

Thank you, Facilitator. Good morning, colleagues.

IUCN supports the previous proposals for aligning the definition in an implementing agreement and those in the 1992 Convention on Biodiversity (CBD) as it will reduce the chances of unintentional non-compliance as biologists and scientists are already familiar with the CBD in their practice. Therefore, it would be sensible to start with similar definitions that are used in the CBD and adapt them for genetic resources in marine areas beyond national jurisdiction to develop a new definition for an implementing agreement.

It is important, however, to acknowledge that the organisms in question do not honor legal geographical boundaries but instead, are or could be mobile where “at different stages in their life, forms may be permanently or temporarily attached to rocks or may be free-swimming or floating in the water column.” Also, scientists consider genetic resources to “encompass a range of biological material including whole organisms, genes, proteins and naturally produced chemicals.”

Scientific knowledge of genetic resources is vastly different now than at the time that UNCLOS was negotiated, therefore, in order to fill the gaps created by the lack of knowledge, an implementing agreement should “introduce new concepts for MGR which do not rely on established notion of harvesting, fishing or exploitation. Exploitation of MGR is not of the organism, but of the genetic code of an organism, and need not have any effect on the individual organism, the species, habitat or ecosystem concerned.” In addition to materials that are taken from marine areas beyond national jurisdiction, data derived from such materials should be incorporated into the definition of “marine genetic resources.”

We propose to use the definitions “genetic material” and “genetic resources” pursuant to Article 2 of CBD as the basis of the definition.

The following proposed definition of “marine genetic resources” incorporates the factors to the specific case of areas beyond national jurisdiction:

“Marine genetic resources” means any genetic material of plant, animal,

microbial or other origin, ***taken or originating from the high seas or the Area***, containing functional units of heredity, being of actual or potential value, and ***including derivatives and data derived from that material***.

In order for the definition of “marine genetic resources” to be sufficiently comprehensive, the following factors were considered in drafting the definition:

- To include all marine genetic resources (in situ, ex situ and in silico) taken (i.e. in situ—material located in ABNJ) or originating from ABNJ (i.e. ex situ—materials originating from ABNJ) and data (i.e. in silico analysis);
- To address the mobility of the materials, the high seas (waters superjacent to the Area) or the Area; and
- For the definition to be sufficiently broad, derivatives were included.

As stated by the US and others, we think that a distinction should be made between fish used as a commodity and fish valued for their genetic properties. We tried to do so by specifying that word “genetic” is used before “material of plant, animal....”

Based on the scientific community’s desire for a broad definition to reflect their current and future practice of utilizing genetic resources from marine areas beyond national jurisdiction as well as the intent of Resolution 69/292 to fill the current gaps in UNCLOS, provide a useful starting point for an implementing agreement without the scope being overly broad.