



**STATEMENT BY MR. A. GOPINATHAN, ACTING PERMANENT  
REPRESENTATIVE, AT THE FIFTH MEETING OF THE UNITED NATIONS  
OPEN-ENDED INFORMAL CONSULTATIVE PROCES ON OCEANS AND THE  
LAW OF THE SEA ON JUNE 9, 2003**

Mr. Co-Chairman,

At the outset, let me join others in congratulating you on your assumption of office as a coordinator of the consultative process. My delegation attaches considerable importance to the topic: **"New sustainable uses of the oceans, including the conservation and management of biological diversity of the seabed in areas beyond national jurisdiction"**.

The 1982 UN Convention on the Law of the Sea lays down a comprehensive regime for the world's oceans and seas, establishing rules governing all uses of the oceans and their resources. Being one of the pioneer investors and contractors with the International Seabed Authority, India has been deeply involved in the exploration of poly-metallic nodules in the seabed. We share the concerns of other members of the international community in finding ways to enhance the conservation and management of the deep-sea environment, and ecosystems including the biodiversity hot spots in the deep oceans and the seabed such as seamounts, cold and deep water corals, hydrothermal vents, poly-metallic nodules and gas hydrates.

India has demonstrated very keen interest in the International Seabed Authority's work in the area of scientific research aimed at unravelling the evolution of the ecology of the deep ocean, including biodiversity associated with hydrothermal vent systems and poly-metallic nodule provinces.

India believes that 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 biodiversity of the deep seabed is extremely important.

Mr. Co-Chairman,

The preamble of the 1982 Convention states categorically 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. However, owing to the emphasis placed at that time on the exploitation of minerals on the seabed beyond the national jurisdiction, part XI of the Convention has been fully devoted to the exploitation of solid, liquid and gaseous mineral resources in the area or beneath the seabed including poly-metallic nodules.

This over-emphasis on the mineral resources, coupled with a lack of adequate knowledge of the economic importance of biological resources of the sea bed at that time of negotiation of the Convention, had led to the adoption of an imprecise reference, in our view, to biodiversity of the seabed beyond the national jurisdiction in the Convention. Instead of using the now-familiar phrases of protection or conservation of biodiversity, the Convention employed a different language "the protection and preservation of flora and fauna from activities relating to exploitation of mineral resources" in accordance with the then-prevailing legal tradition. Today, preservation of flora fauna could be taken not only as a reference to environment, but equally as a reference to biodiversity of the seabed as the genetic resources are found to be the basis of the food chain of diverse and rich ecosystems of life forms with a high level of biodiversity in the deep seabed environment.

The symbiotic relationship between the biodiversity of the deep seabed and its ecosystem, therefore, makes the entire resources of the sea-bed, living and non-living, to be a common heritage of mankind. The task before us today is to identify the risks to the biodiversity of the seabed, which is a common heritage of mankind. We have 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, the so-called bio-prospecting, could be one such area. The fact that no special legal regime has been evolved so far to regulate it does not mean that research of this kind can be done without any limitation or circumspection. We believe that the general principles of marine scientific research should be applicable in this regard.

The Convention 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 *mankind as a whole*. Understandably, this provision should be of general applicability unless and otherwise stated to the contrary, such as in the case of rules concerning prospecting of minerals (ISA 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.

For these reasons, we would like to state the following:

- We believe that the living resources on the seabed, owing to their symbiotic relationship with other resources in the deep-sea environment, become inseparable from other resources of the seabed and form part of the common heritage of mankind.

- We also believe that distinction between pure and applied marine scientific research is sought to be maintained on the basis of a dubious logic and has never been accepted universally, as there is no perceivable difference in the activity or method. A difference in purpose does not make Marine Scientific Research - a profit-motivated activity labelled as bio-prospecting – any less subject to 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 for the benefit of mankind as a whole, in the absence of appropriate regulation guaranteeing benefit sharing, whether it is related to genetic or other resources in the seabed.
- We agree with the view that the Convention on Biological Diversity and the UN Convention on the Law of the Sea are complimentary to each other as they emphasise on a fair and equitable distribution of benefits from the resources.
- We 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, a common heritage of mankind. However, the procedural regulations concerning the exploration, exploitation of biogenetic resources and the benefit sharing aspects require to be developed, preferably without amending either of the Conventions.

Thank you, Mr. Co-Chairman.

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