



**UNITED NATIONS
OFFICE OF LEGAL AFFAIRS**

**Law of the Sea Conference: Blue Week 2015
Challenges in the new ocean order: a legal perspective**

Statement

By

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Excellencies,
Ladies and Gentlemen,

[Introduction]

First and foremost, I wish to express my heartfelt gratitude to the Minister of Agriculture and the Sea, Ms. Assunção Cristas, for organizing this event and for her kind invitation. Minister Cristas, thanks to your efforts, this Conference provides us with an opportunity to focus on how we can better conserve, use and manage our oceans and their resources in a sustainable manner.

Ladies and Gentlemen,

[Healthy Oceans, Healthy Planet]

The theme for this year's World Oceans Day, which is celebrated every year on 8 June, is "Healthy Oceans, Healthy Planet". It is a reminder that the oceans are key to sustaining life on the planet, as demonstrated for example, by the fact that they generate half of the world's oxygen. We truly live on a blue planet, with the oceans covering more than 70% of the Earth. They constitute an essential foundation for human life.

In recent times, we have been preoccupied with promoting a green economy. But, in light of the importance of the oceans to life on this planet, it makes sense for us to rethink our approach through the lens of a sustainable ocean-based economy.

Marine ecosystems and biodiversity underpin a wide range of ecosystem goods and services and provide a source of food, livelihood and recreation for billions of people. New opportunities for ocean resources are continuously being discovered. This is the case for example, for the wide range of potential applications of marine genetic resources, including in the development of promising drugs for the treatment of cancer and other diseases.

The United Nations General Assembly has long recognized the importance of the conservation and sustainable use of the oceans and seas and of their resources for sustainable development, including through their contribution to poverty eradication, sustained economic growth, food security and creation of sustainable livelihoods.

However, the health, resilience and productivity of the oceans and marine ecosystems continue to be challenged. These concerns arise from the impact of anthropogenic activities, both at sea and on land, compounded by the effects of increased carbon dioxide emissions in the atmosphere.

These increased emissions are affecting the ability of the oceans to absorb carbon dioxide, which is essential for climate regulation. The resultant acidification of the oceans is, in turn, causing adverse impacts on marine life.

Anthropogenic impacts are threatening the very ability of the oceans to provide the most basic goods and services we rely upon for life on the planet, including the supply of oxygen, food, livelihood, energy, and a regulated climate, among others.

Notwithstanding these impacts, States are increasingly looking to the oceans to drive development in connection with both existing and emerging economic activities. This, of course, begs the question as to how we can derive and sustain economic benefits from the oceans, while at the same time reducing the impacts of our collective actions on the oceans.

The need for greater efforts to reduce anthropogenic impacts has been well-recognized by the international community, including in the outcome document of the 2012 United Nations Conference on Sustainable Development [Rio+20], “The Future We Want.”

It includes recommendations on, inter alia, full implementation of the United Nations Convention on the Law of the Sea, the United Nations Fish Stocks Agreement, as well as other legal instruments, preventing pollution, ending overfishing, taking action against illegal, unreported and unregulated fishing, phasing out harmful fisheries subsidies, protecting vulnerable marine ecosystems, addressing marine biological diversity of areas beyond national jurisdiction and enhancing capacity-building.

Ladies and Gentlemen,

[UNCLOS and a sustainable ocean-based economy]

I would like to posit that the full potential of the oceans as a driver of economic growth, social development, innovation and poverty alleviation lies in refocusing efforts towards the sound development of a sustainable ocean-based economy, within the existing international legal framework.

Such framework has been in existence for over 30 years now in the form of the 1982 United Nations Convention on the Law of the Sea (the Convention). With 167 States parties, including the European Union, it is getting closer to universal participation. In addition, many of its provisions are regarded as constituting customary international law. The Member States of the United Nations annually reaffirm that the Convention sets out the legal framework within which all activities in the oceans and seas must be carried out.

It thus provides an effective, comprehensive and overarching international legal framework for the development of a sustainable ocean-based economy.

The Convention contributes to the strengthening of peace, security, cooperation and friendly relations among all nations, to the promotion of the economic and social advancement of all peoples of the world, as well as to the sustainable development of the oceans and seas.

It has provided the means for achieving legal certainty in a number of areas, including maritime zones delineation, marine scientific research, and the exploitation of resources. The Convention contains a carefully negotiated and equitable “package” of rights and duties in the various maritime zones. Central to this package is the balancing of the enjoyment of rights and benefits by States with the corresponding undertaking of duties and obligations.

Consequently, the provisions of the Convention cannot be implemented in a piecemeal or selective fashion. For example, States cannot benefit from the enjoyment of the sovereign right to exploit their natural resources, without also fulfilling the associated obligations. These relate, inter alia, to the protection and preservation of the marine environment, the conservation and management of the living resources and respecting the rights of navigation of other States.

I would like to recall that the legal framework established by the Convention is not static. This leaves room for the further development of specific areas of the law of the sea covering a wide range of issues, including the development of rules and regulations for the conduct of activities in the Area, i.e., the seabed and ocean floor and subsoil thereof

beyond the limits of national jurisdiction, by the International Seabed Authority, one of the bodies established by the Convention.

