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**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****First session**

New York, 4–17 September 2018

**President's aid to discussions****I. Introduction**

1. The intergovernmental conference is being convened pursuant to General Assembly resolution [72/249](#) to consider the recommendations of the Preparatory Committee established pursuant to Assembly resolution [69/292](#) on the elements and to elaborate the text of 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, with a view to developing the instrument as soon as possible (see resolution [72/249](#), para. 1).
2. The negotiations shall address the topics identified in the package agreed in 2011, namely, the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, in particular, together and as a whole, marine genetic resources, including questions on the sharing of benefits, measures such as area-based management tools, including marine protected areas, environmental impact assessments and capacity-building and the transfer of marine technology (*ibid.*, para. 2).
3. The work and results of the conference should be fully consistent with the provisions of the Convention. The process and its result should not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies (*ibid.*, paras. 6–7).
4. Following the organizational meeting, held from 16 to 18 April 2018, to discuss organizational matters, including the process for the preparation of the zero draft of the instrument, the present document was prepared by the President of the conference in response to the request by the conference at that meeting, to prepare a concise document as an aid to discussions, building on the report of the Preparatory Committee ([A/AC.287/2017/PC.4/2](#)) and bearing in mind the recommendations



concerning sections III.A and III.B of the report (*ibid.*, para. 38). As agreed by the conference, other materials produced in the context of the Preparatory Committee were also considered. The present document is aimed at putting the conference on a path to the preparation of a zero draft of the instrument (see [A/CONF.232/2018/2](#)).

5. As agreed by the conference, the document does not contain any treaty text. Rather, it identifies, on the basis of sections III.A and III.B of the report, issues that need to be further discussed in respect of all elements of the package and cross-cutting issues, and includes a limited number of possible questions to be addressed, including, in some cases, possible options in relation thereto (*ibid.*).

6. In the light of the general understanding that the first substantive session of the conference should focus on the elements of the package as set out in resolution [72/249](#) and that the discussions be organized around the four thematic clusters of the package (*ibid.*), the present document focuses on those thematic clusters. The structure of section III.A has been maintained and cross-cutting issues, apart from the preambular elements, scope of application, financial resources and issues, compliance, the settlement of disputes, responsibility and liability, review and final clauses, have been added to the end of each thematic cluster, with a view to facilitating the determination of how those cross-cutting issues might relate, in practical terms, to those specific clusters. The structure of the present document is without prejudice to the structure of the future instrument.

7. The inclusion of questions and options herein does not imply that there was agreement or a convergence of views among delegations concerning the aspects to which those questions and options relate. Where options are presented, the order of such options should not be construed as indicating a suggested order of priority.

8. Delegations are invited to consider the practical consequences of the answers to various questions and options and, in particular, how they could be reflected in the instrument.

9. The content of the present document is without prejudice to the position of any delegation on any of the matters referred to herein. Furthermore, the elements, questions and options listed are not necessarily exhaustive and do not preclude the consideration of matters that have not been included in the document.

## **II. Issues, questions and options to be further discussed**

10. Some of the issues, questions and options that may be further considered by the conference in the elaboration of the text of an international legally binding instrument under the Convention on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, with a view to developing the instrument as soon as possible, are set out below.

11. The issues, questions and options are based on the non-exclusive elements that generated convergence among most delegations at the meeting of the Preparatory Committee, as reflected in section III.A of its report, and some of the main issues on which there was a divergence of views, as reflected in section III. B of the report.

12. For ease of reference, the numbering of the sections and subsections is based on that used in section III.A of the report of the Preparatory Committee. Therefore, the first section presented below, on marine genetic resources, including questions on the sharing of benefits, corresponds to section III.A.3 of the report, and the last section, on capacity-building and the transfer of marine technology, corresponds to section III.A.6 of the report.

