present document shall be interpreted or considered as prejudicing the position of States on a land or maritime sovereignty dispute or a dispute concerning the delimitation of maritime areas.

3.² If, in response to notifications issued by the Secretariat regarding a proposal for the modification of an existing description of an ecologically or biologically significant marine area or the description of a new area (as described in annex V, paragraph 4, to the present document), any State formally communicates to the Secretariat, within the three months period for responses to such notifications, a concern with respect to land or maritime boundary dispute and an objection to further action being taken due to this concern, no further action shall be taken on that proposal (regardless of whether it is intended to be submitted to the repository or information-sharing mechanism) until such concerns are addressed through consultations between the States concerned, as communicated to the Secretariat by the State involved.

¹ 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”.

² To be discussed in the legal expert workshop.

Annex II

Repository and information-sharing mechanism for ecologically or biologically significant marine areas

1. The ecologically or biologically significant marine areas (EBSAs) repository is to contain the descriptions of areas meeting the EBSA criteria that were considered by the Conference of the Parties to the Convention on Biological Diversity, and which the Conference of the Parties, in its decision X/29, requested the Executive Secretary to include in the repository for scientific and technical information and experience related to the application of the scientific criteria on the identification of EBSAs in annex I to decision IX/20 and transmit to the General Assembly of the United Nations for information and its relevant processes, as well as to relevant international organizations.
2. The EBSA information-sharing mechanism is to contain:
 - (a) Links to national processes and information pertaining to areas meeting the EBSA criteria and other relevant compatible and complementary nationally agreed scientific criteria within national jurisdiction that were provided as information for the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties;
 - (b) Reports of the regional workshops to facilitate the description of EBSAs convened by the Secretariat of the Convention on Biological Diversity;
 - (c) Guidance related to the application of the EBSA criteria and the use of EBSA information;
 - (d) Other relevant scientific and technical information and other forms of knowledge, including the indigenous and traditional knowledge of indigenous peoples and local communities with their free, prior and informed consent,¹ where appropriate, related to areas described as meeting the EBSA criteria;
 - (e) Information and experience relating to the application of other relevant and complementary intergovernmentally agreed scientific criteria;
 - (f) Previous versions of EBSA descriptions held in the repository, in cases where the descriptions have been modified, including information on the modality by which the EBSA description was initially included in the repository.

¹ 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”.

Annex III

Reasons for the modification of descriptions of ecologically or biologically significant marine areas

1. Reasons for the modification of a description of ecologically or biologically significant marine areas (EBSAs), which can entail a modification to the textual description of the area, a modification to the ranking of the area against the EBSA criteria or a change in the location, shape, depth or size of the area, are:

- (a) Newly available or accessible knowledge, including scientific and traditional knowledge, on features associated with an EBSA;
- (b) Change in the information that appears in the current description of an EBSA, including its name;
- (c) Change in the ecological or biological features of an EBSA;
- (d) Scientific errors identified in an EBSA description;
- (e) Modifications to the EBSA criteria, to guidance in the application of the EBSA criteria or to the template¹ used to describe EBSAs;
- (f) Editorial errors in an EBSA description;
- (g)² Land or maritime boundary disputes.

¹ See www.cbd.int/doc/meetings/mar/ebaws-2015-01/other/ebaws-2015-01-template-en.dot.

² To be discussed in the legal expert workshop.

Annex IV

Proponents for the description of ecologically or biologically significant marine areas and the modification of descriptions of ecologically or biologically significant marine areas

1. The following proponents can submit a proposal for the description or modification of a description of an ecologically or biologically significant marine areas (EBSA) for any of the reasons listed in annex III to the present note:

(a) For a proposed description or modification of a description an EBSA within the national jurisdiction of one or more States: the State or States within whose jurisdiction the EBSA description or modification is proposed;

(b) For a proposed description or modification of a description of an EBSA in areas beyond national jurisdiction: any State or competent intergovernmental organization, with provision of notice to all States;

(c) For a proposed description or modification of a description of an EBSA in areas partially located beyond national jurisdiction: the State or States within whose jurisdiction the proposed EBSA description or area subject to a proposal of a modification of an EBSA description is partially located;

2. For reason (f) of annex III, the Secretariat, on its own initiative or upon information provided by a State, may propose the modification of an EBSA description.

3. The proponents are encouraged to collaborate with holders of relevant knowledge, including traditional knowledge, in the development of proposals for the description or modification of a description of an EBSA.

