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CASE-STUDIES ON THE ESTABLISHMENT OF MARINE PROTECTED AREAS BEYOND NATIONAL JURISDICTION

Note by the Executive Secretary

I. BACKGROUND

1. The present document, which has been developed in collaboration with the Regional Activity Centre for Specially Protected Areas (SPA/RAC) under the Mediterranean Action Plan (UNEP/MAP) and WWF, presents three practical case-studies of marine protected areas beyond the limits of national jurisdiction. The case-studies consist of one existing marine protected areas beyond national jurisdiction, one proposed marine protected area, and one identified priority area. The case-studies are meant to assist the Ad Hoc Open-ended Working Group on Protected Areas in its deliberations under item 3.1 of the provisional agenda by providing examples of the types of areas identified for protection, and the types of mechanisms that can be used to achieve this protection.

II EXISTING MARINE PROTECTED AREA: THE PELAGOS SANCTUARY FOR MEDITERRANEAN MARINE MAMMALS

2. It has been argued that the Pelagos Sanctuary for Mediterranean Marine Mammals is the first high-seas marine protected area in the world. Unlike the whale sanctuaries in the Indian Ocean and Southern Ocean, which have been in place for several years under the auspices of the International Whaling Commission, the Mediterranean Sanctuary requires contracting Parties to protect the area's marine mammals and habitats from all direct or indirect negative effects, including pollution and destructive fishing practices.

3. The sanctuary was established through the collaborative efforts of France, Italy and Monaco. Fifty-three per cent of the sanctuary contains marine areas beyond national jurisdiction, while the rest is within internal maritime waters and territorial waters of France, Italy, and Monaco. The sanctuary comprises the waters between Toulon (French Riviera, France), Capo Falcone (western Sardinia, Italy), Capo Ferro (eastern Sardinia, Italy), and Fosso Chiarone (Tuscany, Italy). It should be noted that Mediterranean coastal States have not declared exclusive economic zones, and therefore Mediterranean

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high seas begin at the 12-nautical-mile limit of each nation's territorial sea. If a 200-nautical-mile exclusive economic zone was in effect, the sanctuary would be within the territorial waters of the three countries.

4. The sanctuary idea was originally launched in 1989 by Europe Conservation and the Tethys Institute. In 1992, a working group on the sanctuary was formed and consisted of the three country delegations and representatives from WWF, Europe Conservation, Greenpeace and Rimmo. An expert meeting on the creation of the sanctuary was held during the same year. In 1999, after a process of negotiation, the representatives of the three Governments met in Rome to sign the international treaty creating the marine-mammal sanctuary. The agreement was ratified and executed in 2001 and came into effect in 2002. A management plan was approved in 2004.

5. At approximately 84,000 km², the sanctuary is the largest Specially Protected Area of Mediterranean Importance (SPAMI). Contracting parties to the Barcelona Convention for the Protection of the Mediterranean Sea against Pollution are required to abide by the regulations of protected areas on the Convention's SPAMI list, whether the SPAMI lies inside or outside national waters, making it possible to extend part of the sanctuary into areas beyond national jurisdiction. Responsibility for managing the sanctuary, as well as the right to enforce the sanctuary's regulations on the high seas, rests with France, Italy, and Monaco.

6. The sanctuary is situated in a unique location characterized by high levels of offshore primary productivity, which supports complex food chains and a high level of trophic diversity. Spring nutrient blooms from mid-April to the end of May, and a high concentration of krill from January to July, attract a number of animals, including fish and cetaceans. The area also incorporates a variety of underwater habitats, including continental slope and deep canyons. The sanctuary contains habitat suitable for the breeding and feeding needs of all eight cetacean species regularly found in the Mediterranean Sea, from fin to sperm whales to four species of dolphin. In the late 1980s, the sudden increase in fishing boats using mesh driftnets, and the realization that many cetaceans were being caught in their mesh caused concern among non-governmental organizations, scientists and local governments. Other threats include pollution from land-based sources, seismic disturbances caused by engineering work and exploration of the continental slope, maritime traffic and tourism.

III. PROPOSED MARINE PROTECTED AREA: RAINBOW HYDROTHERMAL VENT FIELD WITHIN THE OSPAR MARITIME REGION

7. At the recent meeting of the inter-sessional correspondence group on marine protected areas (ICG-MPA) of the OSPAR Convention on the Protection of the Marine Environment of the North-East Atlantic, WWF proposed one site with hydrothermal vents, called the Rainbow Hydrothermal Vent Field, located beyond national jurisdiction for nomination to the OSPAR network. The proposal was welcomed by a number of participants, who discussed how to proceed in taking this potential OSPAR marine-protected-area site forward.

8. There was consensus within the inter-sessional correspondence group that the next step would be for OSPAR bodies to further assess the proposal on the basis of scientific expertise. Once approved, the site would need to be accepted and designated by the OSPAR Commission. Parallel to this process, the OSPAR Marine Areas, Species and Habitats Group could investigate management options for the site, providing that this had been approved by the OSPAR Commission. The next step would be to identify and designate the relevant authority responsible for the management and legal framework of the site.

9. The inter-sessional correspondence group agreed that the proposal presented a well elaborated indication of a site that could qualify as a marine protected area beyond national jurisdiction, and decided

to take the proposal forward as a test case for nomination of an area beyond national jurisdiction for the OSPAR network of marine protected areas. An updated version of the draft document will be presented at the meeting of the OSPAR Marine Areas, Species and Habitats Group later this year.

10. The Rainbow Hydrothermal Vent Field was discovered on the Mid-Atlantic Ridge in 1997, and comprises more than 30 groups of active small sulphide chimneys. The field is considered rather dynamic in space and time and showed changes in individual smokers at an interval of just one year. The Rainbow hydrothermal plume is the strongest such feature yet found on the Mid-Atlantic Ridge, and the plume is unique for having lowest pH, highest chloride concentration and highest temperature (360°C – 365°C) of any hydrothermal vent fluids yet sampled in the area. About 32 species have been recorded in the Rainbow area thus far, including several new to the Mid-Atlantic Ridge. Current human activities are mainly restricted to science, although one tourist excursion has also been conducted.

IV. IDENTIFIED PRIORITY AREA: THE GRAND BANKS

11. The Grand Banks is one of the richest and most over-exploited ecosystems in the world, whose sustainable management is essential for both the fishing industry and biodiversity conservation. The Grand Banks extends beyond national jurisdiction into international waters and therefore its management would require a high seas component.

12. WWF is in the early stages of developing a management plan in cooperation with Governments and other stakeholders. The two general objectives of the plan are: (i) the implementation of a zoning approach, including protected areas, for the entire ecosystem; and (ii) the development of international and institutional legal and technical mechanisms to operate both within and beyond national jurisdiction. The Grand Banks will serve as a useful model for the development of management and conservation regimes for other areas of the high seas.
