

BRAZIL INTERVENTION ISA ASSEMBLY 28TH SESSION 24 07 2023

Mr. President,

Distinguished Delegates,

Good morning

Thank you for giving me the floor, Mr. President.

Foremost, on behalf of the Brazilian Delegation, I would like to express our congratulations for your election as President of the Assembly of the 28th Session and our full confidence in your ability to lead the Assembly to a successful outcome.

I would like also to extend our warmest welcome to His Excellency the Honorable Alando Terralongo, State Minister in the Ministry of Foreign Affairs and Foreign Trade of Jamaica, as well as reiterate our sincere gratitude to the Government and the people of Jamaica for their generous hospitality.

I wish to highly commend the work of the ISA, with special thanks to the Secretary-General Michael Lodge, and the whole staff, the Legal and Technical Committee, The Finance Committee as well as the Chair and Facilitators of the working groups for their tireless and dedicated work. They all deserve our recognition and admiration.

Mr. President,

Distinguished Delegates,

On this occasion, I would like to thank the Secretary-General for his Annual Report, contained in Document ISBA/28/A/2, including the fully Illustrated version entitled “JUST AND EQUITABLE MANAGEMENT OF COMMON HERITAGE OF HUMANKIND”, and ISBA/28/A/8.

It is with great satisfaction that I note that the ISA has accomplished a considerable number of high-level actions and tasks, according to the strategic directions set out in Authority’s Strategic Plan for 2019-2023: among others, the implementation of mechanisms to build capacity for developing states, including through seminars and other forms of partnership in support of development and transfer of technology; raising awareness and understanding of the general public of the mandate assigned

to the Authority by the UNCLOS and the 1994 Agreement; and promoting and encouraging marine scientific research, including through initiatives aiming at enhancing the role of women, their empowerment and leadership in marine research, to support a more inclusive and sustainable ocean governance.

Initiatives like the conference on “Women in the Law of the Sea”, that took place in September last year, as part of the celebrations of the 40th anniversary of the adoption of the UNCLOS, or the SG “Award for Excellence in Deepsea Research” are examples of extremely relevant actions taken for promoting gender equality and, therefore, represent an important contribution to Sustainable Development Goals 5 and 14 of the Agenda 2030.

We encourage the SG to continue on this track and increase the opportunities for more participation through healthy competition and more visibility of the selection process of candidates to all awards granted by ISA.

As I highlight the contributions of the ISA to the United Nations Decade of Ocean Science for Sustainable Development, I commend the participation of Secretary-General in various international conferences, especially the “Intergovernmental Conference on Marine biodiversity of areas beyond national jurisdiction” (BBNJ). This initiative was certainly an important step to give visibility to the work performed by the ISA, its mandate, accomplishments, and challenges, but also an opportunity to explore synergies, expand cooperation and coordination in matters of shared interest and concerns. The exchange of views and perceptions about the current global challenges related to ocean governance can enrich and expand our own assessment of the nature and direction of our institutional mission, and generate an opportunity to review and, where appropriate, open new paths and new courses of action that may prove to be more cost-effective and more in tune with our goals. Ensuring harmony, cooperation and coherence of positions and actions in matters related to the common heritage of mankind is a vital step to promote more effective global ocean governance.

Mr. President,

As the ISA advances the elaboration of a comprehensive legal regime to achieve, as provided by the UN Convention on the Law of the Sea, the sustainable use of marine resources in order to provide benefit for the humankind, on a fair and non-discriminatory basis, it's clear that more knowledge and more expertise are required

to address a significant amount of questions and issues related to impact of the seabed mining in the Area on the marine ecosystems.

The Council has recently adopted landmark decisions in the first and second parts of its 28th Session. Although Brazil has hoped for stronger commitments in deterring deep sea mining while no regulations are in place, the decisions we have reached delivered a clear message that “no commercial exploitation of mineral resources in the Area should be carried out in the absence of the appropriate legal framework with robust and environmentally sound regulations”. It is our hope that all members of the Authority will continue to fulfill this commitment, not only as a matter of good faith, but as a responsible attitude towards our oceans and our environment.

The current level of knowledge and best available science are not definitely enough to approve any seabed mining projects in areas beyond national jurisdiction. Therefore, States parties should voluntarily refrain from sponsoring any plan of work for exploitation until further research on deep-sea ecosystems and the impacts of mining activities over them are available, and also until exploitation regulations with sound environmental standards are in place, including monitoring and compliance provisions, to ensure that the marine environment is not seriously harmed.

