

**Summary of the First Session of the Intergovernmental Conference on an International Legally Binding Instrument under the UN Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biodiversity of Areas Beyond National Jurisdiction: 4-17 September 2018**

The first session of the Intergovernmental Conference (IGC) on an international legally binding instrument under the UN Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction (BBNJ) convened from 4-17 September 2018, at UN Headquarters in New York. Delegates considered a document prepared by the IGC President, which identified areas for further discussion not containing treaty text, aimed at leading to substantive discussions based on the elements of a package agreed in 2011 on:

- marine genetic resources (MGRs), including questions on benefit-sharing;
- environmental impact assessments (EIAs);
- area-based management tools (ABMTs), including marine protected areas (MPAs); and
- capacity building and marine technology transfer (CB&TT).

IGC-1 made some progress in clarifying delegations' positions on the elements of the package and tabling more detailed options for a process on ABMTs. Several participants stressed the need to proceed on the basis of a zero draft of the international legally binding instrument (ILBI) to fully switch into negotiating mode at the next session. President Lee suggested preparing a document that would not be labelled "zero draft," to facilitate text-based negotiations, containing treaty language and reflecting options on the four elements of the package, taking into account all inputs during IGC-1 as well as the Preparatory Committee's report, well in advance of IGC-2.

**A Brief History of the Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction**

The conservation and sustainable use of BBNJ is increasingly attracting international attention, as scientific information, albeit insufficient, reveals the richness and vulnerability of such biodiversity, particularly around seamounts, hydrothermal vents, sponges, and cold-water corals, while concerns grow about the increasing anthropogenic pressures posed by existing and emerging activities, such as fishing, mining, marine pollution, and bioprospecting in the deep sea.

UNCLOS, which entered into force on 16 November 1994, sets forth the rights and obligations of states regarding the use of the oceans, their resources, and the protection of the marine and coastal environment. Although UNCLOS does not refer expressly to marine biodiversity, it is commonly regarded as establishing the legal framework for all activities in the oceans.

The Convention on Biological Diversity (CBD), which entered into force on 29 December 1993, defines biodiversity and aims to promote its conservation, the sustainable use of its components, and the fair and equitable sharing of the benefits arising from the use of genetic resources. In areas beyond national jurisdiction (ABNJ), the CBD applies to processes and activities carried out under the jurisdiction or control of its parties. The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, which entered into force on 12 October 2014, applies to genetic resources within the scope of CBD Article 15 (Access to Genetic Resources) and to traditional knowledge associated with genetic resources within the scope of the Convention.

Following more than a decade of discussions convened under the United Nations General Assembly, the Assembly, in its resolution 72/249 of 24 December 2017, decided to convene an IGC to elaborate the text of an ILBI under UNCLOS on the conservation and sustainable use of BBNJ, with a view to

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developing the instrument as soon as possible. The IGC will meet initially for four sessions, with the second and third taking place in 2019, and the fourth in the first half of 2020.

### **Key Turning Points**

**Working Group:** Established by General Assembly resolution 59/24 of 2004, the *Ad Hoc* Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of BBNJ served to exchange views on institutional coordination, the need for short-term measures to address illegal, unregulated, and unreported fishing and destructive fishing practices, MGRs, marine scientific research (MSR) on marine biodiversity, MPAs, and EIAs. It met three times from 2006 to 2010.

**The “Package”:** The fourth meeting of the Working Group (31 May-3 June 2011, New York) adopted, by consensus, a set of recommendations to initiate a process on the legal framework for the conservation and sustainable use of BBNJ, by identifying gaps and ways forward, including through the implementation of existing instruments and the possible development of a multilateral agreement under UNCLOS. The recommendations also include a “package” of issues to be addressed as a whole in this process, namely: MGRs, including questions on benefit-sharing; measures such as EIAs and ABMTs, including MPAs; and CB&TT.

**UN Conference on Sustainable Development (Rio-20):** The UN Conference on Sustainable Development (20-22 June 2012, Rio de Janeiro, Brazil) expressed the commitment of states to address, on an urgent basis, building on the work of the Working Group and before the end of the 69th session of the General Assembly, the issue of the conservation and sustainable use of BBNJ, including by taking a decision on the development of an international instrument under UNCLOS.

**A Legally Binding Instrument:** Between 2014 and 2015, the Working Group engaged in interactive substantive debates on the scope, parameters, and feasibility of an international instrument under UNCLOS. At its ninth meeting, the Working Group reached consensus on recommendations for a decision to be taken at the 69th session of the UN General Assembly to develop a new legally binding instrument on BBNJ under UNCLOS, and to start a negotiating process to that end.

**Preparatory Committee:** Established by General Assembly resolution 69/292 of 2015, the Preparatory Committee (PrepCom) was mandated to make substantive recommendations to the General Assembly on the elements of a draft text of an ILBI under UNCLOS, taking into account the various reports of the Co-Chairs on the Working Group’s work; and for the Assembly to decide at its 72nd session whether to convene an IGC to elaborate the text of the ILBI. The PrepCom considered the scope of an ILBI and its relationship with other instruments, guiding approaches and principles, as well as the elements of the package. In spite of diverging views with a wide majority of countries arguing that the PrepCom had exhausted all efforts to reach consensus, the PrepCom outcome that was eventually adopted by consensus comprised:

- non-exclusive elements of a draft ILBI text that generated convergence among most delegations;
- a list of main issues where there was divergence of views, with the indication that both did not reflect consensus; and
- a recommendation to the UN General Assembly to take a decision, as soon as possible, on convening an IGC.

**IGC Organizational Meeting:** The IGC organizational meeting took place from 16-18 April 2018. Delegates agreed to:

- focus IGC-1 on substantive discussions based on the elements of the package;

- take consensus-based decisions on the preparation process of a zero draft; and
- mandate the President to prepare a concise document that identifies areas for further discussion and that does not contain treaty text, which would not constitute the zero draft.

### **IGC-1 Report**

Opening the IGC on Tuesday, 4 September, IGC President Rena Lee (Singapore) stressed that despite “the enormity of tasks, complexity of issues, and variety of views held,” the IGC represents an opportunity to “make a difference on how we manage the oceans while we still can.” She recommended working openly, transparently, and inclusively.

Miguel de Serpa Soares, Secretary-General of the IGC, Under-Secretary-General for Legal Affairs and UN Legal Counsel, stated, on behalf of UN Secretary-General António Guterres, that “the path to this day has been long but fruitful”; emphasized the collegial atmosphere during the IGC organizational meeting; and stressed that the spirit of cooperation must prevail in recognition of the vital importance of the conservation and sustainable use of BBNJ.

Delegates approved the agenda (A/CONF.232/2018/4) without amendments, and the programme of work (A/CONF.232/2018/5). IGC President Lee proposed discussing the elements of the package in informal working groups on: MGRs, facilitated by Janine Coye-Felson (Belize); ABMTs, facilitated by Alice Revell (New Zealand); EIAs, facilitated by René Lefebvre (Netherlands); and CB&TT facilitated by Olai Uludong (Palau).

