

Tonga Delegation
Intergovernmental Conference on an international legally binding instrument under the
United Nations Convention on the Law of the Sea on the conservation and sustainable use
of marine biological diversity of areas beyond national jurisdiction
First substantive session, on Agenda Item 7: Consideration of the subject matter referred
to in paragraphs 1 and 2 of General Assembly resolution 72/249

New York, 5th September 2018

Capacity Building and Transfer of Marine Technology

Check against delivery

Madam Facilitator,

Thank you for giving my delegation the floor and allow me to align my intervention with that delivered by Egypt on behalf of the Group of 77 and China, Maldives on behalf of AOSIS and Nauru on behalf of PSIDS.

Madam Facilitator,

D Capacity Building and Transfer of Marine Technology

8 On the element of capacity building and transfer of marine technology,
Tonga's responses are as follows:

6. Capacity-building and transfer of marine technology

6.1 Objectives of capacity-building and the transfer of marine technology:

The manner in which the objectives of capacity-building and the transfer of marine technology would be included in the instrument.

Tonga's response

1. The ILBI should provide both general and specific objectives for capacity-building and the transfer of marine technology:

(a) The General Objectives should include:

(a) Capacity development for SIDS

The general objective should include the need to promote, provide and develop capacity (human, institutional and technical) of small island developing States in the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction and to implement obligations under the ILBI.

The capacity provided should be meaningful and based on the needs of SIDS for the conservation and sustainable development of

marine biological diversity of areas beyond national jurisdiction (Part XI, Art 266 (2), UNCLOS) and to

(ii) Capacity development in marine science

The general objective should also factor in the gaps which currently exist in marine science and the need to cooperate and share information, within and amongst others, in the building or development of human, institutional and technological capacities in connection with ocean science, in particular gaps in knowledge;

(b) The specific objectives should include:

- strengthen regional and national marine science and technical centres;
- develop and implement means to identify technological and capacity needs and a mechanism to request technology and capacity;
- institutional mandate for CB/TT;
- develop and implement practical arrangements (i.e. information sharing, access to infrastructure, access to training opportunities and data/knowledge); and
- develop and implement monitoring, evaluation and improvement of the mechanism.
- The ILBI could provide a framework to specify, coordinate, promote and monitor the implementation (which could lead to possible amendment/update of the ABS), which would operationalize the provisions in the following sections of UNCLOS:
 - Part XII (protection and preservation of the marine environment),
 - Art. 202 (scientific and technical assistance to developing States),
 - Part XIII (marine scientific research),
 - Art. 239 (promotion of MSR),
 - Art. 242 (promotion of international cooperation in MSR and peaceful purposes),
 - Art. 243 (creation of favourable conditions),
 - Art. 244 (publication and dissemination of information and knowledge) , Para 1. States and competent international organizations shall, in accordance with this Convention, make available by publication and dissemination through appropriate channels information on proposed major programmes and their objectives as well as knowledge resulting from MSR., Para 2. For this purpose, States, both individually and in cooperation with other States and with competent international organizations, shall actively promote the flow of scientific data and information and the transfer of knowledge resulting MSR, especially to developing States, as well as the strengthening of the autonomous MSR capabilities of developing States through, inter alia, programmes to provide adequate education and training of their technical and scientific

personnel

- Art. 256 (MSR in the Area) All States, irrespective of geographical location, and competent international organizations have the right, in conformity with the provisions of part XI, to conduct MSR in the Area.
- Art. 257 (MSR in the water column beyond the EEZ) All States, irrespective of their geographical location, and competent international organizations have the right, in conformity with this Convention, to conduct MSR in the water column beyond the limits of the EEZ. Transfer of technology, including based on Part XIV (development and transfer of marine technology):
- Art. 266 (promotion of the development and transfer of marine technology)
- Art. 268 (basic objectives)
- Art. 269 (measures to achieve the basic objectives)
- Art. 270 (ways and means of international cooperation)
- Art. 271(ways and means of international cooperation)
- Art. 272 (coordination of international programmes)
- Art. 273 (cooperation with international organizations and the Authority)
- Art. 275 (establishment of national centres)
- Art. 276 (establishment of regional centres)
- Art. 277(functions of regional centres)
- Art. 278 (cooperation among international organizations)

(b) How would the instrument reflect the recognition of the special requirements of developing countries, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States and small island developing States, as well as coastal African States?