13. As previously noted in paragraph 6 above, issues, questions and options have been added to the end of each of the four thematic clusters in the present document, corresponding to the following subsections in section III.A of the report: subsection II, General elements (1. Use of terms; 3. Objectives; and 4. Relationship to the Convention and other instruments and frameworks and relevant global, regional and sectoral bodies); subsection III, Conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (1. General principles and approaches; and 2. International cooperation); subsection IV, Institutional arrangements; and subsection V, Clearing-house mechanism. It is also noted that the question of whether to mainstream capacity-building and the transfer of marine technology across the various elements of the package in the instrument, to include it in a dedicated section with links to the other sections, or to adopt a different approach, requires further discussion.

14. As also indicated in paragraph 6 above, the following subsections under section III.A of the report of Preparatory Committee have not been addressed in the present document: subsection I, Preambular elements; subsection II.2, Scope of application; subsection VI, Financial resources and issues; subsection VII, Compliance; subsection VIII, Settlement of disputes; subsection IX, Responsibility and liability; subsection X, Review; and subsection XI, Final clauses. This does not mean that these elements will be excluded; rather, they will be taken up subsequently.

### III. Conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

#### 3. Marine genetic resources, including questions on the sharing of benefits

Bearing in mind the elements reflected in section III of the report of the Preparatory Committee, a non-exhaustive list of issues, questions and options may be considered, as follows:

##### 3.1 Scope

(a) The manner in which the geographical scope of application of this section would be reflected in the instrument. Would the scope cover marine genetic resources:

- (i) Of the Area and the high seas, or of the Area or the high seas?
- (ii) That straddle and/or overlap with areas within national jurisdictions?

(b) The manner in which respect for the rights and jurisdiction of coastal States over all areas under their national jurisdiction, including the continental shelf within and beyond 200 nautical miles and the exclusive economic zone, would be reflected in the instrument.

(c) The manner in which the material scope of application of this section of the instrument would be reflected in the instrument. Elements to consider may include:

- (i) Would a distinction be made in the instrument between use of fish and other biological resources for research into their genetic properties and their use as a commodity? What would be the practical consequences of such a distinction?
- (ii) Other than marine genetic resources collected *in situ*, would the instrument also apply to *ex situ* marine genetic resources and to *in silico* marine genetic resources and digital sequence data? What would be the practical consequences of these options?
- (iii) Would the instrument apply to derivatives?

##### 3.2 Access and benefit-sharing

###### 3.2.1 Access

(a) The manner in which access would be addressed in the instrument, including whether access to the marine genetic resources of areas beyond national jurisdiction would be regulated.

(b) If access is regulated:

- (i) How would access be regulated?
- (ii) What would be the practical consequences of such regulation and would they be addressed in the instrument? If so, how?
- (iii) Would there be different access provisions depending on where the marine genetic resources are sourced or originate from?
- (iv) Would access to marine genetic resources be regulated for all activities?

(c) If access is unregulated, what would be the practical consequences and would they be addressed in the instrument? If so, how?

### 3.2.2 Sharing of benefits

#### (i) Objectives

What objectives of the sharing of benefits, if any, in addition to those included in section III of the report of the Preparatory Committee, could be included in the instrument?

#### (ii) Principles and approaches guiding benefit-sharing

(a) Which principles and approaches guiding benefit-sharing, if any, in addition to those included in section III of the report of the Preparatory Committee, could be included in the instrument? Further discussions are required with regard to the common heritage of mankind and the freedom of the high seas.

(b) Would the principles and approaches guiding benefit-sharing be explicitly listed in the instrument or would they be operationalized in the provisions of the instrument concerning benefit-sharing?

#### (iii) Benefits

(a) Would the instrument contain a list of benefits and/or would it specify types of benefits?

(b) Would the instrument provide for a list to be developed subsequently?

(c) Would there be a review of any such list and/or of the types of benefits?

#### (iv) Benefit-sharing modalities

(a) The practical arrangements that would be required for the sharing of benefits and how these would be operationalized. Issues to consider may include:

(i) Would the instrument include provisions setting out benefits that might accrue at different stages?