On Tuesday and Wednesday, 4-5 September, delegates offered general statements, focusing on their expectations for the IGC, including their preferred procedural way forward towards a zero draft, and on the content of the ILBI. This summary only includes a reflection of procedural statements. Full coverage of the general statements can be found at <http://enb.iisd.org/vol25/enb25170e.html> and <http://enb.iisd.org/vol25/enb25171e.html>.

Delegates resumed discussion of the way forward on Friday, 14 September, and Monday, 17 September. Delegates met in the informal working groups from Wednesday, 5 September, to Thursday, 13 September, with Facilitators reporting to plenary on Friday, 14 September.

### **IGC Process**

On Tuesday, 4 September, Wednesday, 5 September, and Friday, 14 September, discussions focused on the need to prepare a textual basis for negotiations after IGC-1. Egypt, for the Group of 77 and China (G-77/China), welcomed, with others, the President’s aid to discussions (A/CONF.232/2018/3), and recommended “switching gears” to elaborate the ILBI text through the preparation of a zero draft to be circulated prior to IGC-2 and to reflect a balanced legal text containing options where needed.

Palau, for Pacific Small Islands Developing States (P-SIDS), cautioned against backsliding from the PrepCom, and suggested engaging respectfully in negotiations geared towards, but not constrained by, reaching consensus. Honduras stressed that the ILBI negotiations should be based on consensus to ensure universal participation and the highest level of commitment for BBNJ conservation and sustainable use. Costa Rica, also on behalf of Argentina, Brazil, Chile, Colombia, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, and Uruguay, suggested preparing an informal, comprehensive but not exhaustive, preliminary draft as a basis for negotiations, using the basic structure of the PrepCom 4 report, and turning the working groups into negotiating groups

at IGC-2. Colombia, on behalf of El Salvador, Eritrea, Iran, and Turkey, recommended: clarifying that participation in the IGC or its outcome cannot affect the status of UNCLOS non-parties, supported by Venezuela; and reflecting CBD Article 22 (relationship with other conventions) and UN Fish Stocks Agreement provisions on participation of UNCLOS non-parties.

The European Union (EU) urged starting text-based negotiations on the basis of a zero draft, through a stepwise approach, building on the options identified at the PrepCom, and clarifying the ILBI's key functions and regulatory options to reach a consensus agreement by 2020. He stressed that not all issues in the President's aid to discussions should be addressed in detail in the ILBI, suggesting a focus on substantive provisions with options, without necessarily containing procedures, definitions, or final clauses. Switzerland supported a zero draft with options. The International Union for Conservation of Nature (IUCN) and the High Seas Alliance welcomed the development of a zero draft, expressing hope for a concrete outcome by 2020.

The US supported moving towards text-based negotiations, supporting "something less than a full zero draft" for IGC-2, reflecting diversity of views. Monaco and Canada supported a document allowing further progress, whether it is named a zero draft or otherwise. Norway favored producing a text similar to the IGC-1 aid to discussions, emphasizing the inclusion of different options and retaining the same structure.

Supporting a balanced, universal, and practical ILBI, Japan favored a document based on progress achieved so far, to identify areas of convergence and divergence. Favoring a state-driven process, China proposed a three-step way forward: drafting a non-paper outlining options, to be circulated before IGC-2; proposing improvements to the non-paper during IGC-2; and possibly tasking President Lee to draft a zero draft for IGC-3.

Iceland called on President Lee to produce an initial text, leading to the development of a zero draft by states; and emphasized ensuring universal application for the ILBI, considering consensus "the ultimate goal." The Russian Federation indicated that despite its mandate, the PrepCom did not fully attempt to seek consensus solutions, and that conceptual issues, such as a global, regional, or hybrid approach, should be clarified before preparing a zero draft. He suggested that a transition to text-based negotiations would be beneficial to analyze and react to proposals, and rather than a zero draft, a more focused President's document, including elements of a text, could be prepared.

On Friday, 14 September, President Lee proposed issuing a document containing treaty language and reflecting different options by 25 February 2019, for consideration at IGC-2 in order to lead to focused discussions and the identification of areas of convergence, as well as areas requiring further discussion. She clarified that the document would not be "a full treaty text, from preamble to final clauses," and would probably not be called a zero draft. Noting that the document would include IGC-2 organizational modalities, she emphasized that the process leading to a zero draft would be state-driven.

### Marine Genetic Resources

The Informal Working Group on MGRs, facilitated by Janine Coye-Felson (Belize) met from Tuesday - Thursday, 11-13 September. During its deliberations, the informal working group focused on, *inter alia*:

- the regime applicable to MGRs of ABNJ;
- scope, with discussions addressing: the temporal dimension and the material dimension, including whether the ILBI would regulate derivatives, and *ex situ* and *in silico* MGRs in addition

- to *in situ* ones, and whether fish as a commodity would be included in the ILBI as well as fish for their genetic properties;
- access, including whether access would be regulated, and if so for which activities and under which conditions;
- benefit-sharing, including questions on objectives, principles, and modalities;
- intellectual property rights (IPRs); and
- monitoring of the utilization of MGRs;

**Regime:** The G-77/China clarified that common heritage should govern MGR exploitation while high seas freedoms should address access to MGRs under appropriate regulations. Algeria, for the African Group, called for a frank and open-minded dialogue on the common heritage principle. Brazil noted that all countries should access and use MGRs, which should be considered part of common heritage, in a fair and equitable manner. Argentina considered the current status quo, offering "unfettered access to MGRs only to a handful of countries," unacceptable, and prioritized the common heritage regime and an equitable and transparent benefit-sharing mechanism, CB&TT, and guarantees for a functioning financing and coordination mechanism.

Thailand suggested: applying the common heritage principle to access and benefit-sharing (ABS) for MGRs in the Area (sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction) and in the high seas, as well as to high seas fisheries, whether used as commodity or for bioprospecting. Viet Nam recommended that the ILBI must not limit UNCLOS rights and obligations, underscoring that BBNJ should be considered as common heritage with equitable benefit-sharing.

The African Group stated that the common heritage is "much more than benefit-sharing" and underpins all elements of the package, with South Africa and P-SIDS highlighting intra- and inter-generational equity, sufficient monetary benefits, capacity building, and MGRs as part of common heritage.

The EU emphasized that the ILBI negotiations do not depend on determining the legal status of MGRs. The Russian Federation supported applying the high seas freedoms to MGRs, including in the Area. The US stated that common heritage only applies to resources in the Area. Japan recalled protracted negotiations on, and eventual exclusion of, sedentary species from the Area regime. Responding, the African Group: recalled the limited knowledge of biodiversity of ABNJ and lack of awareness of their economic value during UNCLOS negotiations, calling for a single, light access regime for ABNJ governed by the ILBI Conference of the Parties (COP).

Norway favored a pragmatic, sustainable, fair, and cost-effective regime, considering links with future rules on CB&TT. Bangladesh considered that neither common heritage nor high seas freedoms are practically applicable, calling for a hybrid solution. Fiji proposed a *sui generis* regime for MGRs based on the ILBI overarching objectives and principles. Considering, with Switzerland, common heritage and high seas freedoms not mutually exclusive, the Caribbean Community (CARICOM) highlighted: international cooperation and ecosystem-based management around the interconnectedness of the high seas and the Area.

