



**STATEMENT ON BEHALF OF THE GROUP OF 77 AND CHINA BY MR. SAINIVALATI NAVOTI, COUNSELLOR, PERMANENT MISSION OF FIJI TO THE UNITED NATIONS, DURING THE "GENERAL DEBATE" OF THE AD HOC OPEN-ENDED INFORMAL WORKING GROUP TO STUDY ISSUES RELATING TO THE CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY BEYOND AREAS OF NATIONAL JURISDICTION (New York, 19 August 2013)**

Co-Chairs,

I have the honor to speak on behalf of the Group of 77 and China on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

At the outset, let me express our pleasure to see both Co-Chairs presiding over our meeting and to assure you of our co-operation. We thank the co-Chairs for the summary of the proceedings of the workshops Inter-sessional workshops aimed at improving understanding of the issues and clarifying key questions as an input to the work of the Working Group in accordance with the terms of reference annexed to General Assembly resolution 67/78. They were very useful for providing knowledge about the different tools for conservation and for learning more about marine genetic resources and their practical applications and also for providing clarity about existing regimes and options for sharing of benefits.

In the course of the week, the Member States will have an opportunity to exchange views on all the issues within the mandate of the Ad Hoc Working Group, which include the mandate arising from paragraph 162 of "The Future we want", and to agree on the path to follow with a view to fulfilling that mandate. We would like to share with other States the general principles guiding the Group of 77 and China in the work of this Working Group.

Co-Chairs,

We would like to begin by reiterating the role of the GA of the UN on issues related to conservation and sustainable use of biodiversity of areas beyond national jurisdiction, and by recalling the role of international law on this matter. In particular, we need to stress once more the role of the UN Convention on the Law of the Sea (UNCLOS) on this issue, as the principle of the Common Heritage of Mankind contained therein is part of customary international law.

The importance of marine biodiversity of areas beyond national jurisdiction is evident: it has a notable environmental importance and it can contribute to the development of science, to better health, and to food security. The G77 and China is also very aware of its remarkable economic and social importance.

Co-Chairs,

Allow me to reiterate a relevant point my Group has made several times. For several years, the General Assembly and this Working Group have been using the ambiguous expression "beyond areas of national jurisdiction", encompassing under the same heading two maritime areas: the high seas and the Area. Such ambiguity, coined for merely practical purposes, should not lead us to blur the remarkably different legal regimes involved. Unlike the high seas, the area "sea-bed and ocean

floor, and the subsoil thereof, beyond the limits of the national jurisdiction" as well as its resources are the Common Heritage of Mankind.

As established in General Assembly resolution 2749 (XXV) which is part of customary international law, activities in the area "sea-bed and ocean floor, and the subsoil thereof, beyond the limits of the national jurisdiction" shall be carried out for the benefit of mankind as a whole, taking into particular consideration the interests and needs of developing States. The fair and equitable sharing of benefits arising from the use of marine genetic resources of areas beyond national jurisdiction is thus an important element in the examination of the issue.

Therefore, the G77 and China is convinced that the guiding principle in dealing with biodiversity of the area "sea-bed and ocean floor, and the subsoil thereof, beyond the limits of the national jurisdiction" is the one embodied in General Assembly resolution 2749 (XXV), that "the area of the seabed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole". That is to say, that the common heritage of mankind principle applies to the biological resources of the area "sea-bed and ocean floor, and the subsoil thereof, beyond the limits of the national jurisdiction".

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.

Co-Chairs,

Conservation is one of the integral elements of the issue. In this regard, the G77 and China recognizes the importance of deriving inputs from relevant instruments and learning about different tools, as we had the chance to do in the workshops.

Another element of the issue is capacity-building and the transfer of technology. The G77 and China has repeatedly drawn attention to the fact that the provisions on transfer of technology are the ones where there is the greatest gap in implementation. The transfer of technology is an essential tool for capacity building in the sphere of marine science. There is also an urgent need for a continued and enhanced participation of scientists from developing countries in marine scientific research in the Area. We therefore call for political will to ensure implementation of the provisions of the Convention relating to capacity building, transfer of technology and scientific knowledge to developing countries so that they can access and benefit from the sustainable use of marine biodiversity of areas BNJ, including genetic resources.

As regards sustainable use, the other major element, the Group strongly believes that access to genetic resources of sea-bed and ocean floor, and the subsoil thereof, beyond the limits of the national jurisdiction, as well as its resources, which are the common heritage of mankind and the exclusive exploitation by a few have serious global economic and social implications. We would like to stress that this manner of exploitation is inconsistent with the principle that the Area and its resources are to be explored and exploited for the benefit of mankind as a whole.

In this regard, we need to underline that the question of intellectual property rights is of paramount importance with a view to understanding how the exploitation of genetic resources is made. The G77 and China recognizes the value of presentations at the workshops on the intellectual property aspect relating to biodiversity of areas beyond national jurisdiction, as the sharing of the benefits deriving from the exploitation of these resources, in particular of the biodiversity of a maritime area

which is itself the Common Heritage of Mankind, needs to be addressed in the future implementing agreement.

The G77 and China is of the view that the developments, in activities related to the utilization of genetic resources of areas beyond national jurisdiction, require that all the elements at stake (conservation, sustainable use, including the sharing of benefits, and capacity building and transfer of technology) need to be addressed in the framework of a negotiation. The need for considering the legal regime has been highlighted by the General Assembly in its resolutions, in particular Resolution 65/37. For the G77 and China, the "legal regime" to be negotiated must encompass all the elements at stake.

Co-Chairs,

The exploration, conservation and sustainable use of genetic resources is one issue that is still to be expressly settled and the G77 welcomes, in that regard, the mandate arising from The Future we Want, in its paragraph 162, that the General Assembly takes a decision on convening a negotiating conference at its 69th session.

The G77 and China considers there is the need to pave the way for such decision through meaningful discussions oriented at such decision and beyond. The work of this Working Group at this meeting is therefore of the utmost relevance.

The G77 and China is ready to engage actively with a view to fulfill the mandate from Rio.

Thank you very much.