(ii) Who might be required to share benefits?

(iii) Who might be the beneficiaries?

(iv) How might the shared benefits be used?

(b) Would the instrument include different provisions on the sharing of benefits depending on where the marine genetic resources are sourced or originate from?

(c) What existing instruments and frameworks would need to be taken into account with regard to modalities for the sharing of benefits?

(d) If a clearing-house mechanism is provided for the sharing of benefits, what functions would it need to include?

(e) What other modalities for the sharing of benefits could be provided for in the instrument?

(f) How would the special circumstances of developing countries, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States and small island developing States, as well as coastal African States, be taken into account in the modalities for the sharing of benefits?

(g) How much detail on the modalities for the sharing of benefits would be included in the instrument?

3.2.3 Intellectual property rights

Would the relationship between the instrument and intellectual property rights be set out in the instrument? If so, how?

3.3 Monitoring of the utilization of marine genetic resources of areas beyond national jurisdiction

(a) How could the instrument address the monitoring of the utilization of marine genetic resources of areas beyond national jurisdiction?

(b) What practical arrangements, if any, could be developed to monitor the utilization of marine genetic resources, including who would be responsible for undertaking such monitoring?

3.4 Issues from the cross-cutting elements

3.4.1 Use of terms

Which definitions of key terms pertaining to marine genetic resources, including questions on the sharing of benefits, if any, would be included in the instrument?

3.4.2 Relationship to the Convention and other instruments and frameworks and relevant global, regional and sectoral bodies

Would this element of the package require a specific provision on the relationship to the Convention, other instruments and frameworks, and relevant global, regional and sectoral bodies?

3.4.3 General principles and approaches

(a) Which general principles and approaches pertaining to marine genetic resources, including questions on the sharing of benefits, in addition to what might be considered in the context of subsection 3.2.2 (ii) above, could be included in the instrument?

(b) How would the instrument best give effect to the identified general principles and approaches in the context of marine genetic resources, including questions on the sharing of benefits?

3.4.4 International cooperation

How would the instrument set out the obligation of States to cooperate with respect to marine genetic resources, including questions on the sharing of benefits?

3.4.5 Institutional arrangements

(a) In respect of marine genetic resources, including questions on the sharing of benefits, would specific institutional arrangements be required, taking into account the possibility of using existing bodies, institutions and mechanisms?

(b) What functions would institutional arrangements have in respect of marine genetic resources, including questions on the sharing of benefits?

3.4.6 Clearing-house mechanism

(a) What modalities would the instrument set out to facilitate the exchange of information relevant to marine genetic resources, including questions on the sharing of benefits?

(b) In addition to the functions for a clearing-house mechanism addressed in section III of the report of the Preparatory Committee, and what might be considered in the context of subsection 3.2.2 (iv) above, what other functions for a clearing-house mechanism in respect of marine genetic resources, including questions on the sharing of benefits, if any, would be included in the instrument? What other information regarding marine genetic resources, including questions on the sharing of benefits, would be disseminated?

(c) What other mechanisms, such as data repositories, might be established?

(d) What practical arrangements would need to be included in the instrument for mechanisms such as data repositories or a clearing-house mechanism in order to fulfil the required functions?

(e) What existing instruments, mechanisms and frameworks could be taken into account?

#### **4. Measures such as area-based management tools, including marine protected areas**

Bearing in mind the elements reflected in section III of the report of the Preparatory Committee, a non-exhaustive list of issues, questions and options may be considered, as follows:

##### **4.1 Objectives of area-based management tools, including marine protected areas**

The manner in which objectives specific to area-based management tools, including marine protected areas, would be included in the instrument. Would these objectives apply to the full range of area-based management tools, including marine protected areas?

##### **4.2 Relationship to measures under relevant instruments, frameworks and bodies**

(a) The manner in which the instrument would set out the relationship between measures under the instrument and measures under existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies.

(b) The provisions that would be included to address issues of compatibility between measures under the instrument and those established by adjacent coastal States. Would the provisions include, for example, provisions for the sharing of information and/or for consultation?