Viet Nam favored MGR regulation in the water column above extended continental shelves facilitating access by coastal states and respecting their sovereign rights.

Iceland and the Federated States of Micronesia (FSM) recommended special consideration for MGRs straddling areas within and beyond national jurisdiction. Brazil and Viet Nam suggested triggering consultation in cases of straddling MGRs.

**Temporal scope:** The EU, the US, and Switzerland proposed applying the ILBI to MGR collection only after entry into force.

**Material scope:** Maldives, for the Alliance of Small Island States (AOSIS), proposed defining *in situ*, *ex situ*, derivatives and, with China, access. P-SIDS proposed defining MGR source or origin. The African Group underscored the need to define derivatives, supported by CARICOM, and biotechnology, supported by P-SIDS; and suggested as a definition for MGRs in ABNJ “any material of marine, plant, animal, microbial, or other origin found in or originating from ABNJ and containing functional units of heredity, as well as any material, derivatives and/or data thereof with actual or potential value for their genetic or biochemical properties.” The Holy See queried if this definition would include viruses. The EU recommended drawing on definitions in existing instruments.

Japan and the US expressed caution about monetary benefit-sharing due to costly, difficult, and lengthy commercialization of MGRs. Japan called for a practical and realistic ILBI, and for deciding at a later stage on the scope in relation to MGRs. The US, with Canada and Iceland, opposed by FSM and Mexico, cautioned against including MGRs *ex situ*. The Holy See suggested distinguishing MGRs on the basis of their actual or potential economic value, consistent with UNCLOS and the CBD.

**Fisheries:** Bangladesh, Indonesia, Switzerland, and Ecuador, opposed by Argentina, Colombia, the US, Honduras, Iceland, and the EU, favored including both fish used as a commodity and as a source of MGRs under the ILBI. The Russian Federation called for fishing and MSR to be carried out freely, noting, with others, that fisheries are already regulated by the UN Fish Stocks Agreement.

Fiji argued that genetic resources from fish used as a commodity should be regulated under the MGR regime. India stressed that the value, rather than the volume, of exploited resources should be a differentiating criterion. IUCN urged distinction based on use, rather than purpose of initial taking. Thailand called for “creative ways to deal with this issue,” noting that existing regional fisheries management organizations (RFMOs) have different mandates, implementation and legal gaps, varying performance, limited coordination, incomplete geographical coverage, and limited biodiversity frameworks.

**Digital sequence information:** The G-77/China and the Holy See, opposed by the Republic of Korea, Switzerland, and Japan, recommended that the ILBI apply to MGRs *in silico*. Ecuador, the FSM, and Mexico emphasized traceability. The US encouraged the sharing of digital sequence information in research and development; and, with Canada, cautioned against including information under an ABS regime because of consequent reduction in data sharing and challenges in data tracking.

**Derivatives:** The African Group, supported by Bangladesh, Papua New Guinea (PNG), Indonesia, Argentina, Brazil, the Philippines, Colombia, the FSM, and the Holy See, and opposed by the EU, China, Switzerland, the US, Iceland, Japan, and the Republic of Korea, favored including derivatives in the ILBI, noting that the Nagoya Protocol applies to derivatives and that there is no scientific basis for their exclusion. The African Group also argued that UNCLOS provisions on non-recognition of MSR activities as the legal basis for claims and on publication and dissemination of information and knowledge apply to derivatives and bioprospecting. The FSM called for regulating derivatives and ensuring their traceability for monetary and non-monetary benefit-sharing purposes.

**Access:** The G-77/China favored regulating access, with terms and conditions, and requirements on CB&TT and on depositing samples, data, and related information in open-source platforms.

He noted that any MGR access regime within the scope of ILBI should not hamper MSR or prejudice sovereign rights over exclusive economic zones and continental shelves, including extended continental shelves.

The African Group proposed: distinguishing between MSR and bioprospecting in terms of access, with an obligatory prior electronic notification system to regulate access to MGRs and to “track and trace” their use; and drawing on the Multilateral System of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA). CARICOM preferred a notification system exploring potential interlinkages between access, ABMTs and EIAs, and how ecologically or biologically significant marine areas (EBSAs), vulnerable marine ecosystems (VMEs), or other specially protected areas should be taken into account.

Brazil favored regulating access through a notice-based process, which would include disclosure of origin and purpose. P-SIDS suggested: for MGRs *in situ*, an ISA-type system of sponsoring states, emphasizing, with India and CARICOM, traceability; leaving access to MGRs *ex situ* open, without privatizing samples; and a permit-based system under mutually agreed terms (MATs) or a licensing system on use of digital sequence information. Fiji emphasized recording and reporting mandatory requirements for *in situ* collectors, and a single-access regime with different provisions depending on the source of MGRs. The Philippines stressed fair access, traceability, transparency, and public accountability, allowing for scientific and technological advances. Ecuador highlighted that open access does not entail lack of regulation or management such as: identification of genomics; taxonomic research possibilities; identification of actors, experiences, and expertise; identification of projects; alignment with sustainability; traceability; and identification of common inventories.

Mexico argued for: “dual regulation” of access for MSR and for commercial purposes, including a procedure for change of intent; public access to information; and conditions for the use of MGRs for commercial purposes. Colombia called for: access regulations for MGRs and derivatives; a global management institution; and a mechanism based on prior consent or notification. China supported: free access to MGRs; notification to the secretariat; and guidelines or codes of conduct on access, for adoption under domestic legislation.

The EU favored free access to *in situ* MGRs, in line with UNCLOS provisions on MSR and Part XII. Switzerland emphasized a “light access” structure supporting research and innovation. Singapore called for a clearer understanding of bioprospecting vis-à-vis MSR. The Republic of Korea, Japan, the US, and the Russian Federation argued for free access in accordance with the high seas regime.

Norway emphasized free access, expressing willingness to consider notification, with the Intergovernmental Oceanographic Commission (IOC) maintaining a repository. The Holy See supported a simple, online registry for states and nationals to file a notification, whether for commercial or scientific intent, and pointed to the Organization for Economic Cooperation and Development (OECD) Guidelines for the Licensing of Genetic Inventions for inspiration in considering *ex situ* and *in silico* access through licensing, calling for non-exclusive or co-exclusive licenses and mandatory sub-licensing.

**Benefit-sharing:** The G-77/China supported an ABS regime drawing on the Nagoya Protocol, the International Seabed Authority (ISA), and the ITPGRFA. AOSIS highlighted the need to consider the Nagoya Protocol, the ISA, the World Health Organization’s Pandemic Influenza Preparedness (PIP)

Framework, and the World Trade Organization (WTO) Agreement on Trade-related Aspects of IPRs (TRIPS). He recommended:

- a binding obligation to cooperate, including on benefit-sharing and on the establishment of an ABS mechanism;
- a protocol, guidelines or code of conduct to ensure environmental protection, compliance, transparency, cooperation, and data sharing; and
- both monetary and non-monetary benefit-sharing, through a trust fund.

