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The Antarctic Treaty System role regarding the development of a comprehensive system of Marine Protected Areas

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Working Paper submitted by Belgium, Germany and Netherlands

1. Summary

This Working Paper discusses the responsibility of Parties to environmental protection and the conservation of marine living resources under the international agreements that comprise the Antarctic Treaty system and the connection between both. The Working Paper notes the work carried out so far towards the establishment of a representative system of marine protected areas (MPAs) in the CCAMLR Convention area, and invites the CEP to acknowledge this work and encourage its prompt and positive conclusion. A draft Resolution is appended.

2. Background

The international agreements that comprise the Antarctic Treaty system highlight the responsibility of member states to environmental protection and the conservation of marine living resources.

This Working Paper takes into account Article VI of the Treaty which states that the provisions of the Treaty shall apply to the area south of 60° South Latitude, including all ice shelves, but nothing in the Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within that area and Article IX, paragraph 1 (f) of the Antarctic Treaty which assigns the Antarctic Treaty Consultative Parties responsibilities in respect of the preservation and conservation of living resources in Antarctica.

Article II (1) of CCAMLR (adopted in 1980) states that the objective of the Convention is the conservation of Antarctic marine living resources. Article II (2) notes that for the purpose of CCAMLR, the term 'conservation' includes rational use. Under Article II (3) of CCAMLR any harvesting and associated activities in the CCAMLR area shall be conducted in accordance with the provisions of the Convention and with several principles of conservation:

- prevention of decrease in the size of any harvested population to levels below those which ensure its stable recruitment;
- maintenance of the ecological relationships between harvested, dependent and related populations of Antarctic marine living resources and the restoration of depleted populations to levels that ensure stable recruitment; and
- prevention of changes or minimization of the risk of changes in the marine ecosystem which are not potentially reversible over two or three decades.

Furthermore, Article IX 2(g) of CCAMLR gives effect to the use of MPAs as a tool to protect and preserve the environment.

In Article V of CCAMLR, the Contracting Parties which are not Parties to the Antarctic Treaty acknowledge the special obligations and responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the environment of the Antarctic Treaty area.

Conservation objectives of CCAMLR are complemented by those of the 1991 Madrid Protocol on Environmental Protection to the Antarctic Treaty (the Madrid Protocol), which applies to the Antarctic Treaty Area, including a substantive portion of the Southern Ocean, while not derogating from the rights and obligations of its Parties under the other international instruments in force within the Antarctic Treaty system.

The Preamble to the Madrid Protocol reaffirms the conservation principles of the Convention on the Conservation of Antarctic Marine Living Resources. The Objective of the Madrid Protocol (Article 2) is for Parties to commit themselves to the comprehensive protection of the Antarctic environment and dependent and associated ecosystems.

In 2002, governments at the World Summit on Sustainable Development agreed a commitment to establish comprehensive, effectively managed and ecologically representative networks of MPAs by 2012 (United Nations, 2002). In 2004, CCAMLR addressed the topic of MPAs and urged its Scientific Committee to proceed with this work as a matter of priority. The Commission reaffirmed the need to develop advice on MPAs which was commensurate with Articles II and IX of the CAMLR Convention (CCAMLR-XXIII, paragraph 4.13).

The establishment of spatial protection for marine biodiversity has been identified as a priority issue by both the CEP (CEP IX Final Report, paragraphs 94 to 101) and CCAMLR (CCAMLR-XXIII, paragraph 4.13) and is consistent with meeting the objectives of the CAMLR Convention (CCAMLR XXIV, paragraph 4.14).

The CEP agreed in 2009 to:

- develop a strategy and work towards the establishment of effective, representative and coherent spatial protection of marine biodiversity within the Antarctic Treaty Area within the next three years, through the designation of Antarctic Specially Protected Areas (ASPAs) and Antarctic Specially Managed Areas (ASMAs) under Annex V of the Protocol on Environmental Protection;
- Cooperate as far as possible with CCAMLR and SCAR to ensure that such measures are implemented on a scientific basis, and with the aim of achieving harmonized protection for Antarctic marine biodiversity across the Antarctic Treaty System;
- focus further work on the development of marine spatial protection and management within, but not limited to, those priority areas agreed by CCAMLR which fall within the Antarctic Treaty Area (CEP XII Final Report, § 171)

The CEP also endorsed the recommendations of the report of the Joint SC-CAMLR / CEP Workshop held in Baltimore, 3 – 4 April 2009 (CEP XII Final report, § 267);

In 2010, the tenth Meeting of the Conference of the Parties to the Convention on Biological Diversity decided (Decision X/2), that by 2020, 10 per cent of global coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are to be conserved through effectively and equitably managed, ecologically representative and well-connected systems of protected areas and other effective area-based conservation measures.

CCAMLR has reinforced its commitment to establish a system of MPAs (CCAMLR-XXIV, paragraph 4.12, CCAMLR-XXVII, paragraph 7.2 (i), CCAMLR-XXVIII, paragraph 7.19). In 2009, the CCAMLR Performance Review Panel Report recommended that CCAMLR take steps towards designating MPAs as a matter of priority (CCAMLR-XXVII, paragraph 17.9). CCAMLR has made progress towards designating MPAs through a number of workshops on MPAs carried out since 2004, including between SC-CAMLR and the CEP, which highlighted the importance of consultations between these two bodies.

