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## Sixty-eighth session

Agenda item 76 (a)

### Oceans and the law of the sea

## Letter dated 23 September 2013 from the Co-Chairs of the Ad Hoc Open-ended Informal Working Group to the President of the General Assembly

Pursuant to paragraph 80 of General Assembly resolution [60/30](#), we were reappointed as Co-Chairs 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, which was established pursuant to paragraph 73 of General Assembly resolution [59/24](#). In accordance with paragraph 184 of General Assembly resolution [67/78](#), the Working Group met from 19 to 23 August 2013.

We are pleased to inform you that the Working Group fulfilled its mandate to provide recommendations to the General Assembly as requested in resolution [67/78](#) (para. 184). We have the honour to submit to you the outcome of the meeting (see annex).

It would be appreciated if the present letter and the annex thereto could be circulated as a document of the General Assembly, under agenda item 76 (a).

(Signed) Palitha T. B. Kohona

Liesbeth Lijnzaad

Co-Chairs



## Annex

### **Report 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 and Co-Chairs' summary of discussions**

#### **I. Recommendations**

1. 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, having met from 19 to 23 August 2013 in accordance with paragraphs 183 and 184 of General Assembly resolution [67/78](#), recommends that, at its sixty-eighth session, the General Assembly:

(a) Welcome the intersessional workshops held on 2 and 3 and 6 and 7 May 2013, pursuant to paragraph 182 of resolution [67/78](#), which provided valuable scientific and technical expert information as an input to the work of the Working Group;

(b) Reaffirm the commitment made by States in “The future we want<sup>1</sup> to address, on an urgent basis, building on the work of the Working Group and before the end of the sixty-ninth session of the General Assembly, the issue of the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction, including by taking a decision on the development of an international instrument under the United Nations Convention on the Law of the Sea (the Convention), and decide to establish a process within the Working Group to prepare for such action;

(c) In this regard, to prepare for the decision to be taken by the General Assembly at its sixty-ninth session, request the Working Group, within its mandate established by resolution [66/231](#) and in the light of resolution [67/78](#), to make recommendations to the Assembly on the scope, parameters and feasibility of an international instrument under the Convention;

(d) To this end, decide that the Working Group will meet for three meetings of four days each, with the possibility of the General Assembly deciding that additional meetings be held, if needed, within existing resources;

(e) To inform the deliberations of the Working Group, decide to request the Co-Chairs of the Working Group to invite Member States to submit their views on the scope, parameters and feasibility of an international instrument under the Convention, for circulation as an informal working document compiling the views of States no later than three weeks before the first meeting of the Working Group; this informal working document will be updated and circulated prior to subsequent meetings.

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<sup>1</sup> Resolution 66/288, annex.

## II. Co-Chairs' summary of discussions\*

2. The Working Group met at United Nations Headquarters from 19 to 23 August 2013. In accordance with paragraph 184 of resolution [67/78](#), the Working Group was convened to provide recommendations to the General Assembly at its sixty-eighth session.
3. The meeting of the Working Group was presided over by two Co-Chairs, Palitha T. B. Kohona (Sri Lanka) and Liesbeth Lijnzaad (Netherlands), appointed by the President of the General Assembly in consultation with Member States. An open-ended Group of Friends of the Co-Chairs assisted the Co-Chairs in the preparation of draft recommendations for consideration and adoption by the meeting.
4. The Under-Secretary-General for Legal Affairs, the Legal Counsel, Patricia O'Brien, delivered opening remarks on behalf of the Secretary-General.
5. Representatives of 68 Member States, 18 intergovernmental organizations and other bodies and 9 non-governmental organizations attended the meeting of the Working Group.
6. The Working Group adopted the agenda without amendment ([A/AC.276/8](#)) and agreed to proceed on the basis of the proposed format, annotated agenda and organization of work ([A/AC.276/L.10](#)).
7. At the request of the Working Group, the Co-Chairs prepared the present brief summary of discussions on key issues, ideas and proposals referred to or raised during the deliberations.

