Global Initiatives and Conventions Related to Coastal Zones and the Sea

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Concept-paper on Global Initiatives and Conventions Related to Coastal Zones and the Sea

The Sida Marine and Coastal Initiative

Foreword

This concept-paper Global Initiatives and Conventions Related to Coastal Zones and the Sea has been elaborated on request by the working team for the preparation of Sida's Marine and Coastal Zone Initiative, an intended policy programme with plans of action for development of tropical and sub-tropical marine and coastal areas.

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The working team in Stockholm, September 1997

INTRODUCTION AND SUMMARY

The report was commissioned by the Department of Natural Resources and Environment, Sida, as one component of its review of its development assistance.

The Terms of Reference covered an overview of global initiatives and conventions with relevance for environment and resources in coastal and marine areas; the United Nations Conference on Environment and Development, UNCED, and its follow-up; the participation of Sweden in global initiatives and conventions; the capacity of developing countries to implement the obligations stated in these initiatives and conventions; and proposals on possible Swedish support to developing countries to strengthen their capacity to apply the conventions and agreements.

The capacity of and competence in developing countries have increased considerably over the last 20 - 25 years, as has awareness of environmental problems and the need for a sustainable use of resources. Some developing countries, however, lack the legal and institutional set-up required for an effective implementation of measures for environmental protection and sustainable use of living resources. They often also lack the capacity to contribute effectively to regional collaboration for example in resource management.

The global (and regional) conventions and initiatives provide a comprehensive framework for the protection of the environment and sustainable use of living resources in coastal and marine areas. There is also an institutional set-up, mainly within the UN system, which can coordinate the efforts and initiatives to improve on environmental protection and the sustainable use of resources. Under this corodination, global and regional efforts should be complemented with national programmes and projects. Donors, including Sweden, could effectively support this work in developing countries, by funding of regional activities through relevant UN organizations and on the national level in bilaterally agreed projects.

UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

1. The Conference

United Nations Conference on Environment and Development (UNCED) was held in Rio de Janeiro in Brazil in June 1992. The Conference adopted Agenda 21, which is a programme for further work on the main environmental and development issues into the next century.

The two Conventions on biodiversity and climate were tabled for signature during the Conference.

2. Agenda 21

Agenda 21 refers to the protection of oceans, all kinds of seas including enclosed and semi-enclosed seas, coastal areas and the protection, rational use and development of their living resources. It also states that oceans and coastal areas form an integrated whole and that UNCLOS (the Law of the Sea, see below) provides the international framework. It discusses new approaches to ocean and coastal area management and development at the national, regional and global levels. It also sets out rather specific aims including guidelines for intergrated coastal management and development, coordination between regional bodies for environmental protection, marine resource utilization and coastal and marine development, also these on national, regional and global levels.

It is envisaged that existing capabilities and facilities should be used, that regional initiatives ensure an efficient use of resources and it contains a special chapter on strengthening international including regional cooperation and cooperation and points at the potential the UN system offers with its international organizations, with major ocean responsibilties (UNEP, UNESCO, IOC, ,IMO, WMU, WMO, FAO, IAEA, UN OALOS etc).

States commit themsleves in the programme for fisheries to introduce an integrated management of the living resources, aiming at a sustainable use and a sustainable development of the resources within and outside the 200 nm limit. The following objectives were formulated:

- to develop and enhance living marine resources to meet man's nutritional requirements
- to maintain and restore populations of marine species on a level providing a maximum sustainable yield
- to promote development and use of selective gear and methods which minimize discards and bye-catches when fishing for a target species
- to ensure an efficient surveillance and obeyance of rules for fisheries
- to protect and restore endangered marine species
- to protect habitat and ecologically sensitive areas
- to promote scientific research on marine living resources in the open sea.

Further, the programme contains a recommendation to the General Assembly of the United Nations to organize a conference on the management of straddling and highly migratory species. It also points out the need for improved control and surveillance of fisheries on international waters. Further it stresses the obligation for regional and global collaboration for the management of marine living resources within the framework of UNCLOS and to recognize the work of the International Whaling Commission, IWC, the right of its scientific committee to work with large and small whales, the work of the Interamerican Tropical Tuna Commission, ITTC, and the work on protection of small whales in the Baltic and North Sea.

