



**PERMANENT MISSION OF JAMAICA
TO THE UNITED NATIONS**

INTERVENTION BY

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WORKING GROUP ON MARINE GENETIC RESOURCES

**INTERGOVERNMENTAL CONFERENCE ON AN INTERNATIONAL
LEGALLY BINDING INSTRUMENT UNDER THE UNITED NATIONS
CONVENTION ON THE LAW OF THE SEA ON THE CONSERVATION
AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF
AREAS BEYOND NATIONAL JURISDICTION**

**UNITED NATIONS, NEW YORK
13TH SEPTEMBER 2018**

Thank you and good morning Madame Facilitator and colleagues. We congratulate you on your reappointment as Facilitator of this Informal Working Group and commend you on your leadership in guiding our discussions so far. We assure you of Jamaica's full support in the deliberations of this Working Group.

We align with the points made by the G77 and China, AOSIS and CARICOM on this cluster and wish to briefly outline our position on certain issues.

At the outset, Jamaica would like to reiterate the importance of ensuring that the provisions of this implementing agreement do not hinder marine scientific research in areas beyond national jurisdiction. This instrument should affirm the right to marine scientific research in line with the UN Convention on the Law of the Sea.

Scope

In relation to scope, it is our position that the instrument should cover all marine genetic resources in the Area and the high seas.

On the issue of whether the instrument should distinguish between fish and other biological resources as a commodity and fish harvested for their genetic properties, we note that while the instrument should distinguish between the two, it may be useful to also approach this issue from the perspective of the manner in which fish are processed and exploited after harvesting, as there can be a change of use from commodity to research and vice versa. Accordingly, the end-use of the resources must be considered, and the instrument should make provision for an effective track and trace regime in order to meet the aims of transparency, and access and benefit sharing in respect of these resources.

Access

We note that a delicate balance must be struck in respect of access to marine genetic resources in areas beyond national jurisdiction, and it is our view that governance of access must be grounded on the applicable legal principles and not create additional hurdles which will negatively impact marine scientific research.

With this in mind, Jamaica aligns with the views espoused by the Group of 77 and China, AOSIS, and CARICOM on the matter of access, and particularly the need to establish terms and conditions for access to MGRs.

Additionally, the matter of access cannot be considered in a vacuum and the relevance of ABMTs and EIAs as other elements of the package must be factored into our discussions.

Accordingly, the instrument will also have to account for situations which may require a different level of regulated access, such as where sampling will take place in marine protected areas (MPAs), vulnerable marine ecosystems (VMEs), ecologically or biologically significant marine areas (EBSAs) or other specially protected areas. In such cases, the screening process may determine that an EIA is required before MGRs are collected, and access would therefore require authorization.

Sharing of Benefits

The instrument should provide for sharing of monetary and non-monetary benefits.

In respect of non-monetary benefits, we agree with the inclusion of an indicative list to provide clarity on what is envisaged by the instrument. The instrument should make provision for review and amendment of this list guided by ongoing evaluation of the effectiveness of the benefits shared. Such evaluation could take place at intervals by a designated treaty organ, such as provided under Article 31 of the Nagoya Protocol, where the Conference of the Parties serving as the Meeting of the Parties to that Protocol will undertake its first assessment and review of the effectiveness of the ABS measures under the Protocol at its Third Meeting in November 2018. This type of ongoing review will meet the objective of determining the extent to which the benefits conferred under the Agreement are useful and relevant to needs of States and identify additional types of benefits that could be conferred.

Secondly, while non-monetary benefits may be the more immediately available aspect of the benefit-sharing regime, in our view this should not preclude the inclusion of monetary benefit-sharing in the instrument. We appreciate the reality of the time and expense involved in bringing a product derived from marine genetic resources through the development process and successfully commercializing same. We accept that it may take decades to reach this stage. At the same time, however, the implementing agreement should be “future-proof” and anticipate that such commercialization will take place in some cases. We support the inclusion of an indicative list of monetary benefit sharing of the kind outlined in the Nagoya Protocol.

More specifically, we submit that there should be a requirement for the payment of royalties or milestone payments from commercialization of a product developed from MGRs in ABNJ and note that such an approach is not without precedent. The International Treaty on Plant Genetic Resources for Food and Agriculture may serve as guidance on the sharing of benefits arising from commercialization.

Jamaica also supports provisions on the establishment of a clearinghouse mechanism and a trust fund to support access and benefit-sharing under the instrument.