



**Intergovernmental Conference on an international legally binding instrument under  
the United biological diversity of areas beyond national jurisdiction (General  
Assembly resolution 72/249)**

**Agenda Item 6**

**General Exchange of Views**

***Statement by the International Seabed Authority***

**5 September 2018**

Thank you, Madame President,

I would like to congratulate you on your appointment to chair this Conference. Knowing the quality of your work as a distinguished member of the Legal and Technical Commission of the Authority, I am convinced that your leadership will ensure that the work and the results of this Conference are fully consistent with the provisions of the Convention and the 1994 Agreement relating to the implementation of Part XI of the Convention.

May I also take this opportunity to congratulate the other officials of the bureau on their elections.

Madame President,

The International Seabed Authority, as one of the institutions created by the Convention, which remains our governing text throughout this process, stands ready to support you and the Conference as a whole, including by raising awareness of the scope of the Authority's mandate and work. During the present session, we shall be holding three separate side events in collaboration with member States on different aspects of the Authority's work, including sharing of marine scientific data, capacity-building and environmental planning and management. I warmly welcome all participants to attend.

At this stage, I wish to make just two fundamental points concerning the relationship between the Convention and the mandate of this Conference.

**The Convention takes a holistic approach to the protection of the marine environment**

Marine ecosystems and habitats and their associated biological diversity form essential parts of the marine environment and together they extend throughout the whole of ocean space.

This essential reality is recognized by the Convention itself, which in its third preambular paragraph reminds us that 'the problems of ocean space are interrelated and need to be considered as a whole'.

To address these problems, the fundamental frame of reference within the Convention is the marine environment as a whole. It is worth noting that the Convention places no boundaries on the protection it gives to the marine environment. Thus, it brings within its purview the adverse effects on the marine environment from activities on land and in the atmosphere.

Furthermore, all activities within the scope of the Convention, including the so-called high seas freedoms, are specifically made subject, among other things, to the unqualified obligation on all States to protect the marine environment that is found in Part XII. Nowhere in the Convention is Part XII explicitly or implicitly made inapplicable to any part of ocean space, including the high seas, as well as areas under national jurisdiction.

In essence, the Convention requires the marine environment in its entirety to be protected, not just parts of it.

We must be careful, therefore, that in discussing parts of the marine environment in parts of ocean space, we do not further fragment the law of the sea and act in a manner that is incompatible with the comprehensive and holistic approach adopted by the framers of the Convention.

### **Jurisdictional boundaries must be respected**

The second point I wish to make is that whilst the whole of ocean space is subject to the environmental protection obligations in Part XII, the Convention deals with the implementation and enforcement of those obligations based on the strict jurisdictional boundaries established in other parts of the Convention. These boundaries may be geographic, as in the different maritime zones, or established by reference to the functional competence to regulate certain activities.

Thus, in some cases, States have specific obligations to regulate activities under their jurisdiction or control. In other cases, Part XII obligations are implemented through international cooperation, as in the case of contingency plans against pollution.

One particular area of jurisdiction is dealt with in Part XI. The Area, which is defined as the seabed and subsoil thereof beyond national jurisdiction, and its resources are defined as the common heritage of mankind which is to be utilized for the benefit of mankind as a whole, taking into particular consideration the interests and needs of the developing

countries, in particular the land-locked and geographically disadvantaged States, Least Developed States, SIDS and coastal African States.

The Convention goes further, because it also establishes an orderly, specialized and detailed system for regulating access to and sustainable utilization of the mineral resources of the seabed that are the common heritage of mankind.

This system is embodied in the International Seabed Authority, which has the exclusive mandate to regulate access to the Area and its resources consistent with the Convention.

Once again, consistent with Part XII, this mandate includes the mandate to take measures for the protection of the marine environment as a whole, including measures to protect organisms that are not only found in the Area. So, for example, under Article 145, the Authority must take measures to prevent damage to the flora and fauna of the marine environment, as well as measures to prevent, reduce and control interference with the ecological balance of the marine environment.

These are comprehensive provisions, that already encompass the conservation and sustainable use of marine biological diversity. Over the twenty-four years of its existence, States Parties have demonstrated that the regime set out in Part XI works in practice, guarantees consensus, is transparent and ensures the broad participation of all States.

It is essential therefore, that in the haste to seek to manage particular components of the marine environment, we do not overlook or undermine the existing provisions of the Convention, and that we fully respect the rights and jurisdictions carefully elaborated in the Convention.

In relation to the Area, it is important to fully respect the rights of States in relation to the Area and its resources, since those rights are to be exercised only in accordance with Part XI of the Convention, the 1994 Agreement and the Authority's rules, regulations and procedures. In particular, we should recall the provisions of Article 311(6) which provides that there shall be no amendments to the basic principle relating to the common heritage of mankind set forth in article 136.

We urge participants to bear these fundamental points in mind as the Conference discusses any additional measures that may be necessary for the conservation and sustainable use of marine biological diversity.