3. The Convention on Biological Diversity

The Convention on Biological Diversity entered into force on 29 December 1993. Two sessions have been held of the Conference of the Parties to the Convention on Biological Diversity 1994 and 1995. It has adopted the so called Jakarta Initiative entitled "Conservation and Sustainable Use of Marine and Coastal Biological Diversity".

The Convention is based on the need for guidelines in all sectors for the protection and sustainable exploitation of biodiversity. With biological diversity is understood the plentitude of living organisms in all ecosystems, both on land and in water, and the ecological interaction between organisms. Biodiversity covers variations within as well as between species and the ecosystems.

With a sustainable long-term exploitation is meant the use of biodiversity in a way that the variety does not decrease over time for present and future generations' needs.

The Convention states that the precautionary principle should be applied in biological diversity. Thus the lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize a threat to the diversity.

The Convention establishes (Article 6) that national measures should be taken to develop plans or programmes reflecting the statements in the Convention and it prescribes steps in the process, including a system of protected areas, management of biological resources which are important for the diversity, and develop relevant national legislation.

The Convention also establishes a reporting system through the Conference as mentioned above.

4. Follow-up of UNCED

Commission for Sustainable Development

The General Assembly of the United Nations has created a Commission for Sustainable Development, CSD, to monitor the implementation of Agenda 21 by States and organizations. The Commission shall review information and reports from governments and organizations, and identify the need for revision of the decisions of the Conference. It shall, through ECOSOC, submit its recommendations to the General Assembly. The need to integrate environmental and developmental issues is ensured through the organizational set up of the Commission within ECOSOC.

United Nations' Environmental Programme, UNEP, has been revised to reflect Agenda 21 by focusing its activities on environmental problems related to poverty alleviation. In this connection marine areas and coastal zones are given higher priority than earlier.

Integrated management of drainage systems and coastal and marine areas

The concept of integration of the management of drainage systems, flood plains, estuaries, and marine and coastal areas has largely been accepted in the UN system and most countries as a method for a sustained use of these areas based on an eco system approach. Guidelines have been elaborated for integrated coastal area management (ICAM) have been formulated for decision making and implementation and are inceasingly applied by countries and funding agencies in development projects. The International Coral Reef Initiative, ICRI, and Global Coral Reef Monitoring Network are new initiatives founded on concerns with the status of coastal ecosystems. The programme TRAIN-SEA-COAST, prepared by the Division for Ocean Affairs and the Law of the Sea (UN-DOALAS) together with UNDP, works to enhance the competence among local and regional educational and training institutions on the management of marine areas.

Landbased pollution

An international conference was held in Washington D.C. in 1995 on landbased pollution. It adopted the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities. This programme was subsequently adopted by the Commission on Sustainable Development of the United Nations and by the General Assembly in 1996. The parties agreed to focus on sustainable, pragmatic and integrated environmental management. and when applicable coordinated with the management of marine areas and land use planning.

Sustainable use and protection of living aquatic resources

The legal framework for a sustainable use and protection of living aquatic resources has improved considerably since the entering into force of UNCLOS 1994. The Convention expresses the rights and obligations of States. Governments have increasingly recognized the need to protect fish resources both within and outside the exclusive economic zones. After UNCED governments have adopted or agreed to voluntarily apply the following instruments for mangement of fisheries:

- Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas from 1993
- United Nations Agreement for the Implementation of the Provisions of the UNCLOS of December 1992 relating to the Conservation and Management of Straddling and Highly Migratory Fish Stocks from 1995
- The Code of Conduct for Responsible Fisheries 1995

Critical uncertainties in hydrographical data

An agreement has been reached to develop a strategy and time frame for a Global Ocean Observing System, GOOS for critical hydrographical data. A number of national institutions collaborate with UN-organizations, such as UNESCO-IOC, WMO, UNEP, in the system. Regional GOOS-programmes have been initiated to gather, analyse and disseminate critical data for the understanding of processes as