(c) The manner in which the instrument would reflect respect for the rights of coastal States over all areas under their national jurisdiction, including the continental shelf within and beyond 200 nautical miles and the exclusive economic zone.

##### **4.3 Process in relation to area-based management tools, including marine protected areas**

What would be the most appropriate process in relation to area-based management tools, including marine protected areas, in particular with respect to decision-making and institutional set up, with a view to enhancing cooperation and coordination, while avoiding undermining existing legal instruments and frameworks and the mandates of regional and sectoral bodies?

Possible approaches might include a global approach, a regional approach, a sectoral approach and a hybrid approach.

(a) For each of these possible approaches and for any other proposed approach, what would be the proposed allocation of roles and responsibilities in

relation to area-based management tools, including marine protected areas, including with respect to the identification of areas, consultation on and assessment of proposals, decision-making, implementation, and monitoring and review?

(b) What institutional arrangements would be included in the instrument to give effect to the proposed allocation of roles and responsibilities under 4.3.a above?

(c) What practical arrangements would be included in the instrument to give effect to the proposed allocation of roles and responsibilities under 4.3.a above?

(d) Would the instrument also address how the possible approaches would apply to the different types of area-based management tools?

#### 4.3.1 Identification of areas

(a) Taking into account possible approaches as indicated in 4.3 above, what process for the identification of areas within which protection may be required, based on the best available scientific information, standards and criteria, would the instrument set out?

(b) Which standards and criteria, in addition to those included in section III of the report of the Preparatory Committee, would be included in the instrument? How would existing criteria that are utilized by relevant global, regional and sectoral bodies be taken into account?

(c) How much detail would the instrument include in setting out the standards and criteria?

(d) Would the instrument provide for the possibility of reviewing and/or updating the standards and criteria?

#### 4.3.2 Designation process

##### (i) *Proposal*

(a) Taking into account possible approaches indicated in 4.3 above, as well as the elements of proposals related to marine protected areas, and other area-based management tools where relevant, included in section III of the report of the Preparatory Committee, what other elements would be included in the instrument? Elements to consider may include:

(i) Who can make proposals?

(ii) Who would the proposals be submitted to?

(iii) The content of the proposals, including the duration of the proposed measure.

##### (ii) *Consultation on and assessment of the proposal*

(a) Taking into account possible approaches as indicated in 4.3 above, would the instrument specify the stakeholders who would be involved in the coordination and consultations process? If so, which stakeholders would be included?

(b) What modalities for coordination and consultations on the proposal would be included in the instrument?

(c) What modalities for the provision of scientific advice on the proposal would be included in the instrument?

*(iii) Decision-making*

(a) Taking into account possible approaches as indicated in 4.3 above, with respect to decision-making and institutional set up:

(i) What modalities for decision-making on matters related to area-based management tools, including marine protected areas, would be specified in the instrument?

(ii) What provisions, including any institutional arrangements, would the instrument include to give effect to the proposed allocation of responsibility for decision-making on matters related to area-based management tools, including marine protected areas?

(b) On what basis would decisions be made, with a view to enhancing cooperation and coordination, while avoiding undermining existing legal instruments and frameworks and the mandates of regional and sectoral bodies?

(c) How would the instrument reflect the involvement of adjacent coastal States in the decision-making process?

## 4.4 Implementation

Taking into account possible approaches as indicated in 4.3 above, what provisions would the instrument include to provide for the responsibility of parties to the instrument in relation to the measures for a particular area?

## 4.5 Monitoring and review

Taking into account possible approaches as indicated in 4.3 above, the manner in which the instrument would provide for the assessment of the effectiveness of area-based management tools, including marine protected areas, and the subsequent follow-up actions that would be set out in the instrument, bearing in mind the need for an adaptive approach.

(a) Who would be responsible for such assessments?

(b) Who could decide on the follow-up actions?

