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United Nations Nations Unies

INTEROFFICE MEMORANDUM MEMORANDUM INTERIEUR

TO: Mr. Vijay Nambiar
A: Chef de Cabinet

DATE: 7 September 2007 NH

REFERENCE: AC (w. encl.)

THROUGH:
S/C DE:

FROM: Nicolas Michel, Under-Secretary-General
DE: for Legal Affairs, The Legal Counsel, OLA

A. Michel

SUBJECT:
OBJET: **Secretary-General's report on oceans and the law of the sea**

1. By its resolution 61/222, paragraph 92 (copy attached), the General Assembly requested the Secretary-General to report to its sixty-second session on the issues referred to in paragraph 91 of the same resolution in the context of his report on oceans and the law of the sea. In response to this request, the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs (DOALOS/OLA), prepared the attached report, which contains information on: the environmental impacts of anthropogenic activities on marine biological diversity beyond areas of national jurisdiction; coordination and cooperation among States as well as relevant intergovernmental organizations and bodies for the conservation and management of marine biological diversity beyond areas of national jurisdiction; the role of area-based management tools; genetic resources beyond areas of national jurisdiction; and whether there is a governance or regulatory gap, and if so, how it should be addressed.

2. The report is intended to assist the second meeting of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, to be convened in 2008, in preparing its agenda.

3. Draft reports on ocean issues prepared by DOALOS/OLA have traditionally been approved by the Legal Counsel, acting within the responsibilities delegated to him by the Secretary-General. However, in the past, the Executive Office of the Secretary-General requested that key conclusions and recommendations of reports be cleared by that Office. I herewith submit for your review a copy of the conclusions of the report as well as a brief summary of its contents.

4. In accordance with the plan for submission of documentation for the 62nd session of the General Assembly, the deadline for this report is 10 September 2007. I apologize for submitting this to you at such a late stage and would be most grateful for your approval, so that the report can be processed on that date.

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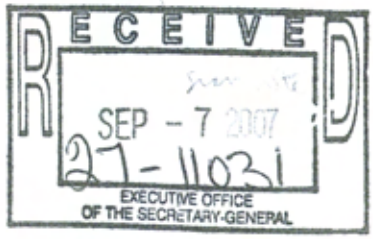

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General Assembly

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Approved on behalf of the Secretary General

10/8

Sixty-second session
Agenda item 79 (a) of the provisional agenda*
Oceans and the law of the sea

Oceans and the law of the sea

Report of the Secretary-General

Addendum

Summary

The present addendum has been prepared in response to a request by the General Assembly, in paragraphs 91 and 92 of its resolution 61/222 of 20 December 2006, for the Secretary-General to report to the Assembly at its sixty-second session on issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, in the context of his report on oceans and the law of the sea. As provided in that resolution, the report is intended to assist the second meeting of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, to be convened in 2008, in preparing its agenda. In accordance with paragraph 92 of General Assembly resolution 61/222, the report presents information on: the environmental impacts of anthropogenic activities on marine biological diversity beyond areas of national jurisdiction; coordination and cooperation among States as well as relevant intergovernmental organizations and bodies for the conservation and management of marine biological diversity beyond areas of national jurisdiction; the role of area-based management tools; genetic resources beyond areas of national jurisdiction; and whether there is a governance or regulatory gap, and if so, how it should be addressed.

* A/62/

Conclusions

1. Biodiversity, including marine biodiversity, is at the heart of healthy ecosystems and is essential to global food security and sustainable livelihoods, economic prosperity and a healthy environment. For example, the sustainable provision of genetic information, a driver of innovation and biodiscovery, is directly dependent on the conservation of biological resources and their diversity, including the dynamic ecosystems in which these resources evolve.

2. Currently, the individual as well as cumulative effects of anthropogenic activities, such as, overfishing, destructive fishing practices, pollution and human-induced climate change, are contributing to the loss of marine biodiversity and decreasing the benefits that humans can derive from the oceans. It is therefore important to manage anthropogenic activities to ensure that the services provided by marine ecosystems continue to support human needs in the long term. It is also important to address gaps in information of the state, resilience and vulnerability of the marine environment and of the nature and extent of activities which impact marine biodiversity.

