

OSPAR Decision 2010/5 on the Establishment of the Josephine Seamount High Seas Marine Protected Area

Preamble

RECALLING Article 2(1) of the Convention for the Protection of the Marine Environment of the North-East Atlantic (“the OSPAR Convention”),

RECALLING Annex V to the OSPAR Convention on the protection and conservation of the ecosystems and biological diversity of the maritime area, and in particular its Article 3(1)(b)(ii), which makes it a duty of the OSPAR Commission to develop means, consistent with international law, for instituting protective, conservation, restorative or precautionary measures related to specific areas or sites or related to specific species or habitats,

RECALLING the adoption of OSPAR Recommendation 2003/3 at the joint OSPAR/HELCOM Ministerial Meeting 2003 in Bremen, which calls upon Contracting Parties to establish the OSPAR Network of Marine Protected Areas and to ensure that by 2010 it is an ecologically coherent network of well-managed marine protected areas,

RECALLING that the need for protection of the biodiversity and ecosystems in the maritime area beyond national jurisdiction of the Contracting Parties is further recognised in the OSPAR Biodiversity and Ecosystems Strategy,

RECALLING that the OSPAR Commission agreed in 2009 that the Josephine Seamount is approved in principle as a potential Marine Protected Area (MPA) in Areas Beyond National Jurisdiction (ABNJ) as a component of the OSPAR Network of Marine Protected Areas,

RECOGNISING that the OSPAR Commission endorsed in 2009 conservation objectives for the Josephine Seamount, as set out in OSPAR Recommendation 2010/16 on the Management of the Josephine Seamount High Seas Marine Protected Area.

RECALLING the commitment of the World Summit on Sustainable Development (WSSD, Johannesburg, September 2002) to promote the conservation and management of the oceans through actions at all levels, giving due regard to the relevant international instruments to develop and facilitate the use of diverse approaches and tools, including the ecosystem approach, the elimination of destructive fishing practices, the establishment of marine protected areas consistent with international law and based on scientific information, including representative networks by 2012 and time/area closures for the protection of nursery grounds and periods, proper coastal land use and watershed planning and the integration of marine and coastal areas management into key sectors,

RECALLING the United Nations General Assembly (UNGA) resolution *A/RES/63/111 of February 2009* reaffirming the need for States to continue and intensify their efforts, directly and through competent international organizations, to develop and facilitate the use of diverse approaches and tools for conserving

and managing vulnerable marine ecosystems, including the possible establishment of marine protected areas, consistent with international law, as reflected in the Convention (UNCLOS), and based on the best scientific information available, and the development of representative networks of any such marine protected areas by 2012,¹

ACKNOWLEDGING that on 11 May 2009 the Portuguese Republic has presented to the Commission on the Limits of the Continental Shelf (CLCS), its submission regarding the establishment of the outer limits of the Portuguese continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, in accordance with Article 76 of, and Annex II to, the United Nations Convention of the Law of the Sea and that this submission by Portugal encompasses the seabed in the area of the Josephine Seamount,

NOTING and WELCOMING that the Portuguese Republic has reported to the OSPAR Commission on the selection of the Josephine seamount as a component of the OSPAR network of Marine Protected Areas and will establish the programmes, measures and agreements which are necessary for the achievement of the conservation vision and conservation objectives regarding the seabed of the Josephine Seamount and WELCOMING the request of the Portuguese Republic to the OSPAR Commission to take corresponding measures for the waters superjacent to the Josephine Seamount,

RECOGNISING that the OSPAR Commission can take corresponding measures in order to achieve the conservation vision and conservation objectives for the high seas superjacent to the seabed subject to the submission of the Portuguese Republic in the area of the Josephine Seamount,

RECOGNISING that the establishment of MPAs encompassing the seabed and superjacent waters of the Josephine Seamount by the Portuguese Republic and the OSPAR Commission respectively, is essential for maintaining the integrity of the ecosystems of the Josephine Seamount by providing for coherence, compatibility and complementarity of the management measures to be taken beyond and within national jurisdiction,