### *Consideration and adoption of recommendations to the General Assembly*

8. Following informal consultations, on 23 August 2013, the plenary of the Working Group adopted the recommendations contained in section I above by consensus. In doing so, it was agreed that a number of understandings relating to the recommendations, as discussed by Member States, would be included in the Co-Chairs' summary of discussions. With regard to paragraph 1 (c) of the recommendations, it was highlighted that the reference to resolution [67/78](#) was for information purposes only, in order to take into account the reference to the commitment made in paragraph 162 of "The future we want" as well as the work of the Working Group at its meeting in 2012 and at the intersessional workshops. Several delegations also expressed their understanding, in relation to paragraph 1 (d), that the Working Group would make every effort to prepare the recommendations before the start of the sixty-ninth session of the General Assembly. Other delegations expressed their understanding that, in order to meet the deadline provided for in paragraph 162 of "The future we want", the distribution of three meetings would ideally cover the year 2014 (two meetings) and the beginning of the year 2015 (one meeting) and that any additional meetings required would be agreed upon by the General Assembly at its sixty-ninth session in its resolution on oceans and the law of the sea. It was further understood that if at its sixty-ninth session the General Assembly decided that additional session(s) were needed, any such session would be convened in such a manner as to provide sufficient time for

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\* The summary is intended for reference purposes only.

the Assembly to take the decision by the end of the sixty-ninth session. In relation to paragraph 1 (e), it was understood that the informal working document would be a compilation of the views of States as transmitted to the Co-Chairs, without editing or summarizing.

9. Some observer delegations expressed concern at the closed setting in which the Working Group had developed its recommendations. A proposal was made, in that regard, that the Working Group establish a formalized process for States and civil society to make online submissions to facilitate preparations for and deliberations during meetings. Many delegations expressed appreciation for the valuable contributions of intergovernmental and non-governmental organizations to the discussions, and expressed support for their continued involvement in the work of the Working Group.

### **General considerations**

10. The importance of the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction for all three pillars of sustainable development was recalled. Delegations highlighted, in particular, the contribution of marine biodiversity to the development of science, health and food security. Its environmental, economic and social significance was particularly underlined with reference to the economies and livelihoods of small island developing States.

11. Delegations reiterated the role of international law, in particular the Convention, in addressing issues relating to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. Particular attention was drawn to Parts VII, XI, XII and XIII of the Convention. It was also pointed out that the Convention recognized the importance of cooperation and coordination in addressing the conservation and sustainable use of marine resources beyond areas of national jurisdiction, an important aspect of which was the transfer of marine technology. Several delegations highlighted the principle of the common heritage of mankind. Some delegations also emphasized the role of intergenerational equity.

12. Several delegations recalled the important role of the General Assembly in relation to the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction. In particular, many delegations noted that the Working Group had served as an excellent forum for the exchange of views and the sharing of expertise, and its work had demonstrated the commitment towards the common goal of the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. It had also contributed to a greater knowledge and understanding of relevant issues and pointed to possible pathways and solutions.

13. Many delegations, however, noted that the status quo in the Working Group was not acceptable. In that regard, they recalled the commitment made by States at the 2012 United Nations Conference on Sustainable Development, building on the work of the Working Group and before the end of the sixty-ninth session of the General Assembly, to address, on an urgent basis, the issue of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including by taking a decision on the development of an international instrument under the Convention. Several delegations expressed the view that this commitment established a clear political mandate for the Working Group to further advance deliberations and conclude them in a timely manner. The view was expressed that this commitment was particularly important in light of the emphasis that the Third

International Conference on Small Island Developing States, to take place in 2014, was expected to place on oceans and considering the elaboration by the General Assembly of a set of sustainable development goals, including possibly on oceans. Many delegations emphasized that the outcome of the present meeting of the Working Group needed to contribute to the timely implementation of the commitment made at the United Nations Conference on Sustainable Development.

**Conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, in particular, together and as a whole, 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, capacity-building and the transfer of marine technology, within the process initiated by the General Assembly in accordance with resolution 66/231 and taking into account the discussions at the meeting of the Working Group in 2012, as well as the input of the intersessional workshops held pursuant to paragraph 182 of resolution 67/78**

14. It was highlighted that many factors, both human and natural, were depleting marine biodiversity and biological resources, including in areas beyond national jurisdiction. In particular, overfishing, ocean acidification, coral bleaching and their impacts, among other things, continued to put oceans at risk. In that regard, it was observed that since the inception of the Working Group, the pressures on marine biodiversity had increased. Several delegations also recalled that, since the signature of the Convention in 1982, advances in technology, together with industrial expansion, had outpaced the development of law and management measures, threatening equality, sustainability and conservation.

15. Several delegations highlighted the need for an integrated approach in the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction, for the benefit of mankind as a whole.

16. The need to promote marine scientific research to address the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction was underscored by some delegations. In that regard, the view was expressed that research, monitoring and assessment of the impacts of human activity on marine biodiversity beyond areas of national jurisdiction should be a priority. To this end, it was noted that freedom of scientific research should be respected.

17. Several delegations recalled that the term “beyond areas of national jurisdiction” encompassed two maritime zones governed by different legal regimes, the high seas on the one hand, and the seabed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction, also known as “the Area”, on the other hand. In their view, the resources of the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction were the common heritage of mankind, the exploration and exploitation of which should be carried out for the benefit of mankind as a whole, taking into particular consideration the interests and needs of developing countries. In this regard, these delegations drew attention to the principle of the common heritage of mankind as embodied in General Assembly resolution 2749 (XXV), which they considered to be part of customary international law and as the guiding principle when addressing marine biodiversity of the Area.

18. Furthermore, they recalled the importance of the responsibilities entrusted to the International Seabed Authority (the “Authority”) regarding marine scientific

research in, and the protection of, the marine environment of the Area, and stressed the need to take them into account. The environmental protection provisions of the exploration contracts concluded by the Authority were also highlighted.

19. Other delegations expressed the view that only the mineral resources of the Area were the common heritage of mankind and that marine genetic resources were regulated by the high seas regime under Part VII of the Convention. In their view, the application of the common heritage of mankind to marine biodiversity beyond areas of national jurisdiction was not customary international law.

20. Delegations welcomed the two intersessional workshops held in May 2013 in accordance with paragraph 182 of General Assembly resolution 67/78. They observed that the workshops had helped improve understanding of issues related to the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction and clarify key questions. Delegations highlighted that the workshops had provided valuable scientific and technical information on conservation and management tools, including area-based management and environmental impact assessments, as well as on marine genetic resources and their practical applications and existing regimes and options for the sharing of benefits. Several delegations commended, in particular, the consideration given, at the workshops, to issues related to intellectual property rights, international cooperation, capacity-building and the transfer of marine technology, but noted that much remained to be done on those issues. It was noted that the resulting enhanced understanding of activities carried out in areas beyond national jurisdiction was helpful, especially for developing countries.

21. The view was expressed that the workshops had also provided insights into gaps in governance and existing measures, and had highlighted, inter alia, that there was no effective framework for coordination across different sectoral and regional regimes. Many delegations observed that the workshops had provided further evidence of the need for negotiations to commence on a new implementing agreement to the Convention to establish a more effective legal framework.

22. Conversely, some delegations observed that, since the workshops had not addressed legal issues, they had not provided guidance on the question of whether an implementing agreement was needed or not. Moreover, noting that fisheries were already addressed through the 1995 United Nations Fish Stocks Agreement and regional arrangements, some delegations expressed the view that no new instrument was necessary to regulate fisheries beyond areas of national jurisdiction (see para. 50 below).

23. The view was also expressed that the discussions at the workshops had mainly taken place with the panellists and that further discussions among States were necessary.

24. Delegations welcomed the wide participation of relevant stakeholders in the workshops, in particular scientists, industry and non-governmental organizations. This was considered to have resulted in well-informed presentations and discussions on relevant issues. A non-governmental organization emphasized the importance of involving ocean industries in the discussions, noting their potential contribution in terms of information- and data-sharing.

