

statement by
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Intergovernmental conference on an international legally binding instrument on the conservation
and sustainable use of BBNJ
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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Madam President,

Let me begin with congratulating you for your deserved appointment as the President of IGC. I am confident that under your able leadership the IGC will fulfill with success the mandate has received from General Assembly in developing of an international legally binding instrument on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. My congratulations go to the members of Bureau as well.

The marine biodiversity of areas beyond national jurisdiction has a notable environmental, economic and social importance and it could contribute to poverty eradication, sustained economic growth, development of science, public health and food security. The accumulation of a number of threats to marine ecosystems beyond areas of national jurisdiction, including unsustainable exploitation of resources, destruction of habitats, pollution, ocean acidification and climate change are the matters of concern. There is an urgent need to establish a legally binding instrument to address the issue of conservation as well as, current fragmented procedures in access and utilization, including benefit sharing from marine genetic resources in areas beyond national jurisdiction of states.

My delegation is of the view that the new protocol on marine biological diversity in areas beyond national jurisdiction should take into account the two essential elements of sustainable development namely inter and intera generational equity and consequently address both the conservationist and distributive concerns related to BBNJ in an integrated fashion. Applying the existing mechanisms and management tools such as area-based management including marine

protected areas and environmental impact assessments are important in achieving the objectives of the new instrument in conservation and sustainable use.

Madam president,

The guiding principle that best serves both elements of sustainable development in terms of conservation and distribution is the Common Heritage of Mankind enshrined in the UNCLOS and in the General Assembly resolution 2749 called as “Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction”. The principle of the Common Heritage of Mankind, is a part of customary international law and should be taken into account without any prejudice to the rights and obligations of non-parties to the convention. In this regard we also reiterate para 6 of Article 311 of UNCLOS according to which no amendments or derogations from the common heritage of mankind is permitted and state parties shall not be party to any agreement in derogation thereof.

With respect to the applicable legal regime to MGRs and even though they are living organisms and could be categorize as renewable resources, connection of deep-sea MGRs to the ocean floor and the features on it and also slow-growing character of these resources as well as small number of their distribution makes these resources similar to the exhaustible resources in a sense of availability. Therefore, my delegation is convinced that the new regime applicable to these resources should not deviate from the legal regime of the area and its resources whereas the application of the regime of High Seas to these resources leads to inequitable consequences.

Madam President,

My delegation believes that a new implementing instrument under the UNCLOS while helping move from fragmentation to coherent, should avoid overlap and redundancy with existing legal instruments and the activities of the relevant frameworks. As a party to the 1995 United Nations Fish Stocks Agreement, we are of the view that the new regime should not apply to fishing activities and the new protocol would not affect the freedom of fishing in the High Seas for the food consumption purposes.

On the issue of access and benefit sharing, and the possible role of intellectual property in this regard, we believe that the IGC should utilize the guiding principles have put forward by CBD and the Nagoya Protocol on Access and Benefit-sharing, namely prior informed consent (PIC) as well as fair and equitable benefit sharing. In our view, the best way to guarantee effective implementation of these principles is Mandatory Disclosure of the source of Biological resources. In other words, the patent applications related to BBNJ inventions shall disclose the origin of the source of biological resources to ensure effective tractability of prior informed consent requirement and companies while applying for the patents, particularly in pharmaceutical products, should reveal the source of MGRs utilized in the process of inventing the new product. In fact, the two guiding principles which most of the countries supported to be included in this protocol namely transparency and common heritage of mankind uphold the inclusion of mandatory disclosure requirement in the new protocol. In this context, intellectual property rights could be utilized as a means to properly monitor the exploitation of MGRs in a transparent manner and to prevent their piracy, misappropriation and unauthorized use.

Madam President,

We recognize the importance of the responsibilities entrusted to the International Seabed Authority regarding marine scientific research and the protection of the marine environment, and the need to take them into account. Drawing from the ISA model and building upon lessons learned from different international instruments with similar technical nature, it would be essential to establish an implementing authority to guarantee the effective function of implementing agreement and to ensure transparency in the access and use of marine genetic resources of areas beyond national jurisdiction while protecting environment. It should be the responsibility of the States Parties, to take the decisions and recommendations related to the implementation of the instrument and the required performance of its functions.

With respect to transfer of technology, the new instrument should define general obligations in promoting cooperation to develop capacity and transfer of marine technology while recognizing the special needs of developing countries. The needs and priorities for capacity

building should be identified and constantly reviewed by an advisory or decision-making body under the new instrument. It is also essential to ensure an adequate, predictable and sustainable funding mechanism for projects on the conservation and sustainable use of marine biological diversity of ABNJ. The idea of a clearing-house mechanism and a capacity-building network could be developed and the experience of the CBD and the UNFCCC could be instrumental in this regard.

Finally, Madam President, the issue of BBNJ has been on the program of work of the General Assembly for more than a decade and IGC is an important milestone in these efforts. We have already entered in the final phase of this process and all of us have a shared responsibility toward protecting seas, conservation, sustainable use and sharing equitable benefit deriving from BBNJ. My delegation will engage constructively in this negotiation and will spare no effort to reach concrete and successful outcome.

Thank you very much.