

## **BBNJ IGC-5**

### **Informal informals on cross-cutting issues Oral report of the Facilitator**

**15 August 2022**

1. The informal informals on cross-cutting issues, held on 15 August 2022, discussed the final provisions first (Part XII) and continued with general provisions (Part I).
2. **On the final provisions:**
  - Articles 58, 59, 69 and 70 are generally where they need to be, subject to finalization of dates in article 58 and questions regarding 'formal confirmation' in article 59. There was generally broad support for article 66 as well.
  - I invited the EU and other interested delegations to report back on article 58<sup>ante</sup> regarding whether REIO votes should be limited to the number of member States present and to discuss including a provision on internal divisions of competence between REIOs and member States in article 59<sup>bis</sup>.
  - There was a large measure of agreement on article 61. In terms of the number of instruments needed for entry into force, delegations generally supported a balance between the need for universal participation and urgency of action, with most delegations supporting a number between 30 and 60 ratifications, although there was a proposal for a higher number, but expressing flexibility on the number.
  - Many delegations supported article 62, though others queried its necessity.
  - Many delegations also supported including articles 63 and 63<sup>bis</sup> on reservations and declarations while others noted that allowing for limited reservations would depend on the outcomes of the substantive elements.
  - Some supported article 64 concerning the relationship to other agreements, while others thought it should be deleted.
  - Leaving aside questions of decision-making to be taken up elsewhere, there was general support for article 65 on amendment, with some textual proposals made. We remain to consider paragraph 5.
  - I invited delegations to consider different proposals and report back on whether there should be a simplified amendment procedure for annexes in article 68.
3. **With respect to general provisions:**
  - There was support for article 2 as reformulated, but certain issues need to be revisited.

- There was support for article 3(1), read together with article 1(4). I invited delegations to study the proposals made on article 3(2) in respect of sovereign immunity while avoiding loopholes for state-owned enterprises.
- Moving onto article 4, while there were proposals for an all-encompassing provisions covering all agreements including UNCLOS, there was also strong support for articles 4(1) and (2) retaining the primary emphasis on the Convention.

4. **Next topics/articles:**

- When the informal informals convene this afternoon at 3pm, we will discuss first the institutional arrangements beginning with the COP, and then at 6pm we will move to finish Part I.