AOSIS and others supported fair and equitable sharing of monetary and non-monetary benefits at different stages, promoting MSR and technology transfer. He highlighted: the Nagoya Protocol approach to traditional knowledge associated with genetic resources; and a requirement under the ILBI for prior informed consent of indigenous peoples and local communities (IPLCs) before accessing their traditional knowledge, if it contributes to knowledge of ABNJ.

P-SIDS considered traceability for both commercial and non-commercial uses as existing best practice and requested paying royalties into an ILBI fund when a product developed from MGRs becomes profitable, without prejudice to scientific progress. She emphasized small island developing states' (SIDS) special case and their participation in the ILBI, with different kinds of benefits accruing at different stages, as well as transparency, collection of data and scientific information, CB&TT, and coordination and cooperation. PNG underscored open access to scientific information, integration of open data linked to a clearinghouse, biochemical composition, and digital sequence information.

The African Group requested clarity on the stage at which non-monetary benefits should be shared; and suggested levying a fee when access to genetic sequence data is withheld. CARICOM called for: equitable benefit-sharing based on a needs assessment; knowledge dissemination; open research; report submission to a centralized organ; a traceability mechanism; and, with India, a phased approach for benefit-sharing, including open-source samples and payments upon commercialization. Mexico stated that all access to MGRs should lead to benefit-sharing, and supported, with others, establishing a fund.

China favored: prioritizing non-monetary benefits; sharing monetary benefits only upon large-scale commercialization; and providing incentives for MSR. He suggested that the ILBI mandate the COP to manage MGRs and benefit-sharing, and potentially provide for a voluntary trust fund. Brazil called for: triggering benefit-sharing obligations upon commercialization, not in relation to research or patenting; and establishing a global fund derived from 1% of net revenue from the commercial use of MGRs.

The EU drew attention to the IOC and the Global Environment Facility (GEF) and suggested: focusing on "more readily available and feasible" non-monetary benefit-sharing; considering capacity building and sharing of material, information, and scientific knowledge; and requesting notification after MGR collection in ABNJ, including the possibility of sharing digital sequence information.

Canada queried the feasibility and impacts of a staged approach to royalties and its administrative burdens; supported linking benefit-sharing with capacity building; and urged taking into account the differences of other ABS instruments, noting that the ITPGRFA covers mostly genetic materials entirely in the public domain. Japan favored: benefit-sharing for current and future generations and research and development promotion; and voluntary capacity building and non-monetary benefits to enable

all states to enjoy the benefits of MGRs. The US preferred non-monetary benefits to achieve the ILBI conservation objectives, focusing on developing countries' needs.

The G-77/China noted that MGRs, utilization of MGRs, and related technical terms should be defined. The Republic of Korea called for pragmatic benefit-sharing arrangements, including on a voluntary basis and without undermining high seas freedoms. The Russian Federation noted that MSR is costly and is not always commercially viable; and favored voluntary benefit-sharing and capacity building.

**Beneficiaries:** AOSIS and Colombia considered parties to be beneficiaries. P-SIDS emphasized developing states, particularly SIDS, and traditional knowledge holders. Brazil suggested including all states, especially developing countries and least developed countries (LDCs). The EU highlighted states that may require technical assistance. Tonga suggested directing funds to the ILBI secretariat for administering ABNJ activities and for developing the clearinghouse. China identified all countries as beneficiaries, particularly: LDCs; landlocked developing countries (LLDCs), supported by Paraguay and Nepal; as well as geographically disadvantaged states, SIDS, African states, and future generations.

**List of Benefits:** The G-77/China supported a non-exhaustive list of benefits, with the Philippines and Fiji clarifying the list should also include monetary benefits, and the African Group underscoring the Nagoya Protocol. CARICOM also mentioned UNCLOS and the ITPGRFA, noting that the list could be annexed and reviewed. The EU, Switzerland, the US, and Singapore expressed openness to consider an indicative list of non-monetary benefits. Mexico proposed drawing from the ISA and the Nagoya Protocol. Tonga noted that benefits could include capacity building on the legal, policy, and financial aspects of the ILBI.

Canada recommended finding the right balance in a non-exhaustive list. Norway called for flexibility and proposed matching needs and opportunities, noting relevant activities under the IOC.

**IPRs:** The G-77/China called for considering the relationship with IPRs and traceability of any processing of MGRs. The African Group suggested addressing IPRs through a *sui generis* system. AOSIS favored considering IPRs in a manner consistent with World Intellectual Property Organization (WIPO), opposing, with Mexico, the patenting of MGRs themselves. P-SIDS stressed the need to promote innovation, while setting specific requirements for patents, including prior informed consent. Mexico recommended including: the object of IPRs; coordination with existing regimes, including WIPO; and verification of origin and use of MGRs. Noting that 84% of MGR patents are registered by corporations and 12% by universities, PNG queried how the ILBI would address non-state actors, pointing to potential lessons learned from the Nagoya Protocol and the ITPGRFA.

The EU, Japan, the US, and China preferred excluding IPRs, arguing they are addressed under WIPO and the WTO. Switzerland, Singapore, and Canada pointed to ongoing work under WIPO. The Republic of Korea emphasized respect for IPRs and confidential information. The Russian Federation considered IPRs beyond the ILBI's scope.

Peru called for the ILBI not to run counter to IPR protection. Colombia preferred addressing disclosure of origin under WIPO and TRIPS, with the ILBI ensuring complementarity with those regimes through general clauses. The Holy See suggested that the origin of every patent should be presumed to be in ABNJ unless otherwise stated in patent applications.

WIPO pointed to bracketed text on MGRs of ABNJ being negotiated under its Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. The International Council for Environmental Law suggested “going beyond IPRs and direct monetary benefits” to design, implement, and monitor an ABS system that fosters MSR and collaboration.

**Monitoring of MGR Utilization:** The G-77/China suggested a reporting, monitoring, and traceability mechanism to facilitate benefit-sharing. P-SIDS considered traceability for both commercial and non-commercial uses as existing best practice. AOSIS suggested that a scientific committee or clearinghouse monitor MGR utilization. CARICOM supported disclosure of origin of MGRs. P-SIDS supported a non-exclusive license to access MGRs, allocation of MGR identifiers, and a notification requirement upon access. The African Group emphasized an obligatory prior electronic notification system as a platform managed under the ILBI, setting conditions for access to sample and data, and for practical arrangements to monitor MGR utilization. Chile supported registration requirements, a protocol and guidelines, and a repository to improve monitoring.

The EU and the US opposed monitoring MGR utilization. Japan stated that a traceability mechanism is a disincentive to MSR, and referred to the International Convention for the Safety of Life at Sea (SOLAS), which requires identification systems transmitting vessels’ location to a public International Maritime Organization (IMO) website.

The Holy See identified as challenges to disclosure the fact that research findings are viewed as a marketable commodity, calling for basic disclosure requirements and regulation of access to ensure public scrutiny of MGRs and prevent corporations’ undue influence over ocean biodiversity.

