

**Item 7: Development of substantive recommendations on the elements of a draft text of an international legally binding instrument under the United Nations Convention on the Law of the Sea**

Consideration of Area-Based Management Tools, Including Marine Protected Areas

Mr. Chair,

I am honoured to be speaking on behalf of the EU and its 28 Member States

The EU and its Member States have given this issue a lot of consideration. May I start by saying that we agree with others who have stated that a balance needs to be achieved between conservation and sustainable use. We hold that conservation and sustainable use are in fact two sides of the same coin in that it would be difficult to achieve sustainable use if conservation considerations are not taken on board. We stress that the international community has adopted different commitments towards conservation and sustainable use of oceans and their resources including marine biodiversity, amongst others within the 2030 Sustainable Development Agenda. In particular, the 10% coverage target by 2020 springs to mind in this respect; a figure we still remain far from with regard to areas beyond national jurisdiction in 2016.

Mr Chair, as we have stated earlier, the EU and its Member States give great importance to science-based decision-making. In this respect, we believe that science has amply demonstrated that area-based management tools and, in particular, marine protected areas are essential tools for the

conservation and sustainable use of marine biodiversity. We note, however, with concern, that there is currently no overarching framework or mechanism in place to establish globally recognized MPAs in areas beyond national jurisdiction. We further note that many existing organisations have only a limited spatial or substantive mandate and that, consequently, due to this, human activities continue to be managed on an individual basis in a silo manner. We also acknowledge that, at present, only a very limited number of sectoral or regionally applicable MPAs have been established in areas beyond national jurisdiction. It is the objective of the EU and its Member States that the implementing agreement can improve the existing status quo.

Mr. Chair,

In our view, there are currently three different situations with regard to area-based management of areas beyond national jurisdiction. First, there is the situation where no international, regional or sectoral, organisations with a relevant mandate exist. Second, there is the situation where such organisations do exist, but have not established any MPAs. Third, there is the situation where such organisations do exist and have established MPAs, within the remit of their mandates.

The EU and its Member States believe that the Implementing Agreement should create a mechanism that can apply to all three situations. This mechanism should not undermine the mandates of existing organisations and arrangements, but - where appropriate - complement them by building upon the work that they have been doing.

Mr. Chairman,

In the view of the EU and its Member States, the Implementing Agreement should create a mechanism to enable the establishment and management of a global network of ecologically representative and effectively managed MPAs in areas beyond national jurisdiction with the aim of achieving the conservation and sustainable use of marine biological diversity.

To this end, we propose that the Implementing Agreement should describe a number of general criteria for the identification of areas to be protected, on the basis of which more detailed scientific and adaptable criteria can subsequently be developed and updated. In order to identify which areas are eligible to become MPAs under the Implementing Agreement, the process under the Agreement should be based on scientific and technical input, including from existing processes.

Mr. Chairman,

The EU and its member States hold that proposals for the designation of MPAs should come from States Parties, collectively or individually. Furthermore, we consider that civil society can also play a role and/or provide input regarding proposals for the designation of MPAs. We suggest that any proposal should be based on the best available scientific information, follow an ecosystem approach and the precautionary principle, and should at a minimum include the following elements: a description of impacts; conservation objectives; spatial boundaries; and a management plan.

The EU and its Member States recognize that MPAs in areas beyond national jurisdiction established by regional international organisations already exist

or will be created. We acknowledge the primary role existing organisations play in this respect. We believe the Implementing Agreement could therefore consider a simplified procedure for proposal or adoption or endorsement - under the future Agreement – of these existing MPAs, provided they comply with adopted criteria.

Mr. Chair,

Following a proposal for the establishment of an MPA, we believe that the decision-making procedure should provide for a dialogue or consultation mechanism. This dialogue or consultation mechanism should be open to a wide range of stakeholders, in particular all States, not only States Parties, existing competent international, regional or sectoral, organisations, and civil society. This should ensure that a wide variety of views can be taken into consideration prior to any final decision in the hope that this will improve subsequent buy-in and respect of adopted measures.

Mr. Chair,

The EU and its Member States firmly hold that Any MPAs established must be in accordance with the balance of rights and obligations in the UNCLOS. In particular, any MPAs established in the water column of high-seas areas overlaying a coastal State's continental shelf must respect the sovereign rights of that State over its continental shelf and its resources.

Mr. Chair,

It will fall, first and foremost, on States Parties to the Implementing Agreement to implement any necessary management measures in respect of

an MPA with respect to activities and processes under their jurisdiction. Taking into account that a number of international organisations have mandates and competences to manage activities in areas beyond national jurisdiction which can be related to the conservation objectives of an established MPA, the EU and its Member States hold that these organisations will be responsible for the necessary management measures with regard to activities under their purview in order to reach the agreed conservation objectives for a particular marine protected area. We also hold that the Implementing Agreement should also establish a mechanism for coordination and cooperation with and among those organisations.

We also consider that the future Agreement should establish mechanisms with respect to reporting on the implementation of management measures and the review of effectiveness of MPAs and their management plans.

Mr Chair, we look forward to continue discussing and developing these ideas with other delegations in this and subsequent discussions. We are very interested to hear ideas other colleagues have on this topic.