Indeed, the Convention is complemented by two Implementing Agreements, namely the 1994 Agreement relating to the Implementation of Part XI of the Convention, which currently has 147 parties, and the 1995 United Nations Fish Stocks Agreement [Agreement for the Implementation of the Provisions of the Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks], which currently has 82 parties. It is further complemented by a number of legal instruments that have been developed under the auspices of other intergovernmental organizations, especially those that form part of the United Nations System. Together, all these instruments provide a comprehensive legal regime for all activities in the oceans and seas.

Furthermore, the annual comprehensive review of ocean issues by the General Assembly through its resolutions on oceans and the law of the sea and on sustainable fisheries has enabled necessary legal and policy developments on various important, yet challenging issues, including most recently with regard to the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. The General Assembly is assisted in its review task by a number of subsidiary bodies.

Ladies and Gentlemen,

While significant progress has thus been achieved in the development of a comprehensive legal regime, effective implementation of the Convention, its Implementing Agreements and the many related instruments that constitute the legal regime for the oceans and seas, remains a major challenge. For the Convention in particular, to continue to contribute effectively to the sustainable development of the oceans, greater efforts are needed by the international community to ensure the full and effective implementation of all its provisions.

The General Assembly has consistently called for these efforts by States, including in respect of issues such as capacity-building, transfer of technology and marine scientific research. Although the Convention provides for cooperation in this regard, implementation in these areas and other areas has been insufficient. Many States have yet to realize the full potential of their corresponding rights and benefits and meet their obligations in accordance with the Convention.

Therefore, the gap between States that have the capacity and resources to do so and those that do not needs to be closed.

Ladies and Gentlemen,

Critical steps with regard to realizing a sustainable ocean-based economy will of necessity involve giving greater prominence to ocean issues at the national level, developing effective national legislative, administrative and technical frameworks and ensuring adequate technological, financial and human capabilities.

Achieving effective cooperation and coordination, as well as partnerships across all levels and sectors is also crucial, including with civil society. As recognized in the Convention, the problems of ocean space are closely interrelated and need to be considered as a whole. Therefore, the achievement of a sustainable ocean-based economy necessitates an understanding of the interconnection among all activities in the oceans and seas and their impacts, as well as between the land and the sea. This requires a coordinated, integrated, multi-sectoral and multi-stakeholder approach in the way we interact with and realize benefits from the oceans - financially, economically, culturally, politically, socially and environmentally - at national, regional and global levels.

The corresponding challenge is to bring together all stakeholders in the oceans and to promote growth through activities that derive benefits from the oceans, while at the same time improving the state of the marine environment and maintaining its ability to provide for future generations.

Indeed, we need to bear in mind that the resources and services of the oceans are not inexhaustible and that our activities can lead to irreversible damage to the oceans and its marine ecosystems. In that regard, it is also important to compute or factor into the gross domestic product at the national level, the economic value of all ocean activities, including for example, the real, yet unquantified cost of the degradation of the ocean's environmental capital.

Ladies and Gentlemen,

In sum, sustainable ocean-based economies, which realize benefits from marine spaces, resources and activities carried out in accordance with the Convention, as complemented by other legal instruments, can generate economic capital that translates into enhanced livelihoods.

[ITLOS, BBNJ, CLCS]

This Conference draws attention to three topics that underscore the importance of ensuring legal certainty and peaceful uses of the oceans and the role of the International Tribunal for the Law of the Sea and the Commission on the Limits of the Continental Shelf – the two other bodies established by the Convention. I already referred earlier in

my statement to the International Seabed Authority which administers the resources of the Area on behalf of humankind.

The International Tribunal for the Law of the Sea has a clear role in bringing about peaceful resolution to international disputes in the law of the sea and in the provision of advisory opinions.

Over the years, it has distinguished itself for its efficient and expeditious handling of the disputes before it.

The Tribunal is endowed with a Permanent Special Chamber with compulsory jurisdiction over disputes concerning activities in the Area. I would note that, not only do States Parties to the Convention have standing before the Chamber, but so do companies and individuals under the control and sponsorship of these States Parties. This feature distinguishes the Tribunal from other international judicial bodies.

The Commission on the Limits of the Continental Shelf fulfils the very important role of assisting coastal States in the establishment of the outer limits of the continental shelf. Clearly defined and duly publicized limits of maritime zones are an essential basis for States to derive benefits from the oceans and their resources. These limits provide certainty with regard to the extent of the sovereignty or sovereign rights and jurisdiction of coastal States, thereby creating a fundamental pre-condition to attracting investments for exploration and exploitation activities.

As regards areas beyond national jurisdiction, in-depth and intense discussions have recently taken place under the auspices of the United Nations General Assembly relating to the conservation and sustainable use of marine biological diversity of those areas.

On 3 June 2015, the General Assembly decided to develop an international legally-binding instrument under the Convention on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. Future negotiations are expected to address issues relating 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, capacity-building and the transfer of marine technology.

Ladies and Gentlemen,

In conclusion, I would be remiss if I did not draw attention to the ongoing negotiations on the post-2015 development agenda, which have also given focus to the importance of the sustainable development of oceans. As stated by the Secretary-General in his most recent report on oceans and the law of the sea, “investing in the health, resilience and productivity of our oceans and the sustainability of the activities taking

place in, or impacting, the oceans is essential, as this can have a multiplier effect through direct and indirect contribution to ... sustainable development”.

I would like to wish you very fruitful deliberations and trust that this Conference will draw due attention to the full potential that a sustainable ocean-based economy holds and, in that context, to the importance of the legal framework provided by the Convention.

Thank you.