Tonga's response

The ILBI could set out a general clause highlighting the need to recognize the special cases of developing countries with preference to SIDS.

(c) How would the instrument address and reflect the need to develop and strengthen the capacity of States, in particular developing States, that need and request it, in accordance with article 266 (2) of the Convention?

6.2 Types of and modalities for capacity-building and transfer of marine technology

(a) Drawing on existing instruments, such as the Convention and the Criteria and Guidelines on Transfer of Marine Technology

of the Intergovernmental Oceanographic Commission, would the instrument include an indicative, non-exhaustive list of broad categories of types of capacity-building and transfer of marine technology?

Tonga's response

Yes.

(i) If a list were to be included:

- How would the list be developed and by whom? How would it be updated?

Tonga's response

This list can be developed and updated by the ILBI Institution, upon proposals made by state parties, regional or sectoral bodies.

- How broad would the list be?

Tonga's response

The list should be broad enough to cover various capacities needed by small island developing countries, including:

- Scientific capacity;
- Strengthen national and regional capabilities (human, institutional and technological);
- Developed countries to share marine scientific advances;
- Apply technology and scientific knowledge.

(ii) If no list were to be included in the instrument:

- Would the instrument provide for a list to be developed subsequently?

Tonga's response

Yes

- How else could the types of capacity-building and transfer of marine technology be reflected?

Tonga's response

It can be reflected in various stages of the elements as set out above.

(b) What specific forms of cooperation and assistance would be included in the instrument in relation to marine genetic resources, including questions on the sharing of benefits, measures such as area-based management tools, including marine protected areas, and environmental impact assessments?

Tonga's response

See responses to elements above in 3,4 and 5.

(c) Modalities for capacity-building and the transfer of marine technology that would be included in the instrument.

(i) Bearing in mind the possible parameters of modalities for capacity-building and the transfer of marine technology in section III of the report of the Preparatory Committee, the issue is what parameters the instrument would set out for the modalities regarding capacity-building and the transfer of marine technology. Parameters could also relate to, inter alia, who the providers of capacity-building and technology transfer would be and the basis on which capacity-building and technology transfer would be provided.

Tonga's response

The parameters of capacity building can be drawn from the objective of this ILBI. ~~Any form of capacity building which is contrary or does not relate to delivering the objectives of the ILBI will not qualify for capacity building under the ILBI.~~

(ii) Would existing mechanisms be utilized or would new mechanisms be developed?

Tonga's response

A combination of both would be useful.

(d) What terms and conditions could the instrument set out for the transfer of marine technology? How would any such terms and conditions take into account existing instruments?

Tonga's response

A balanced approach is necessary. This can be captured under general provisions which allow for agreed terms and conditions for the use of technology and its maintenance and disposal. A manual or training on how to use this would be a good starting point.

(e) In addition to the information set out in section III of the report of the Preparatory Committee with respect to possible functions of a clearing-house mechanism, what other functions for a clearing-house mechanism in respect of capacity-building and the transfer of marine technology, if any, would be included in the instrument? What other information or data, if any, relating to capacity-building and the transfer of marine technology, would be disseminated by a clearing-house mechanism? Who would have access to such a clearing-house mechanism?

Tonga's response

The functions of a clearinghouse mechanism

Additional information to be disseminated by a clearinghouse mechanism could include:

- (a) existing links to relevant websites indicating the most up to date website,
- (b) Links to relevant marine journals which are accessible to the public for research purposes;

(f) Which organizations' work would the instrument take into account with respect to the functions of a clearing-house mechanism?

Tonga's response

The CBD amongst others;

(g) How would the modalities for capacity-building and transfer of marine technology be reviewed?

Tonga's response

The modalities can be reviewed by the Conference of the Parties upon recommendation of a subsidiary body or regional organization.

6.3 Funding

(a) The existing mechanisms that would need to be taken into account in the provision of funding and resources.

