



Statement of the European Union and its Member States

at the Intergovernmental Conference on an internationally binding instrument under the United Nations Convention of the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

**Second Session
25 March 2019**

Madam President,

I have the honour to speak on behalf of the European Union and its Member States. We join previous speakers in expressing our pleasure at seeing you back on the podium, presiding over the discussions.

Delegations start their work of this second session having the benefit of the aid-to-negotiations paper that you have prepared. The document aptly reflects the multitude of views expressed so far. We greatly appreciate the timely issuance of the aid-to-negotiation, which has given delegations enough time to study the array of options which have been put forward. We wish to thank you, your team and DOALOS for all the thorough and dedicated work in producing this document that is helpful to lead us into text-based deliberations at this session of the Conference.

The aid-to negotiations illustrates that several alternatives have been proposed for a number of the thematic issues, while some issues still require further development.

The EU and its Member States consider that the second session of the Conference is critical in respect of developing the text of the future implementing agreement. We share the interest of achieving a strong and viable framework, which will be able to effectively deliver the conservation and sustainable use of biodiversity of areas beyond national jurisdiction. This common goal must be translated through the negotiation process into concrete treaty provisions. To achieve this, we need to develop language at this session in order that we have draft treaty text to serve us as a basis of negotiations at the third substantive session in August.

On this basis, the EU and its Member States would like to suggest what we consider to be the objectives for this session. We thus suggest that, at this session we should seek to

- first, focus on the key functions and the main deliverables for each element of the package and start to translate them into provisions for the future treaty,
- second, concentrate on processes and mechanisms under the new instrument that can effectively deliver the treaty's functions,
- third, develop the areas where convergence around functions and respective treaty provisions is emerging,
- fourth, try to narrow down in parallel the range of options in other areas where delegations still hold multiple views,
- finally, strike a suitable balance between providing necessary detail and guidance in the treaty text itself and other detail that should be developed by a COP or other designated body, as appropriate, once the Instrument has entered into force.

Along these lines, we are prepared to put forward meaningful proposals on options and models for provisions of the future instrument, including by presenting relevant language.

Madam President,

The EU and its Member States would like to see, as a result of our collective work over the next weeks, draft treaty text that will be prepared under your guidance for IGC 3 identifying the areas of convergence and commonalities emerging during the negotiations, and focussing on the key deliverables and regulatory options for each element of the package.

We see this as of utmost importance, in order to accomplish the mandate given to us by Resolution 72/249 and to elaborate the text of an international legally binding instrument by 2020.

We continue to underline the need to remain focused and move in a stepwise manner and at an appropriate pace through the stages of developing the implementing agreement.

The European Union and its Member States wish to voice their full support and trust in your stewardship of this process. Your successful conduct of the organizational session and of the first substantive session gives us every reason to believe that under your able leadership we can achieve the consensus needed for a successful Conference. We reiterate our continuous commitment and willingness to engage constructively into these negotiations.

Thank you very much.

Document on the Key Deliverables for the Implementing Agreement on BBNJ

BBNJ-IGC2

General considerations

We are in the new phase of negotiations for developing the text of the future treaty, and the outcome of IGC2 should ensure that IGC3 negotiates from draft treaty text prepared by the President; it continues to be necessary to first agree on and formulate the key functions and main deliverables of the Implementing Agreement (IA) by identifying options and models and translating them into actual treaty provisions.

There is a need to focus on added value and delivering an effective legal framework, providing for mechanisms and processes for effective implementation of treaty provisions, and in this regard identifying the appropriate level of textual detail.

Further guidance on focusing and structuring IGC deliberations and on negotiating treaty text in a stepwise manner throughout the remaining IGC meetings will facilitate the necessary build-up of convergences among delegations.