**Summary of Discussions:** On Friday, 14 September, Informal Working Group Facilitator Coye-Felson, reported on:

- some convergence on distinguishing fish used as a commodity and as genetic resources, with the ILBI covering only the latter and including provisions on change of use;
- divergence on including *ex situ* and *in silico* MGRs, and derivatives;
- opinions on access, including: regulating it and/or subjecting it to a licensing, permit, or notification regime, without hampering MSR; differentiating provisions on access concerning VMEs, EBSAs, and specially protected areas; and not addressing access at all;
- opinions on including monetary benefit-sharing and establishing a trust fund, or creating adaptable benefit-sharing packages and models, taking into account existing frameworks;
- options on IPRs, including a *sui generis* system, mandatory disclosure of origin, or leaving the matter to other bodies, such as the WTO and WIPO;
- options on if and how to monitor MGR utilization; and
- convergence on establishing an easily accessible, non-cumbersome clearinghouse, with guidance from existing frameworks.

### Area-based Management Tools

The ABMTs Informal Working Group, facilitated by Alice Revell (New Zealand) met on Friday, 7 September, Monday, 10 September, and Thursday, 13 September. Discussions focused on: objectives; relationships with other instruments; process, including decision-making and consultation; duration; and monitoring and review (M&R).

**Objectives:** CARICOM favored operationalizing the balance between the ILBI general objectives of conservation and

sustainable use. Mauritius pointed to Aichi Biodiversity Target 11 (protected areas) and Sustainable Development Goal (SDG) 14 (life below water). The Russian Federation responded that these apply within national jurisdiction. Tonga highlighted: ensuring food security, scientific reference areas, and aesthetic and wilderness values; and allowing for the creation of representative and well-connected networks of MPAs.

Viet Nam called for: establishing ABMTs, including MPAs, to protect MGRs. Colombia suggested: developing objectives for each ABMT to be reviewed periodically and adapted based on best available science, in addition to minimum common objectives aiming at conservation and sustainable use; and taking into account in all decisions’ oceanographic characteristics and species’ migratory patterns. Costa Rica highlighted the protection, maintenance, and restoration of ocean health through a global MPA network, addressing vulnerability to climate change, ocean acidification, extractive and contaminating activities, and cumulative effects. Fiji favored specific objectives for ABMTs, MPAs, and marine spatial planning (MSP). Stressing that fisheries should be considered in the ILBI, Senegal called for clearly defined protection levels regarding ABMTs, reflecting resilience to different stressors.

Israel highlighted that objectives should: be based on designation of large and representative areas; be monitored; and support a long-term strategy of a global MPA network. The Russian Federation expressed concern about a global MPA network or fisheries regulation under the ILBI. Norway recommended specifying ABMTs’ objectives upon their establishment.

IUCN emphasized that MPAs primarily focus on long-term biodiversity protection under a long-term strategic plan reflecting science-based priorities. Greenpeace underlined that the ILBI should facilitate the SDG and the Aichi targets to protect at least 10% of marine and coastal waters by 2020. Iceland cautioned against establishing MPAs at specific percentage levels as this may be “superficial and unscientific.” Noting that the ILBI should set out high-level objectives for ABMTs to measure progress, New Zealand suggested: stipulating the circumstances for an MPA to be considered a more appropriate tool than others; clearly defining roles and responsibilities; and establishing a participatory ABMT designation process, including cooperation and coordination.

**Relationship with Other Instruments:** The G-77/China proposed a “recognition process” for existing ABMTs, with parties identifying specific measures to meet conservation objectives, with Argentina and Mauritius stressing that a global MPA network requires recognizing ABMTs adopted by other competent organizations. The Philippines drew attention to ongoing work on other effective area-based conservation measures under the CBD, emphasizing the need for a coordination mechanism. Seychelles emphasized the CBD EBSAs process, highlighting technical guidelines on MSP from the IOC and the CBD. Fiji underscored that nothing should prevent regional or sectoral bodies from establishing ABMTs, including MPAs. China recommended: striking a balance between conservation and sustainable use; including among ABMTs’ regulatory management methods, not only MPAs; and prioritizing existing approaches that already provide for conservation and sustainable use.

Australia proposed promoting ABMT establishment by regional bodies, and greater coordination and coherence, including through global standards and principles. The EU noted that most competent bodies are working in silos, and recommended establishing criteria whereby coastal states

could propose changes to MPA designation if the MPA would undermine their rights under UNCLOS. Switzerland supported well connected and effectively managed MPAs, especially along critical migration routes.

The US noted that the ILBI could identify areas for additional protection, but regional and sectoral bodies should have primacy over establishing, and enforcing compliance with, management measures. Singapore and Australia cautioned against creating a hierarchy, with the Russian Federation questioning if a new body under the ILBI would be more competent than existing regional and sectoral organizations. Norway proposed automatic recognition of ABMTs established according to certain procedures and requirements. He also suggested stating the functions that the ILBI bodies would not perform, in relation to activities already sufficiently managed by other bodies. Costa Rica recommended extending the duty to cooperate to international organizations.

Iceland suggested a coordinating role for regional seas organizations. Australia proposed recognizing bodies competent to establish and monitor ABMTs on the basis of global principles and best-practice standards. Canada recommended elaborating ABMT plans under the ILBI in consultation with relevant organizations for their consideration and implementation.

**Process:** The G-77/China favored: a global framework for designating, deciding on, implementing, and monitoring and reviewing ABMTs; and submitting state proposals for ABMT designation to a global institution, for decisions based on the spatial boundaries of the areas, and appropriate conservation and management measures. Viet Nam recommended a designation process reflecting the status of MGRs as common heritage. AOSIS proposed an indicative set of international criteria for ABMT designation, to be agreed by the scientific/technical body and approved by a decision-making organ, with parties having the option to make collective proposals. The EU recommended stating that nothing should prevent parties from adopting additional or stricter measures and encouraging non-party states to adopt similar measures to those contained in an ABMT management plan.

The G-77/China highlighted grounds for identifying areas such as uniqueness, variability, fragility, sensitivity, and biological productivity and diversity. Mexico added rarity, vulnerability, and interconnectedness. The African Group supported criteria for MPA establishment, allowing for different levels of protection. CARICOM indicated that the ILBI should set out general provisions and criteria for recognizing established ABMTs. Argentina queried if vulnerable areas could be proposed even if they have not been identified as such before the adoption of the ILBI, considering the EBSA criteria useful to that end. Mauritius suggested basing ABMT designation on factors including degree of threat and size of the area affected. China favored MPA identification based on best scientific evidence. Thailand recommended: recognizing existing criteria for identifying areas in need of protection, including EBSAs, Particularly Sensitive Sea Areas, VMEs and those under the Convention on Migratory Species; developing mandatory targets for different levels of protection, in line with the Aichi targets and SDG 14; and considering MSP as a complementary tool under the ILBI. The EU proposed combining regional and global elements with general criteria for areas requiring protection.