## 4.6 Issues from the cross-cutting elements

## 4.6.1 Use of terms

Which definitions of key terms pertaining to area-based management tools, including marine protected areas, if any, would be included in the instrument?

## 4.6.2 Relationship to the Convention and other instruments and frameworks and relevant global, regional and sectoral bodies

What specific aspects pertaining to area-based management tools, including marine protected areas, if any, in addition to what might be considered in the context of subsection 4.3 above, would be included in the instrument?

## 4.6.3 General principles and approaches

(a) Which general principles and approaches pertaining to area-based management tools, including marine protected areas, in areas beyond national jurisdiction, could be included in the instrument?

(b) How would the instrument best give effect to the identified general principles and approaches in the context of area-based management tools, including marine protected areas?

#### 4.6.4 International cooperation

How would the instrument set out the obligation of States to cooperate with respect to area-based management tools, including marine protected areas?

#### 4.6.5 Institutional arrangements

(a) Would area-based management tools, including marine protected areas, require specific institutional arrangements, taking into account the possibility of using existing bodies, institutions and mechanisms?

(b) What functions would institutional arrangements carry out in respect of area-based management tools, including marine protected areas?

#### 4.6.6 Clearing-house mechanism

(a) What modalities would the instrument set out to facilitate the exchange of information relevant to area-based management tools, including marine protected areas?

(b) In addition to the functions for a clearing-house mechanism in section III of the report of the Preparatory Committee, what other functions for a clearing-house mechanism in respect of area-based management tools, including marine protected areas, if any, would be included in the instrument? What other information regarding area-based management tools, including marine protected areas, would be disseminated?

(c) What other mechanisms, such as data repositories, might be established?

(d) What practical arrangements would need to be included in the instrument for mechanisms such as data repositories or a clearing-house mechanism in order to fulfil the required functions?

(e) What existing instruments, mechanisms and frameworks could be taken into account?

### **5. Environmental impact assessments**

Bearing in mind the elements reflected in section III of the report of the Preparatory Committee, a non-exhaustive list of issues, questions and options may be considered, as follows:

#### 5.1 Obligation to conduct environmental impact assessments

The manner in which the instrument would set out the obligation for States to assess the potential effects of planned activities under their jurisdiction or control in areas beyond national jurisdiction.

#### 5.2 Relationship to environmental impact assessment processes under relevant instruments, frameworks and bodies

The manner in which the instrument would set out its relationship to environmental impact assessment processes under other relevant legal instruments and frameworks and relevant global, regional and sectoral bodies.

### 5.3 Activities for which an environmental impact assessment is required

(a) The thresholds and criteria for environmental impact assessments that would be included in the instrument and how these would be reflected.

(b) Would a list of activities that require or do not require an environmental impact assessment complement those thresholds and criteria?

(c) Would cumulative impacts be taken into account? If so, how would the instrument provide for such impacts being taken into account?

(d) Would the instrument include a specific provision for environmental impact assessments in areas identified as ecologically or biologically significant or vulnerable?

### 5.4 Environmental impact assessment process

(a) Taking into account the procedural steps of the environmental impact assessment process set out in section III of the report of the Preparatory Committee, which procedural steps would be included in the instrument? Are there any other steps that could be included?

(b) How much detail regarding procedural steps for environmental impact assessment would be included in the instrument?

(c) To what degree would the environmental impact assessment process, including the decision on whether an activity would proceed or not, be conducted by States or be “internationalized”? If the process were to be “internationalized”, which aspects of the process should be “internationalized”?

(d) How would the instrument reflect the involvement of adjacent coastal States, for example, and when and how would such involvement take place?

### 5.5 Content of environmental impact assessment reports

(a) Taking into account the elements in section III of the report of the Preparatory Committee with respect to the required content of environmental impact assessment reports, what components of environmental impact assessment reports would be included in the instrument? Are there any additional components that could be included?

(b) How much detail on the content of environmental impact assessment reports would be set out in the instrument?