25. The secretariats of a number of intergovernmental organizations updated the meeting on relevant recent developments within their competence. The secretariat of

the Authority provided information on the outcomes of the 19th session of the International Seabed Authority of relevance to issues under the purview of the Working Group, including in relation to the sharing of benefits from activities in the Area on the basis of equitable criteria, the application of ecosystem and precautionary approaches to such activities, the use of area-based management tools such as environmental impact assessments, the establishment of an environmental management plan, including a network of representative areas of particular environmental interest, and capacity-building. It was noted that, as the work of the Authority was progressing into a new phase, this would have implications for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. The secretariat of the International Maritime Organization (IMO) highlighted relevant instruments under the International Maritime Organization, including the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter and the 1996 Protocol thereto, and ongoing discussions with regard to marine geoengineering, including ocean fertilization. The secretariat of the Convention on Migratory Species of Wild Animals provided an overview of the tools available for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction under that convention. Relevant activities under the Convention on Biological Diversity and of the Food and Agriculture Organization of the United Nations (FAO) were also highlighted by their respective secretariats (see paras. 30, 32, 33 and 35 below).

26. At the regional level, attention was drawn to the 2012 “Galapagos commitment for the twenty-first century”, in which eight Foreign Ministers of the South-East Pacific had expressed their intention to promote coordinated actions related to living and non-living resources beyond areas of national jurisdiction, and to study issues relating to the conservation and sustainable use of marine biodiversity therein, with particular emphasis on marine genetic resources.

*Marine genetic resources, including questions on the sharing of benefits*

27. Several delegations stated that access to genetic resources of the Area and their exclusive exploitation by only a few had serious global economic and social implications and was not consistent with the principle of the common heritage of mankind. Several delegations expressed the view that this was also inconsistent with general principles of international law, including those on equity. These delegations stressed the need for activities in the Area to be carried out for the benefit of mankind as a whole, with particular consideration of the interests and needs of developing countries. Fair and equitable sharing of benefits, capacity-building and transfer of marine technology were thus important elements in the discussions. The need for developing and implementing benefit-sharing arrangements, including knowledge-sharing, was highlighted. Several delegations expressed the view that access and benefit-sharing related to marine genetic resources of areas beyond national jurisdiction was a key issue that should be addressed, including in any future normative instrument. Other delegations expressed the view that marine genetic resources were not part of the common heritage of mankind (see para. 19 above).

28. The suggestion was made that international regulations on the sharing of benefits arising from the utilization of marine genetic resources beyond areas of national jurisdiction should be discussed separately from marine scientific research. On the other hand, the view was expressed that the definition of marine scientific

research should be expanded to include marine technology and bioprospecting and that consideration should be given to the distinction between pure and applied research.

29. The view was also expressed that, while the workshops had provided information on benefit-sharing, there still remained major obstacles that needed to be resolved in this regard, including the fact that it was difficult to identify the various uses and origin of the resources. Several delegations emphasized the importance of intellectual property rights for understanding how the exploitation of genetic resources was carried out.

30. The secretariat of the Convention on Biological Diversity informed the meeting that progress had been made towards the entry into force of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization. The secretariat of FAO drew attention to the process established by the Commission on Genetic Resources for Food and Agriculture of FAO at its session in April 2013 for the development of draft elements to facilitate domestic implementation of access and benefit-sharing for different subsectors of genetic resources for food and agriculture.

*Area-based management tools, including marine protected areas*

31. Some delegations noted that the workshops had highlighted the need to establish and enforce better management measures for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction, including area-based management tools and environmental impact assessments. The view was expressed that the workshops had pointed to the lack of a global framework for area-based management arrangements, including the identification and management of marine protected areas beyond national jurisdiction. It was also noted that questions remained, including with regard to the types of activities allowed within protected areas and how to monitor those activities, as well as the respective roles of the Authority, IMO, FAO and regional fisheries management organizations. It was further stressed that protection needs and measures should be identified based on science and that measures should not hamper the freedom of navigation and of scientific research.

