



STATEMENT ON BEHALF OF THE GROUP OF THE GROUP OF 77 AND CHINA BY MINISTER DIEGO LIMERES, DEPUTY PERMANENT REPRESENTATIVE OF THE PERMANENT MISSION OF ARGENTINA TO THE UNITED NATIONS, AT 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, 31 May 2011)

Co-Chairs,

1. I have the honour 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.
2. 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 Secretary-General for his report contained in document (A/66/70) and other relevant reports.
3. In the course of the week, we shall have an opportunity as the Group of 77 and China and as individual delegations to share our views on all the issues within the mandate of the Ad Hoc Working Group. For the purpose of what we trust will be a fruitful exchange of views leading to a positive outcome, we wish to share with the other States the general principles guiding the Group of 77 and China in the work of this Working Group.

Co-Chairs,

4. 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.
5. 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.
6. The work of this Working Group, which was established by General Assembly resolution 59/24, is therefore of the utmost relevance. It is the only international forum in which all aspects of biodiversity beyond national jurisdiction are dealt with in an open-ended setting that encourages wide participation and open discussions.
7. The importance of the issue under consideration is such that scientific knowledge about biodiversity of areas beyond national jurisdiction should be improved. However, carrying out further scientific studies cannot in any way be conceived as a precondition for a meaningful examination of the issue, in particular, in relation to its two main aspects of concern: conservation and sustainable use, including the sharing of the benefits derived from such use.

Co-Chairs,

8. Allow me to make a relevant point. 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.

9. 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".

10. We recognize the importance of the responsibilities entrusted to the International Seabed Authority regarding marine scientific research and the protection of the marine environment.

Co-Chairs,

11. Conservation is one of the integral elements of the issue. In this regard, the G77 and China recognizes the importance of deriving inputs from other relevant instruments such as the Convention on Biological Diversity which has as its objectives the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

12. 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.

13. 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.

14. We would like to stress how inconsistent this manner of exploitation is with general principles of international law, in particular those on equity; principles that are also enshrined in UNCLOS, as the

Area and its resources are to be explored and exploited for the benefit of mankind as a whole.

15. In this regard, we need to underline that the question of intellectual property rights has not been addressed by this Working Group with a view to understanding how the exploitation of genetic resources is made. The G77 and China considers that the intellectual property aspect relating to biodiversity of areas beyond national jurisdiction requires greater understanding and needs to be considered at the WG, 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.

16. 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. Status quo is not an acceptable option. 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,

17. In conclusion, the exploration, conservation and sustainable use of genetic resources is one issue that is still to be expressly settled.

18. The G77 and China expects that this Working Group can recommend to the General Assembly steps for the near future to initiate a process for engaging in meaningful negotiations encompassing all the elements at stake.

19. Our expectation is that this meeting of the Ad Hoc Working Group is an important step in a process towards settling this important issue. The G77 and China is committed to having meaningful exchanges in an action-oriented session of the Ad Hoc Working Group.

In this context, the Co-Chairs and other delegations can count on our cooperation.

Thank you.