(c) In addressing transboundary impacts, would an activity-oriented approach (based on the location of the activity), an impact-oriented approach (based on the location of the impact) or a combination of both be adopted? What other approaches, if any, could be considered?

### 5.6 Monitoring, reporting and review

The manner in which the instrument would set out the obligation to ensure that the impacts of authorized activities in areas beyond national jurisdiction are monitored, reported and reviewed. Issues to consider may include:

(a) To what degree would the monitoring, reporting and review process be conducted by States or be “internationalized”? If the process were to be “internationalized”:

(i) Who would have the obligation to monitor, report and review?

(ii) To whom would reports be submitted?

(b) What information would be provided to adjacent coastal States and how and when would that information be communicated?

#### 5.7 Strategic environmental assessments

Would the instrument include provisions on strategic environmental assessments? If so:

(a) What would be the scope of such assessments?

(b) Would strategic environmental assessments with respect to marine biological diversity of areas beyond national jurisdiction be conducted at the global or regional level?

(c) Who would be responsible for conducting of strategic environmental assessments?

(d) How would the results of the strategic environmental assessments be followed-up on?

#### 5.8 Issues from the cross-cutting elements

##### 5.8.1 Use of terms

Which definitions of key terms pertaining to environmental impact assessments, if any, would be included in the instrument?

##### 5.8.2 Relationship to the Convention and other instruments and frameworks and relevant global, regional and sectoral bodies

What specific aspects pertaining to environmental impact assessments, if any, in addition to what might be considered in the context of subsection 5.2 above, would be included in the instrument?

##### 5.8.3 General principles and approaches

(a) Which general principles and approaches pertaining to environmental impact assessments could be included in the instrument?

(b) How would the instrument best give effect to the identified general principles and approaches in the context of environmental impact assessments?

##### 5.8.4 International cooperation

How would the instrument set out the obligation of States to cooperate with respect to environmental impact assessments?

##### 5.8.5 Institutional arrangements

(a) Would environmental impact assessments require specific institutional arrangements, taking into account the possibility of using existing bodies, institutions and mechanisms?

(b) What functions would institutional arrangements carry out in respect of environmental impact assessments?

##### 5.8.6 Clearing-house mechanism

(a) What modalities would the instrument set out to facilitate the exchange of information relevant to environmental impact assessments?

(b) In addition to the functions for a clearing-house mechanism in section III of the report of the Preparatory Committee, what other functions for a clearing-house mechanism in respect of environmental impact assessments, if any, would be included in the instrument? What other information regarding environmental impact assessments would be disseminated?

(c) What other mechanisms, such as data repositories, might be established?

(d) What practical arrangements would need to be included in the instrument for mechanisms such as data repositories or a clearing-house mechanism in order to fulfil the required functions?

(e) What existing instruments, mechanisms and frameworks could be taken into account?

## **6. Capacity-building and the transfer of marine technology**

Bearing in mind the elements reflected in section III of the report of the Preparatory Committee, a non-exhaustive list of issues, questions and options may be considered, as follows:

### **6.1 Objectives of capacity-building and the transfer of marine technology**

(a) The manner in which the objectives of capacity-building and the transfer of marine technology would be included in the instrument.

(b) How would the instrument reflect the recognition of the special requirements of developing countries, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States and small island developing States, as well as coastal African States?

(c) How would the instrument address and reflect the need to develop and strengthen the capacity of States, in particular developing States, that need and request it, in accordance with article 266 (2) of the Convention?

### **6.2 Types of and modalities for capacity-building and transfer of marine technology**

(a) Drawing on existing instruments, such as the Convention and the Criteria and Guidelines on Transfer of Marine Technology of the Intergovernmental Oceanographic Commission, would the instrument include an indicative, non-exhaustive list of broad categories of types of capacity-building and transfer of marine technology?

(i) If a list were to be included:

- How would the list be developed and by whom? How would it be updated?
- What other instruments would be drawn from to develop such a list?
- How broad would the list be?