32. The secretariat of the Convention on Biological Diversity provided information on the process under that convention to identify ecologically or biologically significant marine areas. It was recalled that the Eleventh Meeting of the Conference of the Parties to the Convention on Biological Diversity, in its decision XI/17, had noted that, in accordance with decision X/29, the application of the criteria for ecologically or biologically significant marine areas was a scientific and technical exercise, and the selection of conservation and management measures was a matter for States and competent intergovernmental organizations, in accordance with international law, including the United Nations Convention on the Law of the Sea.

33. The secretariat of FAO drew attention to the Global Environment Facility-funded FAO programme on global sustainable fisheries management and biodiversity conservation in areas beyond national jurisdiction, aimed at promoting efficient and sustainable management of fisheries resources and biodiversity conservation beyond areas of national jurisdiction. The Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated



Fishing and the recently adopted Voluntary Guidelines for Flag State Performance, to be endorsed by the FAO Committee on Fisheries in 2014, were also recalled. Attention was also drawn to the availability of a prototype of the vulnerable marine ecosystem database aimed at facilitating the sharing of information and data on spatial management measures in deep-sea fisheries in areas beyond national jurisdiction.

*Environmental impact assessments*

34. The view was expressed that the workshops had highlighted the lack of a global framework for the conduct, including scope and content, of environmental impact assessments beyond areas of national jurisdiction. Attention was also drawn to the need to consider a number of issues, including: the identification of the starting point for an environmental impact assessment; the entities which should carry out the assessment; to whom the results should be reported; whether and how verification of the assessment should be carried out; and whether there may be difficulties for developing countries in carrying out environmental impact assessments beyond areas of national jurisdiction. The importance of developing and adopting uniform requirements for environmental impact assessments and strategic environmental assessments for all sectoral uses in all regions was emphasized by an observer delegation.

35. The secretariat of the Convention on Biological Diversity drew attention to decision XI/18 of the Conference of the Parties taking note of the voluntary guidelines for environmental impact assessments and strategic environmental assessments in marine and coastal areas, including in areas beyond national jurisdiction.

*Capacity-building and transfer of marine technology*

36. It was noted that only a few developed countries currently had the capacity to conduct the requisite complex research beyond areas of national jurisdiction. In that regard, several delegations highlighted the importance of capacity-building and technology transfer in addressing challenges arising from the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction and in levelling the playing field between developed and developing countries.

37. Several delegations also reiterated that the provisions of the Convention on the transfer of marine technology had the greatest gap in implementation, and called for political will to ensure the implementation of those provisions. They further noted that transfer of technology was an essential tool for capacity-building in the sphere of marine science and that there was an urgent need for continued and enhanced participation of scientists from developing countries in marine scientific research in the Area. It was also suggested that developing countries needed access to advanced scientific processes so as to develop and utilize marine genetic resources or conduct the necessary environmental impact assessments in areas beyond national jurisdiction.

38. Capacity-building and the transfer of marine technology were highlighted as necessary elements of any future regulations for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction.

**Identification of gaps and ways forward with a view to ensuring an effective legal framework for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, within the process initiated by the General Assembly in accordance with resolution 66/231 and in the light of paragraph 162 of “The future we want” and paragraph 181 of resolution 67/78**

39. The Convention was recognized as the legal framework for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. In this regard, some delegations noted that the Convention, while not including specific provisions on marine biodiversity, provided the principles for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. Several other delegations expressed the view that there were gaps in the existing legal framework.

40. Recalling paragraph 162 of “The future we want”, many delegations reiterated their position in favour of an expedited conclusion of an implementing agreement under the Convention to address the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction. This was considered critical by some delegations to protect the high seas. In particular, many delegations suggested that a new implementing agreement under the Convention would assist in addressing shortcomings in implementation and existing gaps by establishing an overarching legal, institutional and governance framework. The view was expressed that an implementing agreement under the Convention was the only legitimate mechanism to ensure that all Member States, including small island developing States, benefited in an equitable manner from the research, exploration and exploitation of marine biodiversity beyond areas of national jurisdiction.

