**Text proposal for Articles 11, 11bis, 48 and 52 submitted on behalf of Australia, Canada, European Union and its Member States, Iceland, Japan, New Zealand, Norway, Switzerland, Republic of Korea, United Kingdom, United States**

**Article 11**

**Fair and equitable sharing of benefits**

**1.** [Benefits including] monetary and non-monetary benefits arising from activities with respect to marine genetic resources of areas beyond national jurisdiction shall be shared in a fair and equitable manner in accordance with this Part and contribute to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

2. Non-monetary benefits shall be shared and may be in the form of:

 (a) Access ex situ and access to associated data and information;

(b) Information contained in the notifications provided in accordance with article 10, paragraphs 3, 4, 4bis and 4ter;

 (c) Transfer of technology under mutually agreed terms;

(d) Capacity-building, including by financing research programmes, and partnership opportunities for scientists and researchers in research projects, and dedicated initiatives, particularly for developing States;

(e) Open and FAIR (Findable, accessible, interoperable and reusable) access to scientific data in accordance with international practice in those fields;

(f) Increased scientific cooperation, in particular with scientists and scientific institutions from developing States;

(g) Other forms as determined by the Conference of the Parties on the basis of recommendations by the access and benefit-sharing mechanism.

3. Parties shall take the necessary legislative, administrative or policy measures to ensure that samples as well as associated data and information subject to the utilization by natural or juridical persons under their jurisdiction and control are deposited in publicly accessible databases or repositories no later than three years from the start of the relevant utilization or as soon as they become available, taking into account current international practice in these fields.

4. Access to the original samples and associated data and information in the databases and repositories described in paragraph 4 may be subject to reasonable conditions, including but not limited to those related to:

 (a) The need to preserve the physical integrity of original samples;

(b) The reasonable costs associated with maintaining the relevant database, biorepository or gene bank in which the sample, data or information is held;

(c) The reasonable costs associated with providing access to the sample, data or information.

5. Monetary benefits shall be shared through the special fund established under Article 52(3)(b) which shall distribute them to Parties to this Agreement on, on the basis of equitable sharing criteria, taking into account the interests and needs of developing States Parties

6. The Conference of the Parties shall determine the rate of payments by Parties to the special fund. A Party’s rate of payment for each financial period as determined under Article 48(5)(e) shall not exceed [x%] of that Party’s payment to the budget adopted by the Conference of the Parties under Article 48(5)(e).

7. The Conference of the Parties taking into account recommendations from the Access and benefit-sharing Mechanism established under Article 11bis shall review the extent of commercialization of products based on the utilization of marine genetic resources of areas beyond national jurisdiction. If substantial monetary benefits arise from such utilization, the Conference of the Parties may by consensus decide on alternative modalities for the payments to the special fund which upon taking effect will replace the process for payments set out in subparagraph 6.

8, In addition to payments required under subparagraph 6 or 7 as applicable, Parties may make additional contributions to the special fund in accordance with Article 52(3)(b).

**Article 11 bis**

**Access and benefit-sharing mechanism**

1. An Access and Benefit-Sharing Mechanism shall be established under the Scientific and Technical Body.

2. The committee shall be composed of experts nominated by the Parties and elected by the Conference of the Parties with suitable qualifications and the highest standards of competence and integrity, taking into account the need for gender balance and equitable geographical representation.

3. Under the authority of and in accordance with guidelines laid down by the Conference of the Parties and upon its request, this Committee shall provide timely advice to the Conference on the following matters:

a) assessments of research and development activities based on marine genetic resources of areas beyond marine jurisdiction;

b) the potential commercialisation of products based on the utilisation of marine genetic resources of areas beyond national jurisdiction;

c) Appropriate modalities to operationalise capacity building and transfer of technology projects from relevant financial contributions to the special fund, in accordance with articles 11 and 52.3(b);

d) the operation of the clearing-house mechanism in relation to this part; and

e) Other information required pursuant to the decisions taken by the Conference of the Parties.

4. Each Party shall make available to the Access and Benefit Sharing Committee through the clearing-house mechanism, the information required under this Agreement.

**Article 48**

**Conference of the Parties**

5. The Conference of the Parties shall monitor and keep under review the implementation of this Agreement and, for this purpose, shall:

(e) By consensus adopt a budget, at such frequency and for such a financial period as it may determine;

**Article 52**

**Funding**

3. The mechanism shall include:

(b) A special fund established by the Conference of the Parties that shall be funded through payments made in accordance with Article 11 and that shall be open to additional contributions from Parties and private entities wishing to provide financial resources to support the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction to: