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Oceans and the law of the sea

Letter dated 25 July 2014 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 paragraphs 199 and 200 of General Assembly resolution 68/70, the Working Group met from 16 to 19 June 2014.

We have the honour to submit to you the Co-Chairs' summary of discussions at 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 75 (a).

(*Signed*) Palitha T. B. **Kohona**
Liesbeth **Lijnzaad**
Co-Chairs

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Annex

Co-Chairs' summary of discussions 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*

1. In paragraph 198 of its resolution 68/70, the General Assembly requested 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, within its mandate established by resolution 66/231 and in the light of resolution 67/78, and in order to prepare for the decision to be taken at the sixty-ninth session of the Assembly, to make recommendations to the Assembly on the scope, parameters and feasibility of an international instrument under the United Nations Convention on the Law of the Sea. To that end, the Assembly decided that the Working Group should meet for three meetings of four days each, with the possibility of the Assembly deciding that additional meetings would be held, if needed, within existing resources.

2. The first of these meetings of the Working Group was held at United Nations Headquarters from 1 to 4 April 2014, in accordance with paragraphs 199 and 200 of General Assembly resolution 68/70.[a] The second meeting was held at United Nations Headquarters from 16 to 19 June 2014, also in accordance with paragraphs 199 and 200 of General Assembly resolution 68/70.

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.

4. The Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Miguel de Serpa Soares, delivered opening remarks on behalf of the Secretary-General.

5. Representatives of 79 Member States, 2 non-Member States, 11 intergovernmental organizations and other bodies and 9 non-governmental organizations attended the meeting of the Working Group.

6. The Working Group adopted the provisional agenda without amendment (A/AC.276/10) and agreed to proceed on the basis of the proposed format and annotated provisional agenda and organization of work (A/AC.276/L.14).

7. In accordance with the format, and 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. The general considerations made throughout the week are reflected in paragraphs 8 to 22 below. The views expressed on the scope, parameters and feasibility of an international instrument are reflected in paragraphs 23 to 81 below.

* The summary is intended for reference purposes only.

[a] A/69/82.

General considerations

8. Delegations recalled the importance of addressing the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. Several delegations expressed their concern regarding the unprecedented rate of loss of marine biodiversity and the impacts of unsustainable practices on the marine environment. In particular, several delegations highlighted the accumulation of a number of threats to marine ecosystems beyond areas of national jurisdiction, including unsustainable resource exploitation, destruction of habitats, pollution, ocean acidification and climate change. A view was expressed that unsustainable fishing, in particular overfishing, illegal, unreported and unregulated fishing and certain destructive fishing practices, was the greatest threat to marine biodiversity in those areas. The importance of international action to help conserve species that were highly migratory, including tuna, turtles and whales, which were valuable economic resources for food and tourism, was highlighted.

9. Several delegations called for equitable utilization of marine resources, including benefit-sharing, and for taking into account the needs of developing countries.

10. Delegations recalled the commitment of States, in paragraph 162 of the outcome document of the United Nations Conference on Sustainable Development, "The future we want",[b] building on the work of the Ad Hoc Open-ended Informal 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 United Nations Convention on the Law of the Sea. Many delegations reiterated that the status quo was not acceptable, and called for building on the existing momentum, including the commemoration of the twentieth anniversary of the entry into force of the Convention, to enable the sixty-ninth session of the General Assembly to take a decision to start negotiations on a new implementing agreement under the Convention and address legal and regulatory gaps and gaps in governance.

11. In that regard, many delegations reiterated their commitment to the work of the Working Group, and welcomed the discussions at the meeting of the Working Group held in April 2014, which some delegations considered had shown the political will of the majority of States to move forward. Several delegations also welcomed the additional compilation of views of Member States on the scope, parameters and feasibility of an international instrument under the Convention, prepared and circulated pursuant to paragraph 201 of General Assembly resolution 68/70. Many delegations noted progress towards an emerging consensus on general issues, highlighting in particular convergence towards the fact that any new international instrument should fall under the Convention as a new implementing agreement and that it should recognize and respect, as well as avoid overlap and redundancy with, existing instruments and organizations. A view was expressed that prior to moving forward, the process and procedures for the Working Group to coordinate with existing regional and global regimes and organizations with mandates to regulate activities in areas beyond national jurisdiction would require discussion in order to

[b] Resolution 66/288, annex.

avoid duplication. Several delegations recalled that the focus of the discussions of the Working Group within the process established in resolution 67/78 should not be to negotiate issues, but rather to clarify them. (See also paras. 82-85.)

12. Delegations reiterated the importance of the Convention as the legal framework for addressing the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. Several delegations recalled that the Convention provided the legal framework within which all activities in the oceans and seas must be carried out. Several other delegations emphasized the principle of the common heritage of mankind enshrined in the Convention, expressing the view that it applied to marine genetic resources beyond areas of national jurisdiction. Some delegations stated that marine biodiversity beyond areas of national jurisdiction was the common heritage of mankind. A view was expressed that those who still opposed the application of the principle of the common heritage of mankind in that context had the burden of proof to show what other options would be more appropriate to avoid the tragedy of the commons.

13. Many delegations expressed the view that the development of an international instrument under the Convention, in the form of an implementing agreement, was necessary to effectively address issues related to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. Several delegations stated that such an agreement was the only feasible option to ensure that developing countries and small island developing States, in particular, benefited equitably from the conservation and sustainable use of biodiversity beyond areas of national jurisdiction. Many delegations also noted that an implementing agreement would ensure a coordinated, integrated and collaborative approach and assist in addressing shortcomings in implementation and existing gaps by establishing an overarching legal and institutional framework. To that end, several delegations suggested that an implementing agreement should aim at operationalizing the relevant principles of the Convention. Many delegations suggested that an implementing agreement could implement, strengthen and elaborate on obligations already embodied in the Convention, such as the general obligation to protect and preserve the marine environment, the obligation to protect and preserve rare or fragile ecosystems as well as the habitats of depleted, threatened or endangered species or other forms of marine life, the duty to cooperate on a global or regional basis for the protection and preservation of the marine environment, the duty to undertake environmental impact assessments and publish or communicate reports of the results of such assessments to the competent international organizations, as well as other relevant parts of the Convention related to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction.

14. Several delegations considered that, without an implementing agreement, it would be difficult to ensure coherent application of modern conservation and management principles; establish a network of multi-purpose marine protected areas in areas beyond national jurisdiction; undertake the strategic assessment of multiple activities that may have a cumulative impact on marine biodiversity beyond areas of national jurisdiction; develop a benefit-sharing regime for marine genetic resources; or effectively address the necessary cooperation and coordination between existing global and regional bodies. Several delegations also noted that the majority of existing bodies entrusted with competencies potentially affecting marine biodiversity beyond areas of national jurisdiction had a sectoral and/or regional mandate, and none had global responsibility concerning the subject as a whole. In

this regard, they considered that an implementing agreement would add value by providing a global approach to fill this gap and help move from fragmentation to coherence. It was also noted that holistic, ecosystem-based management was utilized in areas within national jurisdiction in many States, and that it was logical to adopt such an approach in areas beyond national jurisdiction through an implementing agreement under the Convention. Emphasis was placed by a delegation on developing a cooperation framework to facilitate marine scientific research.

15. Many delegations drew attention to the two existing implementing agreements to the Convention, namely the Agreement relating to the implementation of Part XI of the Convention and the United Nations Fish Stocks Agreement, as examples of the dynamic character of the Convention and its ability to identify and respond to new challenges.

16. A view was expressed that a new legally binding instrument should be limited to addressing legal gaps not implementation gaps.

17. Some other delegations indicated that they still remained to be convinced that an international instrument was necessary or that developing such an instrument was the best way to address issues relating to marine biodiversity beyond areas of national jurisdiction. In this regard, the question was raised as to how a new instrument would overcome the existing problems related to lack of political will, and what the added value would be in having a legally binding instrument. A view was also expressed that there was a need and an opportunity to strengthen commitments to conserve and sustainably use high seas living marine resources by using and building upon the structures and mechanisms already in place. It was further observed that the feasibility of an international instrument under the Convention would be dependent on advisability which would be determined based on the scope and parameters identified during the discussions and the principles that would guide future discussion.

18. Many delegations underscored that an international instrument should preserve the balance of interests, rights and obligations under existing instruments and should not affect the rights and freedoms of States in the various maritime zones. The freedom of marine scientific research was highlighted in that regard. The need to preserve the balance between competing uses of the oceans and between conservation and sustainable use objectives was also stressed. The need for equity and transparency was further raised. Some delegations noted that an international instrument under the Convention should take into account the interests and possible participation of those States that were not parties to the Convention. Several delegations suggested that universality should be a primary objective of an international instrument.

19. Some delegations sought further elaboration on the global versus the regional and sectoral dynamic and enquired about how a new international instrument would interact with mechanisms that already existed to regulate human activities beyond areas of national jurisdiction, build on existing achievements and ensure complementarity with existing instruments, such as the United Nations Fish Stocks Agreement, and with the work of existing organizations, such as regional fisheries management organizations, the International Maritime Organization (IMO) and the International Seabed Authority, without affecting their mandates or duplicating their activities. Many delegations emphasized, in that regard, that an international

instrument should recognize and respect and not duplicate or interfere with existing legal instruments and the mandates of existing organizations with sectoral mandates at the global and regional levels and their ongoing efforts. A view was expressed that the scope of a new agreement should be limited to areas for which existing institutions did not have a mandate, noting that there were already regimes for ecosystem-based management, environmental impact assessments and fisheries. In particular, some delegations emphasized that for fisheries, existing regimes and regional fisheries management organizations should be further utilized. It was suggested that it would be useful to more fully understand the extent of overlapping activities in the oceans. The need to avoid creating conflicting processes or a system that would allow for forum shopping was highlighted.

20. Several delegations expressed the view that an implementing agreement should address the relationship with existing instruments with clarity and fully recognize, complement and establish procedures for consultation and/or coordination between existing organizations with relevant mandates. A suggestion was made to develop an international managing mechanism similar to that for the Area, while taking full advantage of existing mechanisms. In that regard, another view was expressed that an international instrument should focus on the interrelationships among ecosystems and an understanding of the relationships between different activities and how to manage these relationships, instead of managing the activities themselves. While support was expressed for concerted action to manage the impacts of human activities on marine ecosystems, the view was expressed that it may not be necessary or appropriate to have only one process, a one-size-fits-all approach, for every activity as impacts varied across sectors based on each sector's particular circumstances and characteristics.

21. Some delegations stressed the importance of not creating onerous and burdensome governance structures. Rather, an efficient and effective governance structure that complements, and does not inhibit, existing efforts, including those of a sectoral and regional nature, was proposed.

22. Several delegations considered that a future implementing agreement should establish institutional mechanisms to assist States parties in implementing their obligations thereunder, and that given its positive contributions to date, the mandate of the International Seabed Authority could be expanded to oversee the implementation of a future implementing agreement. The need for sound-science informed decisions was underscored. It was also stated that any new agreement or structure should be flexible and adaptable enough to address new issues and challenges and that all stakeholders should be involved.

Scope, parameters and feasibility of an international instrument under the United Nations Convention on the Law of the Sea

Overall objective and starting point

23. Many delegations recalled that the overall objective of a new international instrument should be the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. Many delegations emphasized that an international instrument under the Convention should address the package of issues set out in General Assembly resolution 66/231, namely, to address the 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.

24. Many delegations noted that the existing international framework for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction was fragmented and did not address cumulative impacts. In that regard, the package of issues was considered a basis to address all relevant activities in a comprehensive manner, with a view to resolving current fragmentation and lack of integration and to dealing with cumulative impacts in a cooperative and coordinated manner, as well as to address gaps in the current framework. In that regard, several delegations expressed the view that an international instrument should aim at providing a platform for improving cooperation and coordination among and between States and international organizations. A view was expressed that any new instrument should not be limited to coordination, but should also establish a strong framework for, inter alia, management of activities and capacity-building.

25. In relation to legal and regulatory gaps, several delegations highlighted the legal gap in relation to marine genetic resources, including questions relating to the sharing of benefits. Some delegations believed that only legal gaps in the current framework for relevant activities should be addressed in an international instrument, such as in relation to marine genetic resources. In their view, this would exclude issues relating to fisheries, for which the Convention, the United Nations Fish Stocks Agreement and regional fisheries management organizations and arrangements provided the legal framework. In particular, it was noted that regional fisheries management organizations and arrangements already had the mandate to implement area-based management tools, including marine protected areas, both in relation to particular stocks and the effects of fishing activities on vulnerable marine ecosystems in the high seas. Some other delegations indicated that, in the light of the impact of fishing activities on marine biodiversity and the need to implement an ecosystem approach, such activities should be included in an international instrument. Another suggestion was made that existing fisheries-related instruments and organizations could be further utilized to minimize impacts of fishing activities on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.

26. In relation to the need to address gaps in participation in, and implementation of, existing instruments, some delegations noted that a new international instrument would not, in itself, address these challenges, which they believed were mostly due to a lack of political will. Instead, they suggested that such gaps should be addressed by strengthening cooperation among States and international organizations. It was further pointed out that a new international instrument would exist in parallel to existing instruments but, as in the case of those instruments, would apply only to States that would become parties to it. Hence a new international instrument would not necessarily ensure universal participation, but might generate duplication. Another view was expressed that States that were not parties to existing instruments, such as the United Nations Fish Stocks Agreement, would not necessarily reject a new instrument.

27. It was noted that an examination of each element of the package to determine where gaps existed would be helpful and would likely lead to the conclusion that an

implementing agreement was the appropriate solution for each element of the well-balanced and interlinked package.

28. While several delegations observed that it was sufficient at this stage of the process to identify the broad scope and parameters of a possible instrument without detailing all specific areas that should be included or excluded, some delegations expressed the need for further detail, clarity and predictability on the scope of the proposed instrument.

Legal framework for an international instrument

29. Many delegations reiterated that the Convention provided the legal framework for an international instrument governing the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. In that regard, it was noted that although the term "biodiversity" was not used in the Convention, it clearly addressed marine living resources and referred to rare or fragile ecosystems, habitats, species and other forms of marine life, which encompassed biodiversity. Some delegations also underscored that the two implementing agreements to the Convention also formed part of this legal framework along with other relevant instruments, including Agenda 21, as well as the Convention on Biological Diversity and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization thereto. It was suggested, in particular, that the definition of biodiversity contained in the Convention on Biological Diversity could be used in the context of a new implementing agreement.

30. Many delegations reiterated that an international instrument should not duplicate the existing legal framework, but rather complement the Convention and fill gaps in governance and legal and regulatory gaps by strengthening and further elaborating existing provisions and operationalize relevant principles found in the Convention and customary international law. Many delegations also stressed the importance of preserving the integrity and balance of rights and duties under the Convention.

Relationship to other instruments

31. Many delegations expressed the view that a new instrument should complement, rather than undermine, duplicate or change existing instruments, and should enhance cooperation and coordination in that regard and facilitate coherence. Several delegations stressed the need to ensure that the relationship and complementarity with existing legal frameworks, in particular the Convention, was clearly established. In that regard, some delegations drew attention to the need to maintain the balance between the rights and responsibilities of States under various instruments. Some delegations noted that existing instruments and mechanisms had been developed in harmony with the Convention, so the conditions already existed to achieve complementarity between existing mechanisms. Several delegations suggested that harmony with existing instruments could be achieved by including a clause in the instrument to clarify its relationship with the Convention and avoid incompatibility. Examples of how this was achieved under article 2 of the Part XI Agreement and article 4 of the United Nations Fish Stocks Agreement were provided. The suggestion was made by several delegations that such a pragmatic approach could be taken in an international instrument under the Convention.

32. A view was expressed that achieving harmony should be an important objective of an international instrument. Some delegations noted, in this context, the difference between seeking harmonization through cooperation and coordination and trying to achieve this through a new mechanism. It was suggested that a new mechanism could lead to duplication and weakening of existing mandates, or had the potential to create conflicting authorities and actions arising under different instruments. In that regard, it was noted that coordinating the work of existing bodies should be achieved by strengthening their mandates.

33. Clarification was sought by some delegations as to how, in practice, a new legally binding instrument could enhance cooperation and coordination between existing mechanisms. In that regard, it was stated that a new mechanism could be recommendatory or supervisory in nature by providing guidance to existing organizations, but would not interfere with the decision-making or management functions of those organizations. In this context, some delegations stated that a new mechanism could support the work of existing organizations through reporting, sharing of information and forwarding recommendations that those organizations could implement at the regional or global sectoral levels with a view to facilitating harmonious and coherent overall objectives. It was suggested that an international instrument should be flexible enough for regions and sectors to implement it in accordance with their circumstances. It was noted that for a new entity to give recommendations to existing organizations would necessarily entail duplicating the work of those sectoral and/or regional organizations, which already had the expertise over the issues they were mandated to address. A suggested alternative was for a new mechanism to promote cooperation and coordination without a directing or oversight role.

Guiding principles and approaches

34. Delegations reiterated their support for the package approach reflected in General Assembly resolution 66/231 with a view to addressing all issues on an equal footing. However, different views continued to be expressed on the scope of the package and on the gaps a new international instrument should address.

35. Many delegations stressed the need for a global integrated approach, as that would provide global overall objectives and standards to be implemented at the regional and global sectoral levels. Some delegations expressed the view, however, that any instrument promoting a global approach to fisheries would be incompatible with the regional approach set forth in the United Nations Fish Stocks Agreement. Some delegations also noted that different situations and needs prevailed in different regions of the oceans, pointing to the fact that a regional approach remained preferable. It was further observed that under the United Nations Fish Stocks Agreement, regional fisheries management organizations had the mandate to establish marine protected areas to protect fish stocks and vulnerable marine ecosystems. These protected areas applied to the members of the particular regional fisheries management organization and all parties to the United Nations Fish Stocks Agreement. Accordingly, there was no need to duplicate the competence of regional fisheries management organizations in that regard in a new international instrument. In this respect, several delegations noted that the added value of a new instrument would be to identify globally recognized sensitive areas and acknowledge existing marine protected areas, such as those established by regional fisheries management organizations and other regional organizations, and give them global recognition.

A view was expressed that while such an approach would be acceptable in relation to the work of regional seas organizations, it would not be in the case of fisheries for which a global framework already existed.

36. Several delegations expressed the view that it was not necessary to choose between global and regional approaches, since both were mutually supportive through regional implementation of global goals and commitments. In this context, they suggested that the value of an international instrument would lie in its promotion of a collaborative approach and the identification of common principles, for example, to identify areas in need of protection, conduct environmental impact assessments and implement an integrated approach and ecosystem approach, to be implemented by regional and global sectoral organizations. These delegations expressed the view that such an approach would not require a cumbersome institutional structure. In that regard, some delegations emphasized the need to avoid establishing a costly and cumbersome institutional mechanism.

37. Some delegations expressed the view that the mandates of existing institutions could be analysed with a view to determining how to optimize their respective roles. In particular, several delegations stated that the mandate of the International Seabed Authority could be interpreted more broadly or expanded, in particular in relation to marine genetic resources. On the other hand, a view was expressed that this would dilute the mandate of the Authority, which, in addition, may not have the necessary expertise.

38. A suggestion was made that a single reporting entity be established under an international agreement. Another delegation supported a centralized monitoring system. Some delegations expressed concerns over any mandate in a new international instrument concerning monitoring, control and surveillance. Several delegations indicated that any such mandate would be limited to monitoring the implementation of conservation and management objectives within an area. It was suggested that an international agreement include a dispute resolution mechanism to enhance implementation and enforcement.

39. The need to apply modern governance principles and ensure open decision-making was emphasized. In particular, some delegations highlighted the need for adaptive rules, based on the latest scientific data. The need for additional research and the standardization of data was also underscored.

40. While many delegations highlighted their preference for a legally binding instrument in order to establish an effective and strong regime, some delegations indicated that they did not see the need for a legally binding instrument, favouring instead the strengthening of cooperation and coordination through existing mechanisms. Some delegations noted the need to mirror the legally binding nature of relevant existing instruments in order to ensure that an international instrument on the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction was on an equal footing with those instruments.

Scope ratione personae

41. With regard to the scope *ratione personae* of an international instrument, several delegations emphasized that any implementing agreement should be open to all States, regardless of whether or not they were parties to the Convention, with the aim of achieving universal participation and comprehensive conservation and

sustainable use of marine biodiversity beyond areas of national jurisdiction. Some delegations recalled that any new agreement would only bind its parties.

Scope ratione loci

42. Regarding the scope *ratione loci* of an international instrument, several delegations stressed that it should cover the Area and the high seas. Several delegations also emphasized that any actions taken in the high seas under such an instrument needed to fully respect the sovereign rights of, and be taken in coordination with, those coastal States with continental shelves extending beyond 200 nautical miles. It was pointed out, in this regard, that coastal States had the responsibility for the protection and preservation of the marine environment of the continental shelf.

Scope ratione materiae

43. Regarding the scope *ratione materiae* of an international instrument, some delegations stressed the need to agree on definitions of terms. Delegations continued to express divergent views on whether fisheries should be included in the scope of an international instrument. In particular, some delegations stressed that fisheries were already covered by the United Nations Fish Stocks Agreement, which was being implemented by States through regional fisheries management organizations, and should therefore not be considered within the scope of an international instrument. It was noted, however, that the geographic scope or species coverage of some existing fisheries bodies was limited. Some delegations further indicated that fisheries were critical to marine biodiversity and, bearing in mind the need to implement an ecosystem approach, should therefore be addressed in an international instrument. In that regard, several delegations expressed the view that an international instrument should not exclude any activity and should adopt a cross-sectoral and ecosystem approach. Several other delegations noted that because fishing activities had an impact on marine biodiversity beyond areas of national jurisdiction, the relationship between a new instrument and existing agreements in that regard should be addressed clearly. As such, they advanced that a new instrument would not regulate fishing but rather should recognize and complement and establish procedures for consultations and/or coordination with existing relevant global and regional organizations/arrangements. It was suggested, in this context, that an international instrument would not necessarily include a separate chapter on fisheries in an attempt to rectify shortcomings in the United Nations Fish Stock Agreement as this might re-open issues that had already been settled.

44. Several delegations noted that the determination of the precise scope of each element of the package should be carried out during the future negotiations for an implementing agreement under the Convention.

45. Marine genetic resources, including questions on the sharing of benefits. In relation to marine genetic resources, it was highlighted that such resources were of scientific and commercial interest and played an important role in ecosystem functioning, including in climate regulation. In that regard, it was noted that research on those resources and their sustainable use was of interest to society as a whole and the regulation of relevant activities should be a priority. Several delegations acknowledged that a “first come, first serve” approach to resources undermined sustainability. The need to address both equitable sharing of the benefits

arising from the utilization of those resources, in light of the knowledge showing commercial exploitation of these resources, as well as the conservation and management of those resources, including with a view to ensuring that the collection of specimens would be sustainable and avoiding damage to ecosystems, was highlighted by many delegations. In particular, several delegations stated that governance gaps allowed those States with technical capabilities and resources to exploit these resources without sharing the benefits, and this could also contribute to damaging the marine environment. It was observed, however, that acquiring marine genetic resources in areas beyond national jurisdiction often did not require ongoing access or ongoing harvesting and may have almost no impacts on marine biodiversity in those areas.

46. Many delegations considered that such a legal gap existed in the current legal framework in respect of marine genetic resources of areas beyond national jurisdiction, in particular in relation to access and the sharing of benefits arising from their exploitation, while some delegations considered that there was no such gap. Different views were expressed on whether the gap existed in respect of such resources of both the Area and the high seas or only in respect of those of the Area. While a view was expressed that an international instrument could address marine genetic resources of the Area, as this was where a clear legal gap existed, some delegations stressed that an international instrument should apply to marine genetic resources of both the seabed and the water column in order to ensure a uniform regime. Several delegations expressed the view that an implementing agreement should provide for substantial arrangements for equitable access to and the sharing of benefits from marine genetic resources, capacity-building and the transfer of marine technology, so as to ensure that developing countries could benefit from the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction.

47. Different views continued to be expressed regarding the legal regime applicable to marine genetic resources of areas beyond national jurisdiction. Several delegations reiterated their view that, in accordance with the Convention and General Assembly resolution 2749 (XXV), the resources of the Area were the common heritage of mankind, and that activities in the Area shall be carried out for mankind as a whole, taking into particular consideration the interests and needs of developing States. Thus, in their view, the principle applicable to marine genetic resources of areas beyond national jurisdiction was that of the common heritage of mankind and a specific legal regime needed to be developed based on that principle. Several delegations emphasized, in that regard, the importance of incorporating the provisions in articles 136 and 137 of the Convention in an implementing agreement.

48. Some other delegations reiterated their view that the principle of the common heritage of mankind did not apply to marine genetic resources of areas beyond national jurisdiction, and that the freedom of the high seas applied to those resources instead. It was also noted that if marine scientific research was involved, the provisions of the Convention on marine scientific research applied as well. It was stressed in this regard that designating any part of the high seas water column as the common heritage of mankind would be inconsistent with the Convention and would require an amendment, which should be avoided. Several other delegations acknowledged the importance of both principles and stressed that, while they could not support the application of the common heritage of mankind to marine genetic resources of areas beyond national jurisdiction, as those resources were not included

in the definition of "resources of the Area" under the Convention, they were nevertheless open to adopting a pragmatic approach and discussing practical measures for benefit-sharing in relation to both non-commercial and commercial activities, which would be without prejudice to either of the legal regimes. It was suggested that such an approach would allow for the application of an international instrument to the genetic resources of both the Area and the high seas. Some delegations, however, emphasized the need to resolve the issue of the applicable legal regime to ensure legal certainty.

49. Some delegations expressed the view that an access and benefit-sharing regime relating to marine genetic resources of areas beyond national jurisdiction was not needed or even desirable. In that regard, it was observed that the greatest benefits to humanity from marine genetic resources of areas beyond national jurisdiction would stem from the worldwide availability of products and scientific knowledge and the contributions those products and information brought to advancements in public health, food affordability and science, all of which could be impeded by a benefit-sharing regime. Therefore sharing of scientific information and the transfer of technology should be promoted instead.

50. Many delegations, however, stressed the need for a regime for the sharing of benefits arising from the utilization of marine genetic resources of areas beyond national jurisdiction. Some delegations underlined that an international instrument should cover both monetary and non-monetary benefits and emphasized the need for equitable sharing. It was suggested that all of the activities in the value chain should be taken into consideration. Some delegations highlighted the need for sharing of information and access to data and research results, capacity-building and scientific collaboration related to the exploration, protection and study of marine genetic resources. The need to ensure and promote the effective participation of developing countries in partnerships between scientific research institutions and private biotechnology companies was also underscored by several delegations. The importance of developing science and technology, including transfer of marine technology, was also highlighted. One delegation queried whether developing countries that may not become a party to a new implementing agreement would also benefit from an access and benefit-sharing regime.

51. Some delegations stressed the need to balance the respective interests with respect to marine genetic resources so as not to discourage economic activities but rather promote and not create disincentives to further research, investment and innovation. Some delegations also emphasized that an international instrument should not discourage the legitimate activities already taking place in accordance with the Convention, including with regard to marine scientific research, navigation, fishing and the transfer of technology.

52. Several delegations stressed that marine scientific research activities should not interfere with other lawful activities in areas beyond national jurisdiction and had to conform with the rules established to protect and preserve the marine environment. Questions were raised as to how any arrangement for access and benefit-sharing would take into account the varied needs and practices of different sectors so as to not impede research and development; whether any regulation or condition would apply to access to or transfer of the resources; what benefits would be shared; when would they be shared and with whom; and who would make those decisions.

53. A suggestion was made that the geographic origins of marine genetic resources and their use in patents be better overseen. Several delegations proposed, in that regard, that an international instrument include: disclosure requirements; mechanisms that encourage, rather than discourage, cooperation and compliance with access and benefit-sharing arrangements; mechanisms for data-sharing, such as databanks, sample collections and open-access gene pools; and incentives for the development of such mechanisms on a more comprehensive basis.

54. Some delegations noted that the work under the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity, in particular its article 10, the International Treaty on Plant Genetic Resources for Food and Agriculture and the regime of the Area could be considered as it facilitated access and benefit-sharing without impeding research and commercial development. At the same time, it was pointed out that these instruments may not be directly and fully applicable to marine genetic resources of areas beyond national jurisdiction. An observation was made that none of the existing approaches to benefit-sharing could be applied to marine genetic resources of areas beyond national jurisdiction, where resources were not subject to case-by-case mutually agreed terms, but where the users and providers could span many different sectors. The importance of tailoring any model to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction was highlighted in that regard. A view was expressed that, even if it were possible to design a benefit-sharing regime that encompassed all marine genetic resources and all uses across different sectors, the transaction costs of such a system might be so high that they might impede research and developments from which humanity at large benefited.

55. Several delegations called for the expansion of the mandate of the International Seabed Authority to manage marine genetic resources of areas beyond national jurisdiction and access and benefit-sharing related thereto. It was also suggested that an implementing agreement could build on the role of the International Seabed Authority. Some delegations did not support an expansion of the mandate of the Authority. It was also queried whether this was practically feasible, given the wide range of sectors that might be involved in deriving benefits from marine genetic resources. Some delegations stated that issues relating to intellectual property rights and patent law should be dealt with by the competent forums, such as the World Intellectual Property Organization.

56. Some delegations suggested that a public trusteeship could be established to collect and distribute royalties and benefits relating to marine genetic resources of areas beyond national jurisdiction.

57. A suggestion was made that developing definitions, even if provisional, relating to marine genetic resources would be useful to create a common basis and understanding. It was noted that such definitions could address the exact nature of the benefits to be shared, what types of activities would be subject to benefit-sharing, to whom the benefits would go and on what basis they would be distributed.

58. It was suggested that the details of an access and benefit-sharing arrangement would need to be resolved during the negotiations for an international instrument.

59. Measures such as area-based management tools, including marine protected areas. Several delegations pointed out that the establishment of marine protected areas, including networks of such areas, was a commitment included in a number of international instruments, including Aichi Target 11 in the context of the Convention on Biological Diversity. Several delegations noted the scientific and technical work already undertaken in the context of that Convention for the identification of ecologically or biologically significant marine areas and in the context of the International Seabed Authority with regard to areas of particular environmental interest. Some delegations expressed the view that the definition of "marine protected areas" remained unclear and emphasized the need for clarity in the light of the wide range of area-based management tools already available. In this respect, some delegations suggested that an international instrument could include a globally consistent definition based on modern principles, such as the precautionary and ecosystem-based approaches. It was proposed, in that regard, that an international instrument would only deal with marine protected areas established with biodiversity conservation objectives, not with area-based management tools used for other purposes, such as, for example, management of fish stocks or fish stocks recovery. It was recalled that decades of work had been put into establishing marine protected areas at the national level on the basis of the definitions of the International Union for the Conservation of Nature. It was observed, in that regard, that experience showed that marine protected areas were not a panacea for all problems, but were one useful tool in a toolbox that included other area-based management tools. It was highlighted that networks of marine protected areas need not comprise no-take areas only and, in fact, the largest percentage of such marine protected areas under national jurisdiction comprised multiple purpose managed areas.

60. Several delegations stressed that there were a number of international organizations that already had the competence to use area-based management tools in areas beyond national jurisdiction. In particular, in relation to the use of area-based management tools in fisheries management, it was recalled by some delegations that regional fisheries management organizations had the mandate to establish marine protected areas, in accordance with the United Nations Fish Stocks Agreement. In that regard, some delegations emphasized the need to take into account and coordinate with existing regional and sectoral stakeholders already operating in areas beyond national jurisdiction. Several delegations reiterated the importance of respecting the mandates of existing organizations in order to avoid encroachment or duplicative efforts, given their specific mandates and expertise, particularly in the context of marine protected areas.

61. While the ongoing initiatives at regional and global sectoral levels were considered positive steps by some delegations, it was noted that coordination was needed in that regard. Several delegations noted that an international instrument could provide for the broader recognition and coordination of existing efforts, which were otherwise often limited in terms of sector or geographic coverage. It was noted in this context that the marine protected areas established by regional fisheries management organizations were already globally recognized, as these measures applied to all parties to the United Nations Fish Stocks Agreement and that any new instrument should be limited in this regard to measures for the protection of the marine environment. Several delegations stressed that marine protected areas established by regional bodies could have enhanced protection as part of a global

network under an international instrument, as these measures could be binding on all parties to such an instrument.

62. The need for guidelines on the designation of marine protected areas to ensure compatibility between different bodies was noted. It was suggested, in that regard, that an international instrument could further elaborate on the duty to cooperate under article 197 of the Convention. In particular, some delegations noted that an international instrument could aim to develop a framework of recommendations, standards and procedures, criteria and guidelines for existing bodies to identify and manage marine protected areas.

63. Several delegations suggested that an international instrument would facilitate the establishment of a global network of ecologically representative marine protected areas through the identification and designation of globally recognized areas, the establishment of management objectives for the designated areas, the monitoring and surveillance of activities in those areas, and procedures for the recognition and establishment of marine protected areas to be implemented by relevant regional or global sectoral organizations, drawing upon scientific and technical information. They suggested that this approach would bring coherence to the identification of areas requiring protection in areas beyond national jurisdiction. Several delegations noted, in that regard, that the absence of an overarching framework to achieve that goal constituted a legal gap, which could be addressed on the basis of the model provided by the United Nations Fish Stocks Agreement with regard to the relationship between regional and global frameworks. Several delegations expressed support for the development of a governance regime/global mechanism to enable the establishment of high seas marine protected areas through a legitimate intergovernmental process, based on scientific criteria. Many delegations emphasized that marine protected areas could not be established in areas beyond national jurisdiction unilaterally, without a global treaty or agreement, and an international instrument would therefore ensure legitimacy.

64. The question was raised as to how and by whom marine protected areas would be designated. Several delegations proposed that a body be established under an international instrument to identify objectives for area-based management and designate marine protected areas, including through recognition of marine protected areas established at the regional level. Some delegations expressed concerns regarding the establishment of an overarching body or mechanism to that end, including the possibility of duplication and the weakening of existing mandates, the imposition of additional requirements by a new regulatory body or the application of regional measures to non-parties to the instrument. Some delegations sought clarification on whether the mandate of a new body would be limited to agreeing on the general principles and method for the designation of marine protected areas by regional and global sectoral organizations or whether it would entail the adoption of specific measures or recommendations to existing organizations for them to decide on the appropriate measures. Another delegation noted the existing legal certainty gained from binding measures adopted by regional or global sectoral bodies and queried how this would be affected by the binding measures adopted by a new mechanism. It was also noted that the jurisdiction of the coastal State to establish marine protected areas within areas of national jurisdiction did not apply on the high seas and that any new instrument would need to be based on the exclusive jurisdiction of flag States on the high seas. Some delegations pointed out, in that regard, the difficulty of making marine protected areas established by an

overarching body binding on States that had not become party to the international instrument. In this regard, a preference was expressed for the establishment of marine protected areas by States through existing organizations. The need for some degree of centrality to avoid fragmentation at the regional level and for coherence among regional approaches, given the common nature of the resources, was noted. It was suggested, in that regard, that it would be necessary to analyse regional undertakings to assess whether they were compatible with the global approach envisaged by the Working Group.

65. Environmental impact assessments. With regard to environmental impact assessments, it was pointed out that such assessments were an effective tool to ensure the sustainability of activities in areas beyond national jurisdiction. Some delegations expressed the view that an international instrument would facilitate the use of such assessments in the context of globally agreed standards.

66. Several delegations reiterated the obligation under article 206 of the Convention to assess the potential effects of activities that may cause substantial pollution of or significant and harmful changes to the marine environment. Some delegations indicated that environmental impact assessments were already implemented through national measures, in accordance with article 206. It was pointed out, however, that this obligation was only partially implemented and carried out on an activity-specific basis, without the consideration of cumulative impacts of multiple stressors on the marine environment. It was also observed that the current approach did not allow for a coherent assessment of impacts in areas beyond national jurisdiction. In that regard, several delegations emphasized that an implementing agreement should reiterate and strengthen the obligation in article 206 so that potential impacts were considered before activities were undertaken, including cumulative and strategic assessments of such impacts. Attention was also drawn by some delegations to the need to assess the potential impacts of emerging and future uses of the oceans, such as carbon sequestration. A view was expressed that any gaps relating to implementation were a result of a lack of political will, which would not be rectified by a new instrument.

67. Some delegations proposed that an international instrument could elaborate a framework for environmental impact assessments and define uniform standards for the preparation and review of such assessments for activities that pose a threat to marine biodiversity in areas beyond national jurisdiction, in order to achieve greater coherence and coordination. There was a need, in this regard, in the view of some delegations, for guidance on standards and procedures for assessment, reporting, monitoring and management of information resulting from assessments, including a centralized mechanism for information-sharing. It was suggested that the nature of a new instrument could be recommendatory in this regard and could be based on best practices and provide technical support. Another delegation noted that a new agreement should not add to the burden of States with regard to environmental impact assessments. Some delegations stressed the need for transparency so that assessments were available for comment by States.

68. Questions were raised by some delegations related to the conduct and reporting of environmental impact assessments, including how activities subject to an assessment would be defined, who would be responsible for assessing impacts, including the role of flag States and intergovernmental organizations, and possible conflicts between a newly established body envisioned under an international

instrument and existing bodies with sector- or area-specific assessment requirements. A delegation queried whether ongoing activities would be subject to assessments.

69. Several delegations noted the need to consider the threshold that would apply for the obligation to conduct an environmental impact assessment with respect to different activities to take effect. Some delegations noted, in this context, that article 206 of the Convention already contained an established threshold. Another delegation suggested that some activities might not meet the threshold and not require an environmental impact assessment. It was suggested that activities with little or no expected impact might only be subject to monitoring and reporting obligations. It was also considered that there may be some types or groups of activities that could already be considered as not requiring environmental impact assessments if, for example, they were sufficiently managed or the impacts were already known. One delegation suggested taking stock of the experience of the International Seabed Authority on thresholds and baseline obligations for environmental impact assessments.

70. Some delegations noted challenges in assessing the cumulative impact of activities or in trying to address these difficulties in a new international instrument. It was suggested, in this context, that strategic assessments were suitable to address a broad range of activities. Some delegations observed that details regarding the procedural aspects of the conduct of environmental impact assessments would need to be resolved during the negotiations of an instrument.

71. Capacity-building and the transfer of technology. Many delegations agreed that capacity-building would be an important component of an international instrument in order to support implementation of the rights and obligations under existing instruments. Some delegations noted, in this context, that the aim of capacity-building measures and transfer of technology should be to develop the capacity of States to participate in existing global and regional instruments, including through the sharing of scientific knowledge, expertise and technology. It was important, in this regard, for developing States to be able to exercise their rights under the law of the sea, including through access to resources. The disparities between developed and developing States were noted in that regard.

72. Some delegations stressed the importance of establishing facilitating frameworks for capacity-building to strengthen implementation of an international instrument and achieve the objective of conservation and sustainable use. Some delegations also emphasized the importance of ensuring that developing States were partners in capacity-building initiatives. The role of capacity-building and transfer of technology in strengthening cooperation and coordination was also underscored. It was suggested that capacity-building and transfer of technology could be facilitated by donor/recipient models and private/public partnerships.

73. Some delegations acknowledged in this regard the guidelines and ongoing activities of intergovernmental organizations to improve capacity-building and transfer of technology, including those of the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization and the Convention on Biological Diversity. National activities or programmes to support capacity-building and transfer of technology to developing States were also mentioned. The need for political will in the implementation of guidelines and programmes on capacity-building and transfer of technology was stressed.

74. It was noted that the Convention already included provisions on capacity-building and transfer of marine technology, and questioned whether additional provisions in a new instrument would enhance implementation, which was lacking due to an absence of political will.

75. The critical importance of the transfer for technology as an essential tool of capacity-building was highlighted by some delegations. In particular, it was noted that States possessing advanced technologies already had an obligation under Part XIV of the Convention to share those technologies with developing countries. A delegation called attention to its ongoing activities to implement Part XIV of the Convention. However, it was emphasized that Part XIV was the least implemented part of the Convention. It was observed, in this context, that implementation of the obligations under the Convention by developing States was not contingent upon the receipt of capacity-building and the transfer of technology. The importance of balancing the interests of the holders of technology and the needs of developing States was emphasized. Some delegations drew attention to the 2003 Intergovernmental Oceanographic Commission Criteria and Guidelines on the Transfer of Marine Technology, developed in accordance with article 271 of the Convention, and its guiding principle that transfer of marine technology must be conducted on fair and reasonable terms and conditions and enable all parties to benefit, on an equitable basis, from developments in marine science-related activities. It was also suggested that Part XIV could be incorporated mutatis mutandis in an international instrument.