Annex V

Modalities for the modification of descriptions of ecologically or biologically significant marine areas and the description of new areas

Regional workshops on ecologically or biologically significant marine areas

1. New ecologically or biologically significant marine areas (EBSAs) may be described and previous EBSA descriptions may be modified through a regional workshop convened by the Secretariat, subject to the availability of resources and organized in line with paragraph 36 of decision X/29, the outputs of which are submitted for consideration by the Subsidiary Body on Scientific, Technical and Technological Advice and by the Conference of the Parties to the Convention on Biological Diversity, with a view to their inclusion in the EBSA repository.

Modification for editorial errors

2. As an alternative to the modality outlined in paragraph 1, and in the case of editorial errors in a previous EBSA description, the Secretariat, on its own initiative or upon information by a State, is to disseminate a notification to provide information regarding the proposed modification and implements the proposed modification within three months of issuance of the notification. A report on modifications made to address editorial errors is to be made available to the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties for information.

Additional modalities for the description of ecologically or biologically significant marine areas and modification of descriptions of ecologically or biologically significant marine areas

3. As an alternative to the modality outlined in paragraph 1, the proposal for description or modification of a description of an EBSA is to be submitted to the Secretariat by a relevant proponent, in accordance with annex IV, together with information on the process by which the proposal was produced, including any scientific peer-review process, and, in cases where information based on traditional knowledge is included, any information on consultations with indigenous peoples and local communities conducted with their free, prior and informed consent,¹ in accordance with the United Nations Declaration on the Rights of Indigenous Peoples and the Mo'otz Kuxtal Voluntary Guidelines, for the development of mechanisms, legislation or other appropriate initiatives to ensure the "prior and informed consent", "free, prior and informed consent" or "approval and involvement", depending on national circumstances, of indigenous peoples and local communities for accessing their knowledge, innovations and practices, for fair and equitable sharing of benefits arising from the use of their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity, and for reporting and preventing unlawful appropriation of traditional knowledge;²

4. The Secretariat is to disseminate information about the proposal through a notification. The notification shall be open for comments by Parties, other Governments and relevant organizations and knowledge holders, including holders of traditional knowledge, for a period of three months. The Secretariat shall send the comments directly to the proponents for consideration, and the proponents shall then have three months to adjust the proposal in response to the comments, as appropriate, or to respond to the comments, as deemed relevant. The Secretariat shall also issue notifications biannually regarding the status of all proposals for modification and description received by the Secretariat;

5. The Secretariat is to compile a report, including comments received and responses, if applicable, to be made available to the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties. In preparing the report, the Secretariat may seek the advice

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² Decision XIII/18, annex.

of a relevant expert advisory body mandated by the Conference of the Parties. In the case of modifications described through regional workshops, experts who participated in the workshop at which the EBSA was originally described may provide, if relevant, advice at the preparation stage of the report. The following should be noted:

(a) Proposals for the description or modification of a description of an EBSA to be included in the EBSA repository shall be submitted to the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties for consideration;

(b) Proposals for the description or modification of a description of an EBSA to be included in the EBSA information-sharing mechanism (limited to areas within national jurisdiction) shall be submitted to the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties, for information.

6. On the basis of reports submitted to the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties for consideration, with a view to including them in the repository, the Conference of the Parties is to take a decision, as follows:

(a) For proposals for the description or modification of the description of an EBSA in areas within national jurisdiction, the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties shall decide on whether or not the proposals are to be included in the repository;

(b) For proposals for the description or modification of the description of an EBSA either wholly or partially in areas beyond national jurisdiction, the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties shall choose on one of the following options:

(i) Request inclusion of the description or modification in the repository;

(ii) If further analysis and review of the proposals is required, request the Secretariat to convene an expert workshop, subject to the availability of resources, to review the proposal. The output of the workshop is to be submitted to the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties for consideration. In that regard:

a. The Secretariat may seek the advice of a relevant expert advisory body mandated by the Conference of the Parties on the planning of the workshop;

b. For the modification of EBSAs described at regional workshops, experts who participated in the workshop at which the areas were originally described will be involved in the review process, if possible. The output of the workshop is to be submitted to the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties for consideration.

7. On the basis of reports provided to the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties for information with a view to including them in the information-sharing mechanism, links to information on the description or modification (which should be supported with best available information and using best practices) shall be included in the information-sharing mechanism.

8. For the modification of the description of an EBSA (regardless of whether it is included in the repository or information-sharing mechanism), the original description, and the modality by which it was included in the repository or information-sharing mechanism, shall remain available on the EBSA website.