Main objectives:

- Create a dedicated, effective, practicable and future-proofed legally binding IA for the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction (ABNJ) under UNCLOS, the legal framework within which all activities in the oceans and seas must be carried out;
- Operationalise, including through the establishment of standards and mechanisms, the general UNCLOS provisions on the protection and preservation of the marine environment in relation to the conservation and sustainable use of biodiversity in ABNJ;
- Foster cross-sectoral coordination and cooperation between competent international and regional organisations and relevant instruments;
- Promote marine scientific research and capacity building and the transfer of marine technology on a needs basis to support the achievement of the IA objectives;
- Apply relevant concepts and principles of international environmental law in ABNJ: the principle of cooperation, the precautionary principle, the ecosystem approach, the polluter pays principle, the use of best available science and transparency;
- Ensure that States Parties will work and cooperate through other relevant international fora to further the aims of the IA.

Marine Genetic Resources (MGRs), including Questions on the Sharing of Benefits

- Promote the freedom of marine scientific research as enshrined in UNCLOS and promote free and environmentally sound access to genetic resources in a manner consistent with their conservation and sustainable use;
- Address the questions on the sharing of benefits through:
 - Operationalizing relevant provisions of UNCLOS (in particular Art. 244) as regards sharing of information and the promotion of the flow of scientific data and knowledge, as well as the strengthening of marine scientific research capabilities on MGRs. This will include pre-cruise

- information (before collection of samples), post-cruise notification (after collection of samples) and databases including genetic information;
- Thereby improving the transparency and the availability of information on genetic resources collected in ABNJ, including through the establishment of a Clearing House Mechanism;
- Also, promoting international cooperation under Art. 242 UNCLOS
- Not regulate matters relating to intellectual property rights.

Area-Based Management Tools, including Marine Protected Areas (MPA)

- Set out a practicable, efficient and science-based procedure for identifying, designating and effectively managing ecologically representative MPAs for the conservation and sustainable use of BBNJ to address holistic management of impacts in ABNJ;
- This includes building on and respecting the mandates and expertise of international, regional and sectoral organisations and instruments for the management of activities under their competence in these MPAs through inclusive consultation and enhanced coordination and cooperation;
- Provide for recognition of existing and future MPAs established by regional organisations, that meet the criteria adopted in the IA;
- Guarantee an inclusive and consensus-oriented consultation process at an early stage with all relevant actors including competent organisations. The competent organisations should be the ones identifying measures within their competence in order to achieve the conservation objectives of the MPAs;
- Promote and encourage collaboration between competent organisations adopting area-based management tools with a view to enhance global and regional coherence in achieving the conservation and sustainable use of BBNJ;
- Ensure due regard to and respect for the rights and legitimate interests of coastal states under UNCLOS, including as regards the continental shelf as well as the rights, jurisdiction, freedoms and duties of States under the Convention.

Environmental Impact Assessment (EIA)

- Ensure that environmental impact assessments of activities carried out in ABNJ under the jurisdiction or control of States Parties include consideration of individual and cumulative impacts of activities which may cause substantial pollution of or significant and harmful changes to the marine environment;
- Oblige that any such harmful effects are identified and taken into account in any decision-making process and that such activities are consistent with States' obligations under the UNCLOS to protect and preserve the marine environment, including through the adoption of suitable measures to prevent and mitigate any such harmful effects;
- Ensure that existing EIA processes under competent organisations and instruments are not undermined or duplicated and seek coherence in the conduct of EIAs in ABNJ;
- Provide a coherent and collaborative approach and global transparency in all steps and processes when conducting EIAs, including publication of EIA reports and ensuring decision-making and monitoring of activities in ABNJ;
- Apply a science-based approach to the establishment of objectives and criteria for conducting impact assessments.
- Establish an obligation to conduct strategic environmental assessments for certain policies, plans and programmes under the jurisdiction or control of States Parties.

Capacity Building (CB) and Transfer of Marine Technology (TMT)

- Promote cooperation in capacity building and the transfer of marine technology to assist State Parties, which may need and request this, in particular developing States, to deliver the objectives of the IA;
- Facilitate the transfer of marine technology on a voluntary basis, on mutually agreed terms and in accordance with the IOC criteria and guidelines, to achieve the objectives and requirements of the IA;
- Enhance transparency, coordination and collaboration, including through a clearing house mechanism, for assisting States, which may need and request technical assistance, particularly developing States, to deliver the objectives of the IA;
- Identify relevant existing financial mechanisms, including voluntary funds that would help deliver CB and TMT in support of the achievement of the IA's objectives.