(ii) If no list were to be included in the instrument:

- Would the instrument provide for a list to be developed subsequently?
- How else could the types of capacity-building and transfer of marine technology be reflected?

(b) What specific forms of cooperation and assistance would be included in the instrument in relation to marine genetic resources, including questions on the sharing of benefits, measures such as area-based management tools, including marine protected areas, and environmental impact assessments?

(c) Modalities for capacity-building and the transfer of marine technology that would be included in the instrument.

(i) Bearing in mind the possible parameters of modalities for capacity-building and the transfer of marine technology in section III of the report of the Preparatory Committee, the issue is what parameters the instrument would set out for the modalities regarding capacity-building and the transfer of marine technology. Parameters could also relate to, *inter alia*, who the providers of capacity-building and technology transfer would be and the basis on which capacity-building and technology transfer would be provided.

(ii) Would existing mechanisms be utilized or would new mechanisms be developed?

(d) What terms and conditions could the instrument set out for the transfer of marine technology? How would any such terms and conditions take into account existing instruments?

(e) In addition to the information set out in section III of the report of the Preparatory Committee with respect to possible functions of a clearing-house mechanism, what other functions for a clearing-house mechanism in respect of capacity-building and the transfer of marine technology, if any, would be included in the instrument? What other information or data, if any, relating to capacity-building and the transfer of marine technology, would be disseminated by a clearing-house mechanism? Who would have access to such a clearing-house mechanism?

(f) Which organizations' work would the instrument take into account with respect to the functions of a clearing-house mechanism?

(g) How would the modalities for capacity-building and transfer of marine technology be reviewed?

### 6.3 Funding

(a) The existing mechanisms that would need to be taken into account in the provision of funding and resources.

(b) The manner in which the instrument would address the provision of funding and resources, taking into account existing mechanisms. Would the instrument consider:

(i) Who would have access to the funding and resources?

(ii) Who would contribute funding and resources?

(iii) How the funds and resources would be used?

(iv) How the instrument would address the sustainability, predictability and accessibility of such funding and resources?

### 6.4 Monitoring and review

The manner in which the instrument would address the issue of monitoring and review of the effectiveness of capacity-building and the transfer of marine technology activities and possible follow-up action. Issues to consider may include:

(a) Who would undertake such monitoring and review?

(b) What would be the subject matter of any such monitoring and review?

(c) How would such monitoring and review be followed up on?

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6.5 Issues from the cross-cutting elements

6.5.1 Use of terms

Which definitions of key terms pertaining to capacity-building and the transfer of marine technology, if any, could be included in the instrument?

6.5.2 Relationship to the Convention and other instruments and frameworks and relevant global, regional and sectoral bodies

Would this element of the package require a specific provision on the relationship to the Convention, other instruments and frameworks, and relevant global, regional and sectoral bodies?

6.5.3 General principles and approaches

(a) Which general principles and approaches pertaining to capacity-building and the transfer of marine technology could be included in the instrument?

(b) How would the instrument best give effect to the identified general principles and approaches in the context of capacity-building and the transfer of marine technology?

6.5.4 International cooperation

How would the instrument set out the obligation of States to cooperate with respect to capacity-building and the transfer of marine technology?

6.5.5 Institutional arrangements

(a) Would capacity-building and the transfer of marine technology require specific institutional arrangements, taking into account the possibility of using existing bodies, institutions and mechanisms?

(b) What functions would institutional arrangements have in respect of capacity-building and the transfer of marine technology?

6.5.6 Clearing-house mechanism

(a) What modalities to facilitate the exchange of information relevant to capacity-building and the transfer of marine technology would be included in the instrument?

(b) Other than the clearing-house mechanism referred to in subsection 6.2 above, what other mechanisms, such as data repositories, might be established?

(c) What practical arrangements would need to be included in the instrument for mechanisms such as data repositories or a clearing-house mechanism in order to fulfil the required functions?

(d) What existing instruments, mechanisms and frameworks could be taken into account?