



STATEMENT ON BEHALF OF THE GROUP OF 77 AND CHINA BY MR THEMBILE JOYINI, LEGAL ADVISER, PERMANENT MISSION OF THE REPUBLIC OF SOUTH AFRICA TO THE UNITED NATIONS, ON THE CO-CHAIRS' NON-PAPER AT THE MEETING OF THE AD HOC OPEN-ENDED INFORMAL WORKING GROUP TO STUDY ISSUES RELATING TO THE CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION (New York, 21 January 2015)

Co-Chairs,

Thank you and let me again thank you for your indulgence yesterday.

Once again, the G77 and China commends you for the job well done in coming up with the draft elements which as we said yesterday serve as a good basis for the deliberations on the recommendations that should be submitted during this current 69th Session of the General Assembly by this Working Group.

As we said yesterday, while the non-paper contains useful elements, there are some aspects that could do with some modification. We have thus produced a revised text to address those. Some of these changes are textual while others structural. We have asked the secretariat to circulate this text. I will now proceed to highlight some of the revisions that we have made.

As we said yesterday, the G77 and China is, in general terms, comfortable with the "Elements related to the mandate of the Working Group" and we have not made any significant amendments to this section. The only change relates to the reference to resolution A/Res/69/245.

The first structural change we have made is to frontload the "Statement of the problem to be addressed". We then propose that the statement reads "The absence of a comprehensive global regime to address the legal gap relating to the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction. This status quo cannot be maintained and therefore, a new agreement to address this problem is needed".

Co-Chairs,

Our main difficulty relates to the section called "Elements related to the possible content of an international instrument". We have amended this title of the section to read "Elements on Broad Scope and Parameters of a possible international instrument". As we mentioned in our general statement, we were uncomfortable with the equation of the 2011 package with other elements that are not the subject of agreement. Under this section, "Elements on Broad Scope and Parameters of a Possible International Instrument", we have retained only the 2011 package.

The question we had to grapple with was what to do with the other elements. We considered various options and came, after some reflection, to the conclusion that these other elements ought to be deleted. Now, co-chairs, we are aware that some delegations would like to see some reflections of some of these issues and the G77 and China is sensitive to this. We are of the view, however, that when we adopt the resolution pursuant to this recommendation in the coming months, we can find innovative ways to reflect other issues to be discussed. There are several

examples of how this can be done but it is not necessary to include this in the recommendation.

We have also decided to include "Elements related to Feasibility" which we propose should read as follows: "The elaboration of the international instrument is feasible from a political, legal and technical standpoint."

Under the heading "Elements related to the negotiating process", we have replaced the 2nd bullet with "The General Assembly Resolution will set the timeline for negotiations". By this we mean that this matter will be considered by the General Assembly in the resolution.

Under the same heading, we have replaced the 3rd bullet with "Establishment of the Preparatory Committee, open to all States Members of the United Nations or members of specialized agencies or of the international atomic energy agencies, to prepare for, and make recommendations to the conference on the elements to be included in a legally-binding agreement, as well as procedure, where necessary". G77 believes that the specific mandate of the PrepCom and the work of the PrepCom will be addressed in the GA.

We have deleted the last bullet under the same heading as it does not add any value to the process.

Co-Chairs,

This is what G77 and China did to your paper. We would be happy to receive comments on this text and to hear what proposals others might have to further improve the text with a view to producing a sound final text of recommendations.

I thank you for your attention.