In 2009, CCAMLR designated its first protected area on the shelf to the south of the South Orkney Islands, accordingly it adopted Conservation Measure 91-03 (2009) ‘Protection of the South Orkney Islands southern shelf’.

In 2011 CCAMLR approved Conservation Measure 91-04 General framework for the establishment of CCAMLR MPAs. In its preamble, CM 91-04 endorses, *inter alia*, the work program of the Scientific Committee to develop a representative system of Antarctic MPAs with the aim of conserving marine biodiversity in the Convention Area, and in accordance with the decision at the World Summit on Sustainable Development (WSSD) in 2002 to achieve a representative network of MPAs by 2012.

Overall, CCAMLR Members, most of which are also Consultative Parties to the Antarctic Treaty, have recognized the importance of establishing CCAMLR MPAs in the Convention Area in accordance with the conservation objectives of Art. II of the CAMLR Convention (CM 91-04, 2011). Progress has been made in CCAMLR towards meeting international commitments calling for the development of representative networks of MPAs globally by 2012, several proposals were discussed at its XXXI annual meeting that year.

3. Proposal

Taking into account the previously agreed principles and commitments that have been highlighted in this paper, and the work carried out so far, Parties are invited to:

- Welcome the progress achieved toward the elaboration of a representative system of MPAs, and the ongoing work undertaken by CCAMLR;
- Welcome CCAMLR's commitment to develop a representative system of Antarctic Marine Protected Areas (MPAs) with the aim of conserving marine biodiversity in the Convention Area, and in accordance with the decision at the World Summit on Sustainable Development (WSSD) to achieve a representative network of MPAs;
- Find a comprehensive conclusion leading to such a system in order to comply with international commitments and the provisions of the Antarctic Treaty system.
- Encourage those Parties which are also Members of CCAMLR to ensure representation at the forthcoming CCAMLR Special Meeting, in Bremerhaven in July, reflects appropriate expertise of the Antarctic Treaty System in order to underpin the development of a system of Antarctic Marine Protected Areas (MPAs) that supports both their obligations under Article IX paragraph 1(f) of the Antarctic Treaty and Article II of the CAMLR Convention.

4. Recommendation

A draft Resolution is appended.

Draft Resolution

Resolution XY (2013)

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The Representatives,

Recalling the prime responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the Antarctic environment and, in particular, their responsibilities under Article IX, paragraph 1 (f) of the Antarctic Treaty in respect of the preservation and conservation of living resources in Antarctica;

Conscious that the Convention on the Conservation of Antarctic Marine Living Resources is an integral part of the Antarctic Treaty system;

Recalling that the objective of the Convention is the conservation of Antarctic marine living resources, which includes rational use, in accordance with the conservation principles listed in Article II of the CAMLR Convention;

Further *recalling* that the Preamble to the Protocol on Environmental Protection to the Antarctic Treaty (the Madrid Protocol) reaffirms the conservation principles of the Convention on the Conservation of Antarctic Marine Living Resources;

Recognizing that the Objective of the Protocol (Article 2) is for Parties to commit themselves to the comprehensive protection of the Antarctic environment and dependent and associated ecosystems;

Noting CCAMLR's commitment to establish a representative system of marine protected areas according to the World Summit on Sustainable Development objective of developing a representative system of MPAs by 2012 (CCAMLR-XXVIII, paragraph 7.19);

Recognizing that the development of a representative system of MPAs in the CCAMLR Convention Area, as described in CCAMLR-XXVIII, will significantly contribute to the successful implementation of Article IX paragraph 1 (f) of the Antarctic Treaty, in respect of the preservation and conservation of living resources in Antarctica;

Noting Resolutions 3 (1999), Resolution 3 (2002) Resolution 1 (2004), Resolution 1 (2006), whereby the Antarctic Treaty Consultative Parties expressed support for CCAMLR with regards to developments in the CAMLR Convention Area;

Noting further with appreciation the work undertaken by several Members to prepare MPA proposals for designation by CCAMLR and without prejudging the finalization of those proposals;

Recommend that the Parties:

- Welcome the progress achieved toward the elaboration of a representative system of MPAs and the ongoing work undertaken by CCAMLR;
- Welcome CCAMLR's commitment to develop a representative system of Antarctic Marine Protected Areas (MPAs) with the aim of conserving marine biodiversity in the Convention Area, and in accordance with the decision at the World Summit on Sustainable Development (WSSD) to achieve a representative network of MPAs;
- Find a comprehensive conclusion leading to such a system in order to comply with international commitments and the provisions of the Antarctic Treaty system; and

- Encourage those Parties which are also Members of CCAMLR to ensure representation at the forthcoming CCAMLR Special Meeting, in Bremerhaven in July, reflects appropriate expertise of the Antarctic Treaty System in order to underpin the development of a system of Antarctic Marine Protected Areas (MPAs) that supports both their obligations under Article IX paragraph 1(f) of the Antarctic Treaty and Article II of the CAMLR Convention.