Tonga's response

The existing mechanisms that would need to be taken into account as models in the provision of funding and resources could include, (i) ISA, (ii) UNFCCC GCF, (iii) Global Environment Facility, amongst others.

Tonga would agree with proposal for new funds proposed by PSIDS.

(b) The manner in which the instrument would address the provision of funding and resources, taking into account existing mechanisms. Would the instrument consider:

(i) Who would have access to the funding and resources?

Tonga's response

State parties, in particular SIDS, Observers in collaboration with natural or juridical persons.

(ii) Who would contribute funding and resources?

Tonga's response

State parties, Observers, natural or juridical persons.

(iii) How the funds and resources would be used?

Tonga's response

The funds can be used to fund projects relating to capacity building initiatives as long as it meets the criteria set out under the instrument. The funds and resources can be used to develop human capacity, institutional capacity and infrastructure.

(iv) How the instrument would address the sustainability, predictability and accessibility of such funding and resources?

Tonga's response

By ensuring that mechanisms set out under the ILBI provide, clear, simple and accessible procedures through the ILBI institution, and are needs driven. (application procedures),

6.4 Monitoring and review

The manner in which the instrument would address the issue of monitoring and review of the effectiveness of capacity-building and the transfer of marine technology activities and possible follow-up action. Issues to consider may include:

(a) Who would undertake such monitoring and review?

Tonga's response

The monitoring and review could be undertaken jointly by capacity development providers and beneficiaries. A capacity development results framework can be developed to guide the review to be undertaken.

(b) What would be the subject matter of any such monitoring and review?

Tonga's response

The subject matters which can be discussed are as follows:

- Progress and outputs delivered;
- Effectiveness of capacity building initiatives, through success stories;
- Challenges;
- Proposed Ways forward

(c) How would such monitoring and review be followed up on?

Tonga's response

The monitoring and review could be followed up on through periodic reports to be developed premised on reporting requirements under the ILBI.

6.5 Issues from the cross-cutting elements

6.5.1 Use of terms

Which definitions of key terms pertaining to capacity-building and the transfer of marine technology, if any, could be included in the instrument?

Tonga's response

6.5.2 Relationship to the Convention and other instruments and frameworks and relevant global, regional and sectoral bodies

Would this element of the package require a specific provision on the relationship to the Convention, other instruments and frameworks, and relevant global, regional and sectoral bodies?

Tonga's response

Yes

6.5.3 General principles and approaches

(a) Which general principles and approaches pertaining to capacity-building and the transfer of marine technology could be included in the instrument?

Tonga's response

The general principles and approaches pertaining to capacity-building and the transfer of marine technology could include, amongst others:

- Effectiveness
- Meaningful and needs driven
- Equitable access
- Special case of SIDS
- Empowerment

(b) How would the instrument best give effect to the identified general principles and approaches in the context of capacity-building and the transfer of marine technology?

Tonga's response

As mentioned in previous segments, this can be operationalized through the various obligations set out under the various elements.

6.5.4 International cooperation

How would the instrument set out the obligation of States to cooperate with respect to capacity-building and the transfer of marine technology?

Tonga's response

The ILBI could set out a requirement similar to that set out under Article 26 of the UNFSA.

6.5.5 Institutional arrangements

(a) Would capacity-building and the transfer of marine technology require specific institutional arrangements, taking into account the possibility of using existing bodies, institutions and mechanisms?

(b) What functions would institutional arrangements have in respect of capacity-building and the transfer of marine technology?

Tonga's response

For (a) and (b) the ILBI institution would play a facilitative role in capacity building and transfer of marine technology, in addition to the possibility of capacity building within the ILBI Secretariat, regional or national centres. There could also be the possibility of setting up a technology bank for small island developing states, similar to the LDCs technology bank.

6.5.6 Clearing-house mechanism

(d) What existing instruments, mechanisms and frameworks could be taken into account?

Tonga's response

In addition to the elements mentioned above on CHM, There are various capacity building mechanisms that can be taken into account, including the International Seabed Authority's CB initiatives, CBD, UNFCCC, regional frameworks and others.