**Submission of proposals during BBNJ IGC-5**

**Template**

*Please fill out one form for each article which your delegation(s) or group(s) wish(es) to propose, amend or delete.*

1. **Name(s) of Delegation(s) and/or Group(s) making the proposal:**

Core Latin American Group (CLAM)

1. **Please indicate the relevant part of the Revised draft text (as reflected in A/CONF.232/2022/5) that this proposal relates to, using the drop-down menu below.**

PART I GENERAL PROVISIONS

1. **Please indicate the relevant article of the Revised draft text (as reflected in A/CONF.232/2022/5) that this proposal relates to or indicate if this is a proposal for an additional article. If the proposal is for an additional article, please indicate where the article is to be inserted by citing the article that will immediately precede the proposed additional article.**

Article 5 General principles and approaches

1. **Kindly provide the amendments to the article that are being proposed in the text box below, using the “track changes” function in Microsoft Word. Please only reproduce the parts of the article that are being amended or deleted - examples are attached for reference.**

Article 5. General principles and approaches.

In order to achieve the objective of this Agreement, Parties shall apply by the following principles and approaches:

1. The polluter-pays principle;
2. The principle of common but differentiated responsibilities.

 [(c) The principle of the common heritage of mankind;]

 d

 (e)The fair and equitable sharing of benefits;

 (f) The precautionary [principle][approach];

 (g) An ecosystem approach;

 (h) An integrated approach;

 (i) The use of the best available [science] and scientific information, as well as relevant traditional knowledge of indigenous peoples and local communities;

(k) The respect, promotion and consideration of their respective obligations relating to the rights of indigenous peoples and local communities when taking action to address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

 (l) The stewardship of the areas beyond national jurisdiction on behalf of present and future generations by protecting, caring for and ensuring responsible use of the marine environment, maintaining the integrity of ocean ecosystems and preserving the inherent value of biodiversity of areas beyond national jurisdiction.

1. **Rationale for the proposal, if any.**

For CLAM there is a differentiation between the legal scope of the principles (legal status within international law in Article 38.1.c of the Statute of the ICJ) and approaches (informative character and implementation guidelines) within international law.

In general CLAM agrees that all these principles should be explicitly mentioned in this article because it considers that they are in accordance with the purpose and object of the treaty and will favor its implementation, guaranteeing the protection, conservation, and sustainable use of biodiversity and the marine ecosystem.

On sub-paragraph b) it is fundamental that the principle of common heritage of mankind guides the interpretation and application of the BBNJ instrument and is explicitly established in the text. This regardless of the fact that the characteristics that give content to this principle are already mentioned in the body of the text. For developing countries, the inclusion of this principle is fundamental.

Sub-paragraph a) on "the polluter pays” principle, the group is in favor of its inclusion.

In this sense, the group would favor the inclusion of this principle in an additional subparagraph, which following the logic of the order of the subparagraphs, would correspond to subparagraph (b) if “the polluter pays” principle remains in subparagraph (a). In subparagraph (c) the fair and equitable sharing of benefits, the group considers that they are not mutually exclusive, but that both principles are complementary with particular scopes, therefore the group favors keeping both.

(d) On the idea of precaution, we understand that the intent of this new text proposal reflects the lack of consensus in the plenary on whether it is a principle or a precautionary approach. However, the members of the group have more doubts about the scope of precaution in isolation, than whether we are talking about a principle or a precautionary approach. In this sense, we request that we return to the previous version that kept both options in square brackets.

Regarding sub-paragraph (k), we must draw attention to the fact that the word "steward" has different connotations in its translation into Spanish; it can be understood as administrator, caretaker and even representative, which could confuse the interpretation of the instrument itself and the scope of the obligations of the States. In the official Spanish version, the word "administradoras" was used "acting as administrators of the ocean in ABNJ". In this sense, the group favors the text in the French version: "Désireuses d’assurer la bonne gestion de l’océan”, “La volonté d’assurer la bonne gestion de l’ocean” that can be used in its Spanish translation as “asegurando una buena gestión de los océanos" as a guardian and not as a steward.