



STATEMENT BY MR. AJAI MALHOTRA,
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THE MEETING OF THE UN AD HOC OPEN-ENDED INFORMAL
WORKING GROUP ON ISSUES RELATING TO THE
CONSERVATION AND SUSTAINABLE USE OF MARINE
BIOLOGICAL DIVERSITY BEYOND AREAS OF NATIONAL
JURISDICTION ON FEBRUARY 14, 2006

Mr. Chairman

At the outset, I would like to congratulate you and your co-chair upon being appointed as the Co-Chairmen of this Working Group, and assure you of the full cooperation of my delegation at this very important meeting convened to study issues relating to the conservation and sustainable use of marine biological diversity beyond national jurisdiction. The Addendum to the Report of the UN Secretary General, contained in A/60/63/Add.1, presents the latest information on scientific, technological, economic, legal and environmental aspects of this issue and provides a very useful basis for its further consideration.

The conservation of marine living resources as well as the protection of rare and fragile ecosystems, which provide a basis for the conservation and sustainable use of the biodiversity of the deep seabed, is an extremely important area for enhanced international cooperation. The Addendum to the Secretary General's report points out that the geographic variation and diversity of the pelagic realm is complex and poorly understood. There is also a deficiency of

data on the diversity and species distribution of deep sea animals. At the same time, species diversity and the presence or absence of individual species or communities have a large influence on processes related to the major biogeochemical cycles in the ocean. The lack of understanding of the biology of the high seas and the pressures for intensified marine scientific research need to be further addressed. It is important that the international community act in a united manner while doing so.

Mr. Chairman, the preamble of the 1982 United Nations Convention on the Law of the Sea categorically recognizes that the seabed, ocean floor and subsoil thereof beyond the limits of national jurisdiction, and its resources, are the common heritage of mankind. It also emphasises that the exploration and exploitation of these resources should be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States. In our view, though emphasis is placed in Part XI of UNCLOS on the exploitation of solid, liquid and gaseous mineral resources in the area or beneath the seabed, including polymetallic nodules, the reference to biodiversity also has a place. Thus, Article 145 of the Convention addresses the issue of protection and conservation of natural resources and the prevention of damage to the flora and fauna of the marine environment from activities relating to exploitation of seabed mineral resources. Organisms of the deep seas arouse considerable interest because of their ability to thrive in extreme environments. Some mechanisms used may be susceptible to commercial application or could have biotechnological potential via new products and processes. Today, this focus on flora and fauna needs to be viewed not only in the larger context of the marine environment, but also in the context of the biodiversity to be found in the deep seabed environment.

The symbiotic relationship between the biodiversity of the deep seabed, in areas beyond national jurisdiction, and

its ecosystem makes the entire resources of the sea-bed, living and non-living, to be a common heritage in whose conservation and sustainable use we have a common interest. The task before us now is to identify the risks to it and to agree on how humankind could share the burden of the environmental protection of such resources and benefit from it in a long term perspective involving both present and future generations.

There is now undeniable evidence that certain scientific research, which is intrusive in character, could put the fragile ecosystem and the species of the deep sea at risk. Marine scientific research, which aims at exploration of biodiversity for commercially valuable genetic and biochemical resources, so-called "bio-prospecting", could be one such activity if not handled properly. The fact that no special legal regime has been evolved so far to regulate it does not mean that such research may be done without any limitation. If not conducted with due care, marine science research could itself have an adverse and undesirable effect on marine ecosystems and biodiversity.

We believe that the general principles of marine scientific research should also be applicable to bio-prospecting. UNCLOS provides detailed general principles on marine scientific research. Article 143(1) states that marine scientific research in the area should be carried out exclusively for peaceful purposes and for the benefit of humankind as a whole. Understandably, this provision should have general applicability, unless and otherwise stated to the contrary, such as in the case of rules concerning prospecting of minerals (the International Seabed Authority Regulations on Prospecting and Exploration for Polymetallic Nodules), applicable to a particular activity and context. The existence of a general limitation on Marine Scientific Research that "marine scientific research activities shall not constitute the legal

basis of any claim to any part of the marine environment or its resources" (Article 241) also reinforces this view.

We also believe that a distinction between pure and applied marine scientific research is sought to be maintained on the basis of a dubious logic that has never been accepted universally, as there should not be any perceivable difference in addressing the two. A difference in purpose should not make bio-prospecting, which is a profit-motivated activity, in contrast to pure marine scientific research, any more or less subject to the regulations and discipline of the Convention. In both cases, either investigation into certain organisms or harvesting of certain organisms in their natural habitat is taking place. In our view, all marine scientific research in the seabed and subsoil beyond the national jurisdiction should be conducted in the interests of and for the benefit of humankind as a whole, in the absence of appropriate regulation guaranteeing benefit sharing, whether it is related to genetic or other resources in the seabed.

It is also noteworthy that there is no internationally accepted definition for either marine scientific research or bio-prospecting. This deficiency too needs to be addressed and rectified.

We agree with the view that the 1992 Convention on Biological Diversity and the 1982 UN Convention on the Law of the Sea are complementary to each other as they emphasise the fair and equitable distribution of benefits derived from the resources. We also believe that the harmonious construction of provisions of these two Conventions could provide a substantive legal basis for the conservation and the management of biodiversity and the use of biological and biogenetic resources of the deep-sea bed and subsoil. However, the procedural regulations concerning the exploration, exploitation of biogenetic resources and the benefit sharing aspects need to be

developed, preferably without amending either of the Conventions.

The fast pace in the advance of technology in recent years has intensified marine scientific research. Deep sea organisms having the ability to adapt to extreme environments have been the subject of considerable investigation with respect to their biotechnological potential. We understand that research and product development has centered mainly on the development of novel enzymes for use in a range of industrial and manufacturing processes. A number of commercially viable enzymes have already been developed from hydrothermal vent microbes and are already available on the market. In such circumstances the need for effective management and conservation of biological diversity becomes all the more critical. This is yet another area where we need to act together in the interests of present and future generations.

Thank you, Mr. Chairman.

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