Cautioning against creating “paper parks,” the High Seas Alliance called on the ILBI COP to designate MPAs and implement marine protection measures. IUCN called for a global decision-making body empowered to identify, consult on, and adopt protective measures for MPAs, implemented through parties’ regulation of activities within their jurisdiction

and control. She also suggested: distinguishing ABMT types; enhancing sectoral and regional organizations’ role and effectiveness to adopt ABMTs, referring to the UN Fish Stocks Agreement and the CBD; and adopting a global approach for MPAs based on states’ duty to protect the marine environment and their power to adopt directly and collectively more stringent measures than sectoral ones. WWF advocated: using MSP to support integrated ocean and ecosystem-based management; designating MPAs based on their biodiversity values, and not on threats; and ensuring management by the competent body.

**Submissions:** The African Group supported submission of ABMT proposals from parties and competent organizations. P-SIDS suggested that parties, and relevant sectoral and regional organizations, submit proposals individually or jointly. Mauritius preferred collective proposals. CARICOM indicated that a party or the ILBI scientific committee may submit proposals. The Philippines favored proposals submitted by states, regional bodies, or intergovernmental organizations, in consultation with coastal states. Brazil, Japan, Costa Rica, and the Republic of Korea supported proposals from state parties. Norway proposed that the regional seas mechanisms develop proposals, and in regions with no mechanism, states in the region could develop a proposal.

**Content of ABMT proposals:** The African Group supported including management measures and objectives. P-SIDS suggested including the objective, proposed measures, and a management plan, including M&R. China proposed including protection objectives, a legal basis, scientific data, management plans and measures, and a time limit for protection. Japan preferred incorporating: the identification of the ABMT area, citing examples such as Particularly Sensitive Sea Areas, VMEs, and EBSAs; draft conservation and management measures; and a timeline for review.

**Decision-making:** The African Group supported an ILBI decision-making body, including on establishing MPAs, on the basis of recommendations from an ILBI scientific and technical body. CARICOM indicated that the ILBI COP should make the final decision, and the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection could be part of an evaluating body. P-SIDS favored a global decision-making body and regional committees for ABMT implementation and stakeholder consultation. Tonga called for due regard to inputs by adjacent coastal states. The FSM suggested that regional and subregional institutions implement management measures without imposing disproportionate conservation burdens on adjacent coastal states, particularly SIDS. Brazil favored: consideration of proposals by a scientific/technical committee, supported by an independent pool of experts; decisions taken by a COP; and implementation by flag-state members. The Philippines called for: coordinating sectoral and regional organizations’ mandates under the ILBI’s oversight body; identifying areas to be protected through regional and subregional scientific bodies in a flexible and adaptive manner; and designating and managing ABMTs at the regional level, subject to global oversight under the ILBI COP.

Mexico noted that decisions to establish management mechanisms should be binding on state parties with an obligation to cooperate with non-parties. Colombia called for a global, consensus-based decision-making body, with a voting provision as a last resort, on the basis of a recommendation from a scientific and technical subsidiary body that would also assess the effectiveness and coherence of new measures.

The EU proposed that: the scientific/technical body assess proposals and review effectiveness of MPAs; a time-bound

consultation process take into account existing procedures in competent organizations; and the ILBI COP establish MPAs with a proposed management plan. Singapore favored a global approach dealing with existing gaps, and providing a platform for consultation and exchange among institutions on proposals, with decisions made by the “body that is more competent and able to do so,” be it the ILBI body or other relevant body in consultation with the other. Japan supported a hybrid approach, whereby submissions, including inputs from prior consultations, are sent to: the ILBI scientific committee for evaluation; the COP for consensus decision-making; and competent existing organizations for a final decision on whether the ABMT will be implemented. He noted the ILBI should stipulate that the measure would be binding on all, including non-members of relevant instruments.

New Zealand, supported by Chile, outlined a hybrid approach, with:

- a global body providing guidelines for states and competent bodies to identify priority features, habitats, or measures, including MPAs;
- regional and sectoral bodies implementing, monitoring, and enforcing relevant conservation and management measures, coordinating with others, sharing information, and reporting on implementation; and
- states implementing the ILBI with respect to their flagged vessels and nationals, engaging in processes on adjacent maritime zones, and reporting on implementation.

Australia favored a hybrid model: recognizing the knowledge and science base of regional and sectoral bodies, and encouraging them to make better use of ABMTs, with reporting mechanisms; and mandating the ILBI COP to discuss implementation and share information. The Holy See preferred a hybrid model, with global coordination of conservation in cooperation with regional and business sectors, with regional seas programmes communicating with the ILBI COP to create a global environmental, social, and economic baseline for ABNJ, and to articulate conservation strategies, including MSP, for consideration by sectoral and regional stakeholders.

Cautioning against a global, centralized system duplicating mandates and undermining instruments, the US suggested: a process of site selection and proposal, scientific review, and identification in close collaboration with regional and sectoral bodies; consensus decisions; and a geographically and technically balanced advisory group for scientific assessment of proposals. Canada described a two-phase approach where the ILBI decision-making body would make an initial decision on whether further work should be pursued on a proposal based on its rationale, scientific assessment, objectives, and ABMT type; followed by a wider consultation, including relevant frameworks and bodies, interested stakeholders tailored to each ABMT, and taking into account neighboring coastal states’ views and relevant traditional knowledge.

The Russian Federation favored a regional approach, recommending that existing regional and sectoral bodies continue to take decisions on ABMTs, and cautioning against politicizing the process through global majority voting. Advocating a regional model, Iceland proposed holding regular global meetings for assessing ABMTs’ effectiveness similar to the UN Fish Stocks Review Conference. Argentina cautioned against delegating decisions on ABMTs to bodies or mechanisms outside the ILBI.

Norway proposed:

- publishing proposals for comments, possibly facilitated by the UN Division for Ocean Affairs and the Law of the Sea;
- receiving comments from states, scientists, and NGOs;
- forwarding proposals for review to competent bodies;

- consulting adjacent coastal states directly;
- possibly carrying out a scientific peer review by a designated group;
- adopting proposals, binding on ILBI parties, through regional seas mechanisms, to be made public together with related ecological values and conservation goals;
- submitting the decision to competent sectoral bodies to take complementary measures to contribute to the MPA objectives, as management measures or restrictions of commercial activities would be left to these bodies; and
- including the MPA on the agenda of the COP for review, with the possibility for other bodies to explain their measures, providing an opportunity for evaluation and scrutiny.

China, Uruguay, and the Republic of Korea proposed COP consensus decisions, with Canada calling for a high voting threshold as a possible last resort.

IUCN called for a process aimed at consensus but not requiring it, pointing to the South Pacific Regional Fisheries Management Organization model. PNG called for interim measures, given the potential lengthy MPA establishment process. The High Seas Alliance called for global recognition of existing MPAs that meet ILBI criteria.

**Consultation:** The African Group supported a consultation process engaging all relevant bodies and other stakeholders. China opposed an exhaustive list of stakeholders, recommending that the scope of participation is based on objectives, targets, regions, and entities involved in the proposed ABMTs; and recommended consultation between the scientific/technical committee and other relevant bodies if ABMT proposals overlap with their mandates. Tonga underlined the need to provide timely notification to affected states and stakeholders. Colombia favored a broad and transparent consultation process to allow for proposal adjustments. Uruguay emphasized mandatory consultations.