- prognoses for oceanographic conditions (floods, cyclones) with associated warning systems and action for protection
- the role of the oceans in relation to global warming
- the effect of ultra-violet radiation on production
- the implementation of the International Mussel Watch Programme

International cooperation and coordination for the sustainable use of the sea

The need for international cooperation and coordination have been recognized in a number of initiatives which have contributed to focussing the attention to critical questions for the elaboration of management policies. The London Workshop on Environmental Science, Comprehensiveness and Consistency in Global Decisions on Ocean Issues (London 1995, co-sponsored by the Governments of United Kingdom and Brazil) formulated recommendations which were used by the Commission on Sustainable Development on how to ensure and improve international cooperation and coordination. CSD recommended ECOSOC that it should compile periodically a comprehensive report on all aspects of marine environment. The report should be reviewed by the General Assembly under the aganda item "Oceans and the Law of the Sea".

Increased awareness in the international community

The implementation of Chapter 17 in Agenda 21 has been supported by the increased international awareness of the concept of sustainable use of naural resources. The potential of the sea with regards to its effect in climate, as a source for food, and its role for transport and recreation is now regarded as a common heritage. This demands a responsible management and joint action for the protection of the ecosystem. In accordance with this the General Assembly of the United Nations has declared 1998 as the International Year of the Ocean.

Non-governmental Organizations

Non-governmental organizations, NGO's, have participated as partners in the introduction of the concepts of sustainable development and responsible fisheries. One example is the World Commission of Oceans from 1995 which aims at supporting an integrated management of the sea. Attempts have also been made to use the power of the consumers for the sustainable management through a certification system for magament and marking of fish products by the Marine Stewardship Council.

UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

United Nations Conference on the Law of the Sea, UNCLOS, of 1982, which is binding for the contracting parties, entered into force 1994. It is a framework Convention with details to be elaborated by governments and regional organizations. The Convention is a comprehensive approach to the marine environment. That approach addresses State responsibility to curb all sources of marine pollution and requires that those efforts give due regard to the maritime rights as the freedom of navigation, resource exploitation and marine scientific research. It also promotes uniformity and standardization in nevironmental regulation.

UNCLOS imparts a basic duity on coastal nations to protect and preserve the environment, a requirement to exploit their natural resources in accordance with this basic duty, and a duty to assume liability for ensuring that the responsibilities are met. It urges countries to establish rules to prevent, reduce, and control pollution of the marine environment. It addresses all sources of pollution, land-based, sea-bed activity, dumping, vessel-source, and atmospheric.

Part V of the Convention addresses the Exclusive Economic Zone (EEZ) and the rights and obligations of coastal states in relation to the management of their natural resources.

Management of living resources

Article 61, "Conservation of the living resources", establishes the coastal state's obligation, within its EEZ, to determine the allowable catch. Further the Article, among others, states that:

"The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation..."

"Such measures shall also be designed to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities..."

"..in taking such measures the coastal State shall take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such... above levels at which their reproduction may become seriously threatened."

Part VII, Articles 116 - 119, address the rights and obligations of parties in international waters. All States have a right to fish but the fisheries should be subject

to the obligations regarding management and conservation of resources in the EEZ. This includes measures to maintain or restore populations at levels which can produce MSY.

With regard to highly migratory and straddling species the Conventions states that States should "... seek to agree upon measures necessary to co-ordinate and ensure the conservation and development of such stocks...".

OTHER MARINE AND MARITIME CONVENTIONS AND INITIATIVS

Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1992 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

The General Assembly of the United Nations decided in 1992 to organize a conference on straddling fish stocks and highly migratory stocks (United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks) during 1993. The decision was a follow-up of UNCED and its Agenda 21. The mandate for the conference stated that negotiations and results should be within the frame of UNCLOS.

The Convention has not yet entered into force. However, some of the rules are based on formulations in UNCLOS, which are binding.

The Convention addresses mainly fisheries on the high seas, but also contains rules for fisheries within the EEZ.

The Convention consists of 50 articles in eight parts. The main parts address the following issues: conservation and management of straddling and highly migratory fish stocks; mechanism for international cooperation; duties of the Flag State; and compliance and enforcement.

Part VII deals with the need for enhanced capabilities for developing countries to apply the regulations in the Convention, as well as the need to enhance their capacity to participate in the exploitation of the concerned stocks. It provides for support directly or through sub-regional, regional or global organizations to this end. It also states that assistance should be directed towards improved conservation and management, stock assessment and scientific research, and monitoring, control and surveillance.

Code of Conduct for Responsible Fisheries

World fisheries have become a market-driven, dynamically developing sector of the food industry. It has, however, become clear that fisheries resources cannot sustain a

rapid an uncontrolled development, and that new approaches to fisheries management, including conservation and environmental consideration, were needed.

The International Conference on responsible Fishing in Cancun in May 1992 urged the Food and Agriculture Organization of the United Nations, FAO, to develop a code of conduct for responsible fisheries with the aim to ensure a sustainable fishery in harmony with the marine ecosystem within and outside the 200 nm limit. This resolution was important for the formulation of the section on fisheries in Agenda 21.

FAO's Council decided in November 1992 that the Organization should elaborate such a Code of Conduct. An additional aim was added: the Code of Conduct should also consider the socio-economic importance of fisheries. FAO's Committee on Fisheries (COFI) was given the responsibility for the Code of Conduct which should have the form of non-binding guidelines. The Code should cover guidelines for fisheries management, fisheries (development of selective gear to avoid discards and unintentional bye-catches as birds and marine mammals), aquaculture, integrated management of coastal areas, processing and trade with fish, and fisheries research.

The Code of Conduct for Responsible Fisheries was adopted in 1995. It is compatible with the Department on Straddling Fish Stocks and Highly Migratory Fish Stocks.

The basis for the Code of Conduct is the recognition of fisheries, including aquaculture, as a vital source of food, employment, recreation, trade and economic well-being for people throughout the world, both for present and future generations and should therefore be conducted in a responsible manner.

The Convention on the Conservation of Migratory Species of Wild Animals

The Convention on the Conservation of Migratory Species of Wild Animals, the so called Bonn Convention, from 1979, covers the protection of migrating species. It entered into force in 1983. The protection is limited to populations or stocks which regularly pass national borders. It prescribes two types of measures:

member countries should protect the species and the habitat for migrating species which are endangered. The Convention lists such species, and the parties should agree regionally to protect species, which are not endangered but for which there is a need of international cooperation for the protection. Small whales in the North Sea and the Baltic Sea belong to this category.

The Kyoto Declaration

The Declaration urges fishing nations to apply the Code of Conduct for Responsible Fisheries and implement the binding agreements. The Declaration further states that more emphasis should be given scientific research in order to improve the basis for decisions and to assist countries, which do not have the scientific and technical competence.

The development of multi-species models for the management of fish stocks should continue and the over capacity in the world fishing fleets be reduced. The Declaration reiterates the need and potential for regional cooperation.

In the Action Plan countries, either by themselves or in cooperation with FAO, are requested to

-	monitor closely the production, demand and consumption
	of fish and fish products
-	enhance regional cooperation trhough strengthening

fisheries management organizations apply multi-species models for the management of whole ecosystems for the reduction of unwanted bye-catches of

mammals, birds and reptiles

review how to reduce the over capacity in the fishing fleet elaborate on methods to measure the social and economic

role of fisheries, as well as their role for employment, income, consumption and prices

- transfer new technology to developing countries

Sectoral guidelines for the precautionary principle

The precautionary principle and its application for fisheries was the theme for a conference organized by the National Board of Fisheries in collaboration with FAO and held in Lysekil in 1995. The conference resulted in the so called "Lysekil Guidelines" and could be a part of the Code of Conduct for responsible Fisheries.

Also the International Council for the Exploration of the Sea (ICES) has a working group which elaborates on the application of the precautionary principle for fisheries.