41. Some delegations stressed the need for more detailed discussions on the legal aspects as well as for a common understanding of what the gaps in implementation and in the existing legal framework might be before considering whether an implementing agreement under the Convention was required. It was also pointed out that new rules on the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction would not compensate for a lack of political will.

42. Some delegations also expressed the view that a new instrument was unnecessary and instead urged for enhanced implementation of existing instruments, as well as greater cooperation and coordination among States and relevant institutions, organizations and sectors.

43. Some delegations stressed the need to avoid creating multiple standards, cautioned against fragmentation and pointed out the risk of the Convention losing its authority should no action be taken. It was also emphasized that the General Assembly should remain the central body through which States agreed on common standards. The importance of coordination at the national and international levels in establishing an institutional framework for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction was highlighted.

44. Many delegations called for substantive discussions on relevant issues, in order to ensure that all parties could take the best informed decision on the way forward. The need for more focused discussion, in such a way that all subjects were dealt with so as to be prepared for the decision to be taken by the General Assembly before the end of its sixty-ninth session, as requested in paragraph 162 of “The

future we want”, was highlighted. It was also suggested that it would be beneficial to invite experts to speak on specific areas during the substantive discussions. Many delegations suggested starting a preparatory process to enable the required political discussion to be concluded within the deadlines agreed upon at the United Nations Conference on Sustainable Development.

45. Different views were expressed regarding the format under which such work should be undertaken. Some delegations suggested that discussions could be held within the Working Group under its current mandate. Noting the urgency reflected in the mandate stemming from the United Nations Conference on Sustainable Development, several other delegations underscored that further progress could not be achieved under the current mandate of the Working Group and under a “business as usual” approach. An adjustment to the mandate of the Working Group would be required. Several delegations expressed support for a formalized process. In that regard, it was suggested that the Working Group could become an intergovernmental committee entrusted with negotiating an instrument. A suggestion was made that expert group meetings could also be convened to outline options on all relevant issues.

46. Many delegations noted the need for more meetings at regular intervals. Several delegations called for clear deadlines for the Working Group (see also para. 8 above).

47. Regarding the content of the discussions, several delegations emphasized the need to reach common ground on the content of a possible future instrument to ensure that all States could take the best informed decision, noting that issues related to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction could only be addressed adequately through joint actions by all States. Many delegations suggested that the new process should address the feasibility, scope and parameters of an implementing agreement under the Convention.

48. Recalling the mandate established in General Assembly resolution [66/231](#), many delegations expressed the view that 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, capacity-building and the transfer of marine technology, taken together and as a whole, should form the main building blocks for the future negotiation of an implementing agreement to the Convention. Several delegations observed that an implementing agreement, including by addressing benefit-sharing as well as capacity-building and technology transfer, would effectuate the common heritage of mankind. Those delegations also expressed the view that, in addition to marine scientific research, intellectual property issues relating to marine biodiversity of areas beyond national jurisdiction were key issues that needed to be addressed in a future implementing agreement.

49. The view was expressed that a new agreement under the Convention should also include modern governance principles, such as an ecosystem approach, the precautionary principle, transparency and participation in decision-making processes. It was also suggested that an agreement would have to provide for mechanisms for the establishment of marine protected areas and their monitoring and management. It was also considered important to ensure coherence with the Convention on Biological Diversity and its Nagoya Protocol, as well as with the work of FAO, the World Trade Organization and World Health Organization, in the

proposed work on, and with respect to the scope of, an implementing agreement. A suggestion was made to also take into account relevant regional programmes, which could provide examples of best practices. Several delegations stressed that where activities were already regulated by existing competent authorities under legally binding instruments, an implementing agreement to the Convention should not directly manage those activities and any decisions regarding the management of specific sectoral activities should be taken by the relevant competent sectoral bodies.

50. The need to discuss and reach conclusions on which elements to exclude from the scope of the negotiations was also highlighted (see also para. 22 above).

51. The view was expressed that any decision on further work should be without prejudice to the decision to be made by the General Assembly at its sixty-ninth session.

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