Japan recommended consultations with existing relevant bodies prior to proposal submission, as well as, with the US, a time-bound consultation with a wide range of actors through the ILBI secretariat. The Holy See called for full participation and input by regional and sectoral bodies prior to proposal development, taking into account impacts on workers, investors, and coastal communities, and considering potential compensation. The High Seas Alliance called for a strong consultation process with other global, regional, and sectoral bodies to increase effectiveness and fill regulatory gaps.

**Compatibility:** AOSIS called for: inclusive and transparent consultation with adjacent states, including IPLCs, and traditional knowledge holders, when determining boundaries, monitoring plans, and evaluating ABMTs, supported by New Zealand; and the possibility for scientific organizations and civil society to provide scientific information and input. P-SIDS called for mandatory consultation with adjacent coastal states, stressing that ABMTs in ABNJ should not be of a lower standard than those within national jurisdiction. Chile, with AOSIS, pointed to UN Fish Stocks Agreement Article 7 (compatible measures), and suggested a consultation and information-sharing mechanism for establishing MPAs, ensuring consideration of resilience, biodiversity restoration, and climate change effects.

Indonesia called for assurances that practices in ABNJ will not adversely impact coastal states. Japan suggested consultation and cooperation with competent organizations. Morocco, Norway, Australia, and the EU supported consulting coastal states, with Iceland also favoring information sharing and consent for ABMTs in the water column above the extended continental shelf. Australia, with the FSM, Togo, Canada, and PNG, suggested respecting the rights of coastal states on continental shelves.

China emphasized UNCLOS due regard rule for addressing adjacent coastal states and, supported by Uruguay, recommended taking into account their views. The Russian Federation underscored the need for adjacent coastal states' agreement, with MPA proponents bearing the burden of proving that coastal states' rights would not be violated. Sri Lanka suggested: considering linkages between MPAs and EIAs without prejudicing coastal states' rights and legitimate interests, or undermining extended continental shelf claims. Canada proposed consulting and exchanging information with adjacent coastal states, recognizing their particular interest in decision-making.

**Duration:** The Russian Federation favored including principles allowing competent organizations to take decisions on science-based, time-bound ABMTs. The Republic of Korea recommended that ABMT duration should be based on scientific evidence. P-SIDS cautioned against setting time limits and, with Mexico and Costa Rica, recommended regular reviews of effectiveness. The FSM proposed distinguishing: prohibitions or restrictions for an indefinite time period, subject to regular reviews, for the preservation of areas providing ecosystem services to other areas open to sustainable use; and time-bound recovery for damaged marine areas, depending on speed of recovery. The EU suggested regularly reviewing MPAs that should not be time-limited.

**Monitoring and review:** The G-77/China proposed communication, reporting, and a compliance system based on best available science and overseen by a scientific/technical body, with the COP deciding on follow up. CARICOM and Colombia called for a follow-up M&R process. Uruguay suggested a transparent procedure for financing ABMTs, in addition to monitoring. Mexico called for a clear process for applying sanctions in cases of non-compliance. South Africa called for a mechanism for global monitoring, control, and surveillance. The Philippines underscored that ABMT management plans should guide implementation, as well as the degree of protection and evaluation measures, and supported adaptive management, a compliance mechanism, an incentive system, and a global oversight body. P-SIDS favored provisions on non-compliance and a compliance committee; collaboration with existing instruments and standardized reporting; and a coordinating entity under the ILBI.

Mexico highlighted: flag state responsibility; suggested exploring whether international organizations and port states could enforce ABMTs; and supported a science-based, regular review of ABMTs' effectiveness for potential adjustments, similar to the designation mechanism, including stakeholder consultation. Chile called for a periodic review mechanism using publicly available reports to monitor, oversee, and improve enforcement of conservation goals. Nigeria proposed delegating scientific monitoring to appropriate regional bodies when they meet ILBI standards. China stressed the need for clear M&R provisions for the ILBI scientific and technical committee. Costa Rica called for regular monitoring and evaluation of MPAs to identify loopholes and recommend amendments.

The EU: queried who would assess MPA effectiveness and progress in achieving conservation objectives; and proposed that parties report regularly on implementation, with the scientific/technical body assessing reports and making recommendations under follow-up procedures to be established. Canada suggested a two-tier monitoring process, one at the ABMT level and the other addressing the entire mechanism.

IUCN suggested developing sectoral and cross-sectoral regional biodiversity strategies and action plans, building on CBD Article 6 (general measures) and UN Fish Stocks Agreement Article 5 (principles). The High Seas Alliance suggested emergency measures, drawing from the Kuala Lumpur

Supplementary Protocol on Liability and Redress and the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean.

**Summary of Discussions:** On Friday, 14 September, Informal Working Group Facilitator Revell identified a "spectrum of options" across global, hybrid, and regional proposals including:

- establishing a coherent process for ABMT establishment, implementation, and enforcement, applicable to all states to address fragmentation, envisaging participation by competent organizations;
- relying more extensively on existing processes and frameworks, with some global-level decision making aimed at cooperation and coordination;
- strengthening existing regional bodies for enhanced cooperation and coordination between these and other relevant bodies, on the basis of model cooperation agreements that could be annexed to the ILBI; and
- outlining general principles and approaches under the ILBI, without oversight from a global mechanism and with states considering to establish competent organizations where they do not exist.

She outlined options for a global body to:

- make binding decisions on establishing ABMTs, including multi-purpose MPAs, and ensure monitoring and compliance, in consultation with stakeholders and competent bodies; or
- set standards, objectives, and priority areas, providing a process for cooperation and coordination, administering a global database and reviewing implementation, with regional and sectoral bodies adopting relevant measures.

She also noted options on establishing ABMTs of a limited duration or subjecting them to regular reviews.

### *Environmental Impact Assessments*

The Informal Working Group on EIAs, facilitated by René Lefebvre (Netherlands) met on Monday and Tuesday, 10-11 September. Discussions focused on: EIA obligations; thresholds and criteria, including a possible list of activities requiring EIA and special requirements for sensitive areas; EIA process, including consultation and M&R; and strategic environmental assessments (SEAs).

**Obligation:** The African Group called for global framework setting standards and minimum requirements, considering EIAs unnecessary when an activity is covered by existing obligations. AOSIS recommended accompanying any obligations arising from EIAs with capacity-building provisions. P-SIDS emphasized facilitating coherent ocean governance and harmonizing environmental standards to ensure equitable decisions and accountability; and supported a global standard-setting body based on the best scientific information, including traditional knowledge, and appropriate proceedings in cases of non-compliance.

China encouraged parties to adopt domestic legislation establishing EIA procedures for activities in ABNJ. Norway emphasized the duty of the flag state to conduct EIAs based on UNCLOS obligations. The Holy See proposed that the ILBI make the UNCLOS due diligence obligation an applicable defense for entities under a state's jurisdiction or control, including for the purposes of assuming the cost of EIA, enforcement, and damages.