United Nations Resolutions on Drift Net Fishing

The General Assembly of the United Nations has adopted three resolutions on drift net fishing. These recommend a gradual limitation of the use of large drift nets, resulting in a complete moratorium at the end of 1992. The resolutions are not binding but are a strong moral and political obligation for the members of the United Nations.

The resolutions have been distributed to relevant international organizations for monitoring.

Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Compliance Agreement/Flagging Agreement)

FAO's Council decided in 1992 to work on an international agreement to control international measures on the high seas, outside the EEZ. Among others, the aim of the agreement was the responsibility of the Flag State and problems with re-flagging.

The Flag State should control its fishing vessels' operations on the high sea through licenses, exchange of information on fishing activities, including catches and landings, to FAO.

The agreement is a part of the Code of Conduct, but with its own status. It is also an important component in the Convention on Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

Oil Pollution Preparedness Convention, Response and Co-operation (OPRC)

In 1990 IMO adopted the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC). It is designed to improve the ability of nations to cope with a sudden emergency, such as a tanker accident. Its provisions were used as the basis for IMO's response to the massive pollution of the Persian Gulf resulting from hostilities in the area in the spring of 1991. These measures, assisted by a special IMO fund, helped to save many ecologically important sites from major damage.

The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter

The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, the so called London Dumping Convention from 1972 came into force in 1975. International maritime Organization, IMO, was given the repsonsibility for the implementation of the Convention. It regulates dumping and burning of wastes from ships, airplanes and installations on the bottom of the sea, for example oil rigs. It was the first international attempt to regulate deliberate dumping into the sea of land-generated wastes. They mostly consist of dredged material, industrial waste and sludge. Such dumping was causing concern because of the risk to human health from pathogens, increased eutrophication, the toxic effects of substance on marine life, and the potentially negative effects of dumping on fishing, recreation and other activities. Special lists over substances regulates what can be dumped and not. From 1994 it is forbidden to dump industrial waste at sea.

The International Convention for the Prevention of Pollution from Ships

The International Convention for the Prevention of Pollution from Ships, MARPOL, 1973 aims at preventing discard from ships in accidents or from normal activities. The Convention was formulated under the auspices of IMO. It sought to eliminate operational pollution and further reduce potential pollution. The Convention regulates discard of oil, harmful substances, sewage and garbage.

The ratification of the Convention was slow because governments were reluctant to ratify a treaty which could not effectively be implemented. A set of accidents led to a new conference, organized by IMO, to consider new measures. It resulted in a Protocol to the MARPOL Convention in 1978. The combined Convention is referred to as MARPOL. MARPOL was updated also in 1985

IMO has intensified its technical assistance programme to ensure that through a set of measures, mainly training, countries should be in a position to implement the conventions. The technical assistance programme has, for natural reasons focused on developing countries. To this end the World Maritime University was opened in Malmo with Swedish funding, and the International Maritime Academy in Trieste and the International Maritime Law Institute in Malta.

The International Whaling Commission

The International Whaling Commission, IWC, was established in 1948 when the convention on catches of whales entered into force. The aim with the consention is to ensure a sustainable use and development of the whale stocks.

In 1982 a five-year ban on hunting of big whales was introduced for the period 1986 to 1990. The ban has formally expired but is still applied awaiting revised management procedures.

The Ramsar Convention

The convention, from 1971, deals with wetlands of international status, specially with regard to birds. However, it states that all plants and animals in a wetland should be protected against overexploitation and the ecosystem should be preserved. In a conference of the parties in 1993 a recommendation was adopted on the establishment of guidelines for the importance of wetlands as nursery grounds for fish. The recommendation stated in general the need to ensure a sustainable use and development of marine fish resources.

The Convention on International Trade with Endangered Species

The Convention on International Trade with Endangered Species, CITES, from 1973 addresses issues related to trade with species which are listed for restrictions in export and import. The conventions lists only a few very rare fish species.

