

Madrid, 25 May 2011

Dear Minister,

Greenpeace, Ecologistas en Acción, the Pew Environment Group together with the Deep Sea Conservation Coalition¹ welcomed with interest and satisfaction the presentation of the project "Atlantis", which took place on 4 April, and was developed by the Spanish Oceanographic Institute (IEO) under coordination of the Secretary General for the Sea.

The project "Atlantis" consisted of several campaigns, carried out between the year 2007 and 2010, which allowed for the study of deep-sea ecosystems on the South West Atlantic high seas (area mainly covered by the Patagonian continental shelf). As result of the study, the IEO identifies nine different areas as vulnerable marine ecosystems (VMEs) and recommends their closure to bottom fisheries. The closure of VMEs areas on the high seas is established under the Regulation of the European Union (EU) No. 734/2008, and the United Nations General Assembly (UNGA) Resolutions 61/105 and 64/72, adopted in 2006 and 2009 respectively².

The project has been presented in very good timing, when Spain should reinforce its commitment to protect VMEs. Next 15 and 16 September, the UNGA will carry out a thorough review of the implementation of Resolutions 61/105 and 64/72.

Spain has taken a big step forward and has been a worldwide leader by investigating deep-sea waters in the SW Atlantic, as well as in other areas of the Atlantic Ocean, complying partially with the UNGA resolutions. However, the investigation should be accompanied by strong and sufficient measures aligned to all the requirements establish under these resolutions.

We consider that, based on the precautionary principle, Spain should have closed the deep-sea areas before 31 December 2008 as established in paragraph 86 of the Resolution 61/105, to which Spain and the EU are committed to comply. It is of great importance that action is taken before September, when Spain will present for the first time after the adoption of the Resolution 61/105, at the UNGA, the measures it has adopted in relation to the Spanish fleet operating in the SW Atlantic. This is a unique opportunity for Spain to show leadership in protecting the marine environment, due to its current Presidency of UNEP and only a year away from the Conference Rio+20.

We believe it is important that Spain collaborates with other flag States, whose vessels are operating in the same area, in order to get their support in the adoption of protection measures of VMEs. In this regard, we will also address our concerns to flag States operating in the SW Atlantic.

It is not completely correct to state that, through the investigation developed by the IEO, Spain has fully complied with the UNGA Resolution 61/105. Paragraphs 83 and 86 of the same Resolution oblige flag States, whose vessels are operating on high seas areas where no RFMO exists, to adopt conservation measures that go beyond scientific investigation of those waters. These conservation measures should consist of prohibition of bottom fisheries, unless an impact assessment has been carried out showing that fishing activities will not create adverse

¹ The Deep Sea Conservation Coalition is an alliance of more than 70 organizations, launched in 2004 with the aim of protecting deep-sea areas on the high seas. For more information, please go to www.savethehighseas.org

² See Annex I.

significant impacts in VMEs³.

We regret that Spain has neither complied with the provisions of the above-mentioned UNGA resolutions nor with the 2008 EU Regulation implementing these resolutions. The latter is clearly explained in the 2010 European Commission Report on implementation of the 2008 EU Regulation⁴.

The international community could interpret the lack of action from Spain, and other flag States, to adopt conservation measures in high seas areas where no RFMO exists, as a discretion from flag States to either protect those areas or not. This interpretation would clearly imply an amendment of the UNGA Resolution 61/105.

Please do not hesitate to contact us for any clarification or information. We hope Spain translates the results of the investigation into concrete conservation measures towards the protection of important deep-sea ecosystems.

Yours faithfully,

³ UNGA Resolution 64/72, paragraph 119a.

⁴ Report from the Commission to the European Parliament and the Council on the implementation of Council Regulation (EC) No734/2008 on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0651:FIN:ES:>