RECOGNISING further that the establishment of this MPA does not create any precedent regarding the establishment by the OSPAR Commission of other MPAs in water superjacent to areas of the seabed subject to submission to CLCS or prejudice the sovereign rights and obligations of coastal States to the continental shelf. The establishment of such MPAs will be decided on a case by case basis,

RECOGNISING that a range of human activities occurring, or potentially occurring, in the Josephine Seamount area are regulated in the respective frameworks of other competent authorities. These include, in particular, fishing (North-East Atlantic Fisheries Commission (NEAFC), International Commission for the Conservation of Atlantic Tunas (ICCAT), North Atlantic Salmon Conservation Organization (NASCO), North Atlantic Marine Mammal Commission (NAMMCO), International Whaling Commission (IWC)), and shipping (International Maritime Organization (IMO)),

RECALLING Article 4 of Annex V of the OSPAR Convention and the relevant United Nations General Assembly Resolutions, in particular 61/105, which set out the conditions for bottom fisheries on the high seas and therefore apply to the waters superjacent to the Josephine Seamount.

¹ UNGA Resolution A/RES/63/111 Oceans and the law of the sea adopted on 5 December 2008 (A/RES/63/111 of 12 February 2009), Para 134

The Contracting Parties to the Convention for the Protection of the Marine Environment of the North-East Atlantic DECIDE:

1. Definitions

1.1 For the purpose of this Decision:

“*Marine Protected Area (MPA)*” means an area within the maritime area for which protective, conservation, restorative or precautionary measures, consistent with international law, have been instituted for the purpose of protecting and conserving species, habitats, ecosystems or ecological processes of the marine environment.

“*OSPAR Network of Marine Protected Areas*” means those areas which have been, and remain, reported by Contracting Parties, together with any other area in the maritime area beyond the national jurisdiction of the Contracting Parties which has been included as a component of the network by the OSPAR Commission.

“*Josephine Seamount*” refers to the Josephine Seamount located to the east of the Mid-Atlantic Ridge, between Madeira and mainland Portugal, which rises to within 170 m of the surface and is associated with several other seamounts. The seabed in this area is encompassed by a submission from the Portuguese Republic to the Commission on the Limits of the Continental Shelf (CLCS), in accordance with Article 76 of, and Annex II to, the Convention of the Law of the Sea, and which includes the high seas superjacent to the seabed subject to that submission.

“*UNCLOS*” means the United Nations Convention on the Law of the Sea, 1982.

2. Purpose and Scope

2.1 The purpose of this Decision is to establish the Josephine Seamount High Seas Marine Protected Area with the goal of protecting and conserving the biodiversity and ecosystems of the water superjacent to the Josephine Seamount, in coordination with, and complementary to, protective measures taken by the Portuguese Republic for the seabed, and in accordance with the joint conservation objectives set out in OSPAR Recommendation 2010/16 on the Management of the Josephine Seamount High Seas Marine Protected Area

2.2 This Decision shall apply without prejudice to the rights and obligations of coastal States, other States and international organisations in accordance with UNCLOS and customary international law.

3. Establishment of the Josephine Seamount High Seas Marine Protected Area

3.1 The Josephine Seamount High Seas Marine Protected Area in an area of approximately 19,370 km² of the high seas bounded by the following coordinates² is established as a component of the OSPAR Network of Marine Protected Areas:

² All coordinates are in decimal degrees on the WGS84 datum.

Latitude N	Longitude W
37.46 °	14.65 °
37.63 °	13.75 °
36.86 °	13.42 °
36.18 °	14.45 °
36.76 °	15.72 °
36.45 °	15.39 °

3.2. The boundaries of the Marine Protected Area in this Decision may be reviewed by the OSPAR Commission, taking into account progress made in establishing the outer limits of the extended continental shelf of Portugal in accordance with Article 76 of, and Annex II to, UNCLOS.

4. Entry into Force

4.1 This Decision enters into force on 12 April 2011.