UNEP'S Regional Seas Programme

The Regional Seas Programme of the United Nations Environment Programme, UNEP, was established in 1974 and is operated from UNEP's Oceans and Coastal areas Programme Acitivity Centre (OCA/PAC) based in Nairobi, Kenya. It encompasses 13 regional seas world wide. The Regional Seas Programme has been recognized as a global initiative implemented through regional components. The main concerns for the oceans were, when the Programme was established, transboundary pollution, ocean dumping, conservation, and scientific research when the it was created. More recently pollution caused by human activities in coastal areas and the effect on the marine environment has become the focal issue.

The strategy has been to encourage the countries in a region to become signatories to a legally binding convention, including appropriate protocols and to develop an action plan based on priorities, which have been defined for the region. An action plan normally consits of environmental assessment, environmental management, environmental legislation, and institutional and financial arrangements.

Sweden supports the Regional Seas Programme in two regions; the wider Caribbean and East Africa.

THE CAPACITY OF DEVELOPING COUNTRIES

The implementation on national, sub-regional and regional levels of global conventions and initiatives, as those described above, require a legal and institutional framework. Several such initiatives and conventions reflect the special needs of developing countries for their implementation and call for assistance to these countries. In this context a number of factors should be considered. Such are developing countries vulnerability with regard to food security and income, the need to avoid adverse impact of exploitation on the ecosystem with long-term implications on production and problems with the management of resources because of poverty.

Most developing countries have made good progress with regard to education and the level of education is mostly adequate at central administrations. This has been achieved through emphasis on the national education system and on higher level education and training. However, there is at times a lack of highly specialized disciplines (for example in environmental sciences and natural resources management) for which developing countries require consultancy services and other assistance.

Institutional constraints are less related to education than to other factors like resources, infrastructure and operational funds. Some developing countries consequently lack the structure for the implementation of conventions and initiatives. They often lack the legal framework and require assistance in that devlopment. Other areas are generally weak institutions for national coordination and implementation as well as for cooperation internationally. Institutions for research and monitoring are often lacking or, when they exist, overstaffed with inadequate expertise, without

proper infrastructure (research vessels, cars and other means of transport, and operational funds) to allow any meaningful field work.

It is not possible to generalise with regard to the national capacity and capability to implement conventions and initiatives. Broadly, however, the institutions are stronger in Asia than in most parts of Africa.

POTENTIAL AREAS FOR FUTURE SWEDISH DEVELOPMENT SUPPORT

Sweden has a long tradition of support to developing countries in the fields of rural development (including rural coastal areas), the protection of the environment and natural resources use and management in coastal and marine areas. Presently, Sweden supports the Regional Seas Programme in the Caribbean and East Africa, research on regional level in East Africa, and IMO. Earlier support included coastal fishing community development in the Bay of Bengal, marine environmental aspects and pollution in the same region, aquaculture development in Southern Africa, and bilateral support to countries in Africa and Asia. Support has been channeled directly to cooperating countries in bilateral projects, through international institutions, as ICLARM and development banks, or through international organizations in the UN system.

Global conventions and initiatives imply cooperation between countries globally, regionally or sub-regionally. Developing countries often find it difficult to allocate funds for meaningful cooperation. At the same time regional and sub-regional cooperation can make efficient use of scarce resources for research, monitoring, action to combat negative effects on the environment, and sustainable management of natural resources.

Sida should consider support to regional, sub-regional cooperation complemented with bilateral support with the immediate aim to assist developing countries to participate in, contribute to and benefit from initatives to protect their environment and ensure sustainable use of the resources.

Assistance to regional and sub-regional organizations could be as direct technical and financial support or, when appropriate, through international organizations. Such organizations with responsibility for the implementation of conventions and initatives discussed in this paper are UNEP, IMO and FAO. These organizations have, as members of the UN system, a global organizational network and mechanisms for the coordination on regional and sub-regional levels. Such coordination is difficult through direct contact between a donor and several countries.

Sweden has a vast experience and a good human resource base for support in regional (marine) cooperation institutional development, coastal management and planning monitoring of environmental factors and protection of the environment, as well as coastal and rural development and the management and exploitation of marine living resources.





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