We encourage the ISA to discuss the cost of the environmental services and we express our sincere thanks for the study released recently on this matter. Unfortunately, we did not have time to discuss it during the works of the open-ended group on Financial Terms of the Contract. We also welcome the Intersessional Expert Group on Environmental Threshold and reiterate our view that a broader number of experts from all geographical regions should have the opportunity to contribute.

I take this opportunity to express our appreciation for the work developed by the Finance Committee on the “Financial and other Economic Benefit Sharing arising from Activities in the Area”. We commend, in particular, the recent elaboration on the “Objectives of a Common Heritage Fund”, conceived as an alternative or adjunct to the direct distribution of monetary benefits derived from activities in the Area in accordance with article 140 of UNCLOS.

We agree with the views that the focus of the Fund should be the ocean and that it should give initial priority to finance activities that build national capacity on ocean issues for members of the Authority, especially for developing countries. I encourage

further discussion on this matter as well as on the financial terms of the contract so the ISA can design appropriate mechanisms through which humankind as a whole and future generations will benefit, equally and fairly, of the activities in Area, as common heritage pertaining to current and future generations.

Mr. President,
Distinguished Delegates,

As announced during the meetings of the Council, Brazil joined other States in supporting a precautionary pause in deep sea mining in areas beyond national jurisdiction, for a minimum period of ten years. This position comes without prejudice to the continuity of discussions and negotiations of the Mining Code, in good faith and in accordance with the institutional mandate of the International Seabed Authority.

In this regard, Brazil considers that the roadmap recently adopted by the Council provides predictability for our work, and we recognize the constructive work of the Delegations to reach an agreement in order to adopt it, but it should not be interpreted as establishing a deadline to conclude the Mining Code. We have a shared responsibility to elaborate effective regulations with strict environmental standards and robust means of inspection, a complex task that cannot be rushed, nor dissociated from science. Our goal is not to meet an artificial deadline, but to ensure that the rules for future exploitation of deep-sea marine resources meet high standards of environmental protection, social responsibility and governance. Brazil will continue to play an active role in the negotiations of the Mining Code, given its well-known expertise in both land-based mining and deep-sea oil drilling within its own lands and territorial waters. We will continue to negotiate in good faith but will not yield to pressure for adopting regulations that are not yet ready.

In the Foreword to his Report, the Secretary-General highlights the conclusion of the BBNJ agreement as a development with important implications for the work of ISA. Brazil could not agree more. After almost 20 years of negotiations, member states reached an agreement that is environmentally sound and that upholds the principle of common heritage of humankind.

On the other hand, the 1994 Agreement does not exist in a vacuum. It is part of a legal system that has evolved since its conclusion. The BBNJ provisions on scientific

cooperation, biotechnology, capacity building and benefit sharing should inspire our work here. Moreover, a precautionary pause relating to exploitation activities would bring ISA in line with the recently adopted BBNJ agreement.

At this stage, when the prescribed time under the “two-year rule” has just expired, the Authority is faced with unprecedented and unwarranted challenges, from legal uncertainties to potential far-reaching consequences to the marine environment. Brazil supports furthering discussions about the understanding and application of this provision on the two-year rule in the Assembly, as the supreme organ of the Authority. All ISA members have a legitimate interest in this matter.

The proposals contained in Document ISBA/28/A/INF/8 for the inclusion of the additional items to the provisional agenda of the Assembly, a) the Terms of Reference for the periodic review of the International regime of the Area, pursuant to Article 154 of UNCLOS, presented by Germany, and b) the Establishment of a General Policy by the Assembly related to Conservation of the Marine Environment, including in consideration of the 2-Year Rule, proposed by Chile, France, Palau and Vanuatu, deserve full consideration by the Assembly. Brazil is ready to discuss these proposals and support the adoption of the related Draft decisions.

By the same token, it is our delegation’s view that the adoption of the new Strategic Plan should be postponed by a year, allowing for the Strategic Plan 2019-2023 to be completed. The time assigned for consultations related to the proposed Strategic Plan 2024-2028 was too short. The extension of the current strategic plan would provide for more time to take into consideration the developments that unfolded in the last two years and incorporate the views expressed at the ISA by the wider spectrum of stakeholders. It is important to give space for divergent views on the pace required for the ISA effectively and responsibly fulfil its institutional mandate. The calls for a precautionary pause of moratorium must be acknowledged as the legitimate concerns of an increasing number of member states and other stakeholders who are committed to work on the legal framework for deep sea mining and on the strengthening the ISA institutional capacity to ensure the sustainable use of the marine resources for the benefit of humankind.

In conclusion, Mr. President, let me reaffirm Brazil’s commitment to supporting ISA in the fulfillment of its mandate, in a balanced and responsible manner. You may

count on our readiness, goodwill, and vigorous effort to support the ISA to achieve its ultimate goals.

Thank you.