The High Seas Alliance called for: binding EIA obligations; conditions drawing from UN General Assembly resolution 61/105 on bottom fishing to assess significant adverse impacts of all activities; and requirements to manage or prevent such impacts.

**Thresholds and Criteria:** The African Group suggested adopting the threshold under the Protocol on Environmental Protection to the Antarctic Treaty that refers to minor or transitory impact. Mexico favored: establishing minimum standards; subjecting any activity with the potential to cause harm to the marine environment to an EIA; and taking into account the possible ecological connectivity between an area or activity in ABNJ and potential impacts within national jurisdiction. The Philippines highlighted sensitivity of location, magnitude of adverse effects, and scale of development, calling for review and assessment by a scientific committee.

China, with the US and others, argued that UNCLOS Article 206 provides an EIA threshold, namely the potential to cause substantial pollution or significant and harmful changes to the marine environment, and stated the ILBI could provide guidance on how to define “significant and harmful changes.” Japan emphasized that UNCLOS Article 206 provisions may be elaborated through guidelines, annexed to the ILBI. The Republic of Korea distinguished among cases requiring: no EIA, because of less than minor impact; preliminary EIAs, with no M&R requirements in cases of minor environmental impact; and a formal EIA in cases of significant impact. Switzerland supported using existing procedures and conducting one EIA per activity.

Iceland and the Russian Federation supported reference, based on UNCLOS Article 206, to “reasonable grounds to believe that planned activities may cause substantial pollution or significant and harmful changes.” The FSM supported a two-tier approach subjecting to full EIAs activities above the threshold of UNCLOS Article 206.

IUCN and the High Seas Alliance supported a minimum threshold. WWF called for: an EIA regime applicable to all activities; and a two-step threshold-testing mechanism, with a lower test similar to the Antarctic Treaty rather than a higher test similar to UNCLOS Article 206.

Several favored assessing cumulative impacts, with China arguing against a single type of EIA. Norway underscored the difficulty of assessing cumulative impacts. The US supported consideration of direct, indirect, and cumulative effects. The FSM and IUCN, opposed by the Russian Federation, favored considering cumulative impacts, including from climate change and ocean acidification. Colombia suggested establishing thresholds, taking into account the cumulative impacts of anthropogenic impacts.

China cautioned against establishing EIA rules for activities already covered by other EIA-related instruments. The US noted that EIAs conducted under other instruments may fulfill the ILBI requirements if the threshold is similar, and in the absence of thresholds under other agreements, the ILBI would fill this gap. Singapore, Canada, and New Zealand noted that, in cases of different thresholds in other processes, the ILBI threshold should apply, calling for consultations to allow for some harmonization.

**List of activities:** The G-77/China expressed openness to considering an indicative list of activities requiring EIAs, calling for flexibility and regular updates to include technological advances. Brazil did not favor including a list. The Philippines supported including a non-exhaustive list, with Mexico suggesting inclusion as part of the ILBI text or as an annex subject to review and update when needed. China favored a non-binding list, if it is to be included.

Singapore cautioned against an over- or under-inclusive list. The Republic of Korea noted that a list could be prepared at a later stage as voluntary guidelines. Canada cautioned against creating requirements for formal treaty amendments to reopen a potential list. New Zealand supported an indicative, non-

exhaustive list to be elaborated by the COP. Japan expressed openness to discuss a list as an appendix to guidelines annexed to the ILBI. Norway underscored the need for a clear and flexible list, if included. The US supported an illustrative, negative and positive, list. Australia preferred a tiered approach where activities likely to meet thresholds are initially determined.

**Sensitive areas:** The Philippines and Colombia, opposed by the US, proposed including specific provisions for EIAs in areas identified as ecologically or biologically significant or vulnerable, with IUCN calling for mandatory requirements. Singapore, with Canada, Japan, and New Zealand, stressed that the same threshold may apply to ensure uniformity, emphasizing, with Australia, that in vulnerable areas, it would be easier to cross the threshold. Norway cautioned against making different rules for EBSAs. Iceland opposed a general application of EIAs in ABNJ, supporting focusing on areas of high biodiversity, such as EBSAs and VMEs.

**EIA Process:** The G-77/China proposed including:

- screening;
- scoping;
- impact prediction and evaluation, using best available scientific information, including traditional knowledge;
- public notification and consultation;
- public availability of reports and decision-making documents;
- access to information;
- a decision-making body authorizing proposed activities; and
- M&R.

India cited the EIA process under the ISA and the Antarctic Treaty System as potential models.

AOSIS recommended allocating costs to proponents, and a technical expert review to ensure integrity and transparency. CARICOM proposed: screening decisions by an ILBI scientific and technical body; a pool of experts for conducting EIAs and relevant evaluations; and decision making by the ILBI COP on recommendation from the scientific and technical body. Jamaica highlighted relevant international jurisprudence on the international customary law nature of EIAs on shared resources, and, with Colombia, the Inter-American Court of Human Rights’ opinion on human rights and the environment, calling for contingency plans to conduct activities in the marine environment.

P-SIDS emphasized: the proponent’s responsibility to demonstrate that a proposed activity does not require an EIA, adding that the scope should include cumulative impacts, best available scientific information, and traditional knowledge; preparation and implementation of environmental management plans; due account of SIDS’ special circumstances; and minimum global decision-making standards. Fiji cautioned against being too prescriptive with respect to EIA content; and favored: empowering regional and sectoral organizations; assessing EIA reports submitted by states through a scientific panel, with final recommendations submitted to an overarching body; and adaptive management based on the precautionary approach in implementing mitigation measures.

Cautioning against establishing EIA methodologies that could impede the use of MGRs or MSR, Mexico suggested: assessing the degree of potential harm; and identifying alternatives, and measures to prevent, mitigate, and compensate impacts. The Philippines called for: making the EIA process accessible to the public; communicating potential adverse effects to adjacent coastal states; and facilitating compliance based on the M&R committee’s recommendations. China noted that sponsoring states are responsible for initiating and implementing EIAs, including making decisions, with comments from adjacent coastal states.

The EU, Canada, Australia, New Zealand, Norway, and FAO favored an activity-oriented approach, while Colombia preferred a location-oriented one and the High Seas Alliance an effects-based one to avoid forum shopping. The EU favored: placing obligations on parties to carry out EIAs and make decisions; setting out the basic content of an EIA in the ILBI; and including explicit obligations to take into account EIA outcomes when authorizing activities accompanied by mitigation measures.

Canada proposed: examining alternatives; evaluating residual effects; and sharing information, consulting, and providing scientific advice as steps towards internationalization, noting that states are responsible for conducting EIAs, with the involvement of coastal states in projects having an impact on areas under their jurisdiction. Stressing that decisions should be made by states, Norway noted that procedural steps should be included in the ILBI. Australia proposed: a global minimum threshold; and flag states' responsibility to conduct EIAs, determine the level of assessment required, and make decisions on authorizing activities. New Zealand acknowledged capacity concerns, indicating that depending on the