Feasibility of an international instrument under the United Nations Convention on the Law of the Sea

76. Delegations approached the question of feasibility from a number of perspectives. Some delegations reiterated that the question of feasibility was linked to the issues of the scope and parameters of an international instrument. In that regard, it was noted that feasibility depended on agreement on what the problems were and on the best way to address them. It was also observed that a sense of the direction that a prospective instrument would be taking and its broad outline would provide comfort on the feasibility issue. In that regard, the view was expressed that there was a need for further discussions on the scope and parameters before any decision was made to negotiate an international instrument. It was also observed that the issue of feasibility was linked to the ability of States to participate in a prospective international agreement.

77. Several delegations stressed that the issue of feasibility was linked to the political will of States, noting that an overwhelming majority of States had demonstrated the political will to decide to begin negotiations on an international instrument. While some delegations were of the opinion that a new instrument would not significantly address the problems of lack of political will in the implementation of existing arrangements, other delegations expressed the conviction that the negotiation and conclusion of an international instrument would build the momentum needed to increase political will to act. The view was expressed that political will to engage in negotiations would depend largely on the procedural guarantees to be established for the achievement of a common goal.

78. Many delegations noted that given that two implementing agreements already existed under the Convention, developing another implementing agreement under it would be politically, legally and technically feasible. Many delegations also stated

that legal feasibility was evidenced by the existence of gaps and fragmentation in the current framework, and by the need for the international community to address those gaps. In that regard, it was reiterated that the status quo was not acceptable. In particular, the view was expressed that an instrument based on suitable modest, non-duplicative governance arrangements that could assist in generating efficiencies and addressing present and emerging threats to marine biodiversity beyond areas of national jurisdiction was feasible. It was further observed that a legal regime for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction would ensure predictability and uniformity in the conduct of States.

79. While noting that it would be desirable for an international instrument to enjoy universal participation, a delegation observed that such a goal may only be achieved if an international instrument focused on legal gaps.

80. It was indicated that an international instrument should be limited to the areas for which existing institutions did not have a mandate. In this regard, a suggestion was made to discuss the existing international regimes and relevant international bodies engaged in the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction in depth. To this end, the participation of competent international organizations, including the Food and Agriculture Organization of the United Nations, IMO and regional fisheries management organizations in the Working Group was encouraged.

81. Some delegations stated that they remained unconvinced of the feasibility of concluding an implementing agreement under the Convention, noting that feasibility must also take into account whether a future instrument would achieve the goal of bringing a speedy solution to the problems faced in the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. It was noted, in that regard, that lack of support for an implementing agreement should not be mistaken for a lack of commitment to lasting and meaningful protection for the ocean and its resources. It was further observed that if the aim of an international instrument was to promote enhanced cooperation and coordination, and to develop recommendations to that end, those actions could be done through existing bodies, including the regional and sectoral bodies themselves and through the General Assembly. In that regard, a view was expressed that the best way to enhance coordination and cooperation across regions and sectors was to start coordinating and cooperating across sectors, not to enter into lengthy and costly negotiations on a new instrument. Some delegations further expressed the view that coordination and implementation depended on States themselves through their participation in diverse forums, and not on the establishment of overarching rules and institutions. While it was observed that more needed to be done, some delegations emphasized the progress that had been made through existing bodies and processes in recent years, both in legally binding and non-legally binding form, in particular in the fisheries sector with regard to the implementation of an ecosystem approach and increased reliance on science, as well as in the shipping sector with, for example, the designation of special areas and the reduction of discharge of garbage at sea. It was further observed that willing States were already capable of establishing marine protected areas on the high seas and the question was raised as to how a new agreement would overcome unwillingness on the part of some States to establish such areas beyond national jurisdiction.

Next meeting of the Ad Hoc Open-ended Informal Working Group

82. In considering the way forward in the work of the Working Group and the process established in paragraphs 198 and 199 of resolution 68/70, many delegations proposed that the next meeting of the Working Group scheduled to be held from 20 to 23 January 2015 be dedicated to the finalization of recommendations to the General Assembly. In this regard, delegations requested the Co-Chairs to prepare a draft document containing elements of recommendations to the General Assembly for circulation to Member States in advance of that meeting. Delegations emphasized that the draft elements should be based strictly on the package of issues set out in resolution 66/231 and include areas of convergence that had emerged through the discussions. Several delegations also suggested that the draft elements establish the principles upon which the negotiations for an instrument would be conducted, such as the value of consensus and conduct of negotiations in good faith. Some delegations also emphasized that a prospective instrument should not seek to impose obligations contained in the Convention on States that had not yet consented to be bound by its provisions. It was also recalled that being a party to the Convention should not be a prerequisite to be a party to an eventual implementing agreement.

83. While several delegations expressed the view that the draft document should include a road map beyond the next meeting of the Working Group, other delegations expressed concern over the inclusion of such a road map, as they considered that that would prejudge the decision of the General Assembly at its sixty-ninth session.

84. Several delegations requested the opportunity for Member States to submit their views or additional views on the scope, parameters and feasibility of an international instrument, in accordance with paragraph 201 of resolution 68/70. The Co-Chairs indicated that a letter inviting States to provide such views and suggestions on possible elements of recommendations to the General Assembly would include an indicative time frame to do so.

85. Some delegations suggested that the possibility of holding an additional meeting of the Working Group, after the meeting in January 2015, should be considered, as it could not be excluded that a consensus may not be reached at that meeting. In that regard, many delegations stressed that States should strive to reach a consensus and expressed confidence that consensus would indeed be reached, thereby making an additional meeting unnecessary. Some delegations emphasized that consensus was not required prior to the commencement of negotiations. Several delegations also noted that an additional meeting would have budgetary implications, not only at the level of the United Nations, but also for States. Some delegations further observed that an additional meeting might result in a repetition of the views that had already been expressed. A suggestion was made by some delegations that the consideration of a decision on a possible additional meeting would be more appropriate closer to or at the end of the meeting in January 2015. It was also pointed out that any decision to hold an additional meeting would be made by the General Assembly. Several delegations expressed willingness to use bilateral, multilateral or virtual meetings prior to the next meeting of the Working Group to advance the discussions and enable the Working Group to fulfil its mandate.