IUCN Introduction to LC 32/LP/5 INF 2
Agenda Item 4: Ocean Fertilization

IUCN thanks the Contracting Parties to the London Convention and the London Protocol for the opportunity to submit this document to the meeting of these distinguished Governing Bodies. It is an article entitled "Geo-engineering, the Law of the Sea and Climate Change", generously made available to these Governing Bodies with the kind permission of the publisher Lexxion.

Distinguished Representatives, Madame Chair, you will have noted that plans to address climate change increasingly include proposals for geo-engineering projects. These Governing Bodies have heard an extensive list of such projects from the distinguished Chair of the Scientific Groups in Doc. LC/LP 32/4/3. This list is still growing. Furthermore, as the Governing Bodies will have recognized, most of these projects proposed so far either directly involve or affect the ocean and its processes, or they may otherwise affect the marine environment. These project proposals therefore will require detailed scrutiny by the international community, and in particular an assessment of their compatibility with the international law of the sea and related legally binding instruments.

The article submitted to these meetings:
a) briefly describes a representative selection from the current marine geo-engineering proposals, including ocean fertilization,
b) reviews the principal applicable legally binding global instruments and their current mechanisms to assess and regulate geo-engineering in international law, with special attention to the London Convention/London Protocol system, as well as the UN Convention on Law of the Sea and the Convention on Biological Diversity,
c) examines the implications of these instruments and international law of the sea for marine geo-engineering proposals in general.

This may also be of use to these Governing Bodies as they begin looking ahead to their potential future role in these proposals, as adumbrated, for example, in Doc. LC/LP 32/4/1 submitted to the present meetings by Canada.

Among the conclusions of the article submitted to you is that the London Convention and London Protocol are at present the most appropriate and immediately effective international instruments to assess and regulate many of the proposed marine geo-engineering projects. If the mandatory legal requirements created under these instruments are not satisfied, these projects cannot legally proceed.

It will be clear from the article that the current work of the Governing Bodies on ocean fertilization is pioneering in its development of international law on marine geo-engineering and its environmental implications. In tackling this challenging issue, the Governing Bodies have accepted a formidable responsibility whose outcome will resonate in the global discourse on climate change and the search for appropriate responses. These responses should themselves be environmentally sensible, a point which these Governing Bodies are correctly recognizing in their precautionary approach to ocean fertilization.

In ensuring that the responses to climate change are environmentally sensible, the Governing Bodies are greatly assisted by the London Convention/London Protocol system, which establishes a mandatory marine environmental protection structure that is further strengthened by the UN Convention on the Law of the Sea and assisted by the Convention on Biological Diversity.

In conclusion, IUCN urges the Governing Bodies to continue with the excellent example it is setting, in its work on ocean fertilization in the context of the London Convention and London Protocol, to ensure that the pressures to address climate change do not undermine the extensive rules for the protection of the marine environment that already exist. In protecting the marine environment, the Governing Bodies are protecting the entire planet, which is 70% ocean. Thank you for the opportunity to introduce this article to the present meetings.

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ANNEX

Annex to Formal Introduction of IUCN INF 2 to LC32/LP5
in Plenary on 12.10.2010
Comments from the participants in Plenary

Chair (China): This is a very useful introduction which makes important suggestions and will assist the work of the Governing Bodies on ocean fertilization.

Denmark, Netherlands, New Zealand, South Africa, Spain, Vanuatu and Greenpeace intervened in plenary to congratulate (Denmark)/sincerely thank (New Zealand)/thank (the others) IUCN for the paper.

Denmark, New Zealand, South Africa, Vanuatu also stated that they share IUCN's concerns.

The Netherlands added that the paper showed the difficulty of what the Governing Bodies were trying to achieve, and the potential offered by the LC/LP to obtain positive results.

New Zealand added that the paper was very good in clarifying the relationship between the LC/LP, the LOS Convention and the CBD, and it justified New Zealand's work in leading the efforts made on this issue at the LC/LP.

Spain added that this excellent document effectively summarizes and emphasizes the problems this forum is addressing; it sheds further light on these probems and will assist the Governing Bodies' work.

Greenpeace added that the paper was very good in bringing the international law on the subject together and justifies the LC/LP parties' decision to put themselves at the center of protecting the marine environment in this context. The paper demonstrated the need for the messages from this forum to be clear and consistent. The world is watching closely what this forum is doing on this subject.

Japan recognized the importance of this topic but considered it was too early for the Governing Bodies to discuss marine geo-engineering in general.

Note by PAV: Given the very tight and extensive agenda at this session for the Governing Bodies, it was most generous of the Chair to enable this time to be devoted in plenary to the presentation and discussion of IUCN's INF submission.