3. A variety of area-based management tools currently mostly available for areas within national jurisdiction could also be further implemented in areas beyond national jurisdiction to provide a higher level of protection to some species and habitats by managing the activities which negatively impact marine biodiversity or that have such potential. While some tools are specific to sectors, such as shipping and fisheries, others, often described collectively as "marine protected areas", adopt integrated and ecosystem-based approaches which address cumulative impacts of various activities and user conflicts and integrate ecological and socio-economic considerations in decision-making.

4. A crucial element for the implementation of area-based management tools is cooperation and coordination among States, either directly or through relevant international organizations. Implementation also needs to be based on scientific information, an integrated approach, lessons learned at the national level, and the objectives being pursued, as well as the specific characteristic of the area.

5. Cooperation among States, either directly or through relevant international organizations, is also an essential element of the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. It is therefore important to improve international cooperation and coordination, including better linkages between agencies and organizations addressing different sectors. In this respect, States could consider harmonizing the mandates of relevant organizations by building on the existing mandates, integrating the respective areas of expertise and avoiding duplication of work, and thereby ensuring a coordinated approach to their activities. Further cooperation and coordination across sectors could be promoted to achieve an integrated ecosystem-based approach to ocean management and the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction.

6. The need for international cooperation to support marine scientific research, for example, through exchange and dissemination of information, has been particularly highlighted. Only a fraction of the Earth's oceans, in particular beyond areas of national jurisdiction, have been explored and information is still

limited on the status, distribution, function and vulnerability of marine biodiversity and biological resources, particularly marine genetic resources. It is therefore important to strengthen the information base with specific data. Further scientific studies are essential to improve the understanding of marine biodiversity and thereby facilitate better informed policy and decision-making for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. In that regard, the importance of international cooperation to increase the capacity of developing countries to conduct scientific research has been underlined, in particular the exchange and dissemination of scientific information, participation in research activities, development of new technologies, funding for studies, and strengthening of taxonomic expertise.

7. Knowledge of current and potential benefits of marine genetic resources in terms of the supporting, regulating and provisioning services they provide also points to the need for increased research and further studies, including on the role of intellectual property rights, as well as for assessments of the current capacity of countries to benefit from those resources, including through marine biotechnology. A uniform understanding of the applicable legal regime is likely to encourage research in areas beyond national jurisdiction. It may counter-balance the risks associated with the significant financial investment and advanced technology needed for deep-sea activities.

8. A priority is to increase the level of participation in and implementation of existing instruments, including the principles and tools available to address the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. Capacity-building plays an important role in this regard. Improvement in implementation also needs to be carried out in conjunction with an effort to improve cooperation and coordination among existing mechanisms, international organizations, and sectors and regimes with varying competencies beyond areas of national jurisdiction, as well as capacity-building.

9. During recent discussions in international fora, issues or concerns have been raised in relation to the existing legal framework for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction, including the question of governance and regulatory gaps. A range of solutions have also been offered to address these issues with varying levels of support. Proposals include the need to focus on strengthening the implementation of, compliance with and enforcement of the existing legal regime; addressing specific gaps in implementation; and the development of new legal instruments or mechanisms to enhance cooperation for the integrated conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. The question of whether there is a governance or regulatory gap in the existing international legal framework is ultimately a question of policy. It will be for States to decide on the way forward, bearing in mind that the legal framework for all activities in the oceans and seas is set out in UNCLOS.

United Nations Nations Unies

Executive Office of the Secretary-General
Cabinet du Secrétaire géneral

To: Mr. Nambiar,

I am forwarding to you, for urgent approval, the SG's Report on Oceans and the Law of the Sea. The report is normally approved by the Legal Counsel within his responsibilities as delegated by the SG. However, it is current practice to submit for our review a copy of the conclusions of the report. It is naturally a technical report and the conclusions are contained in the two pages attached hereto.

I would support their approval, so that the report can be processed by the deadline being Monday, 10 September.

Thank you.

Nicholas Haysom
7 September 2007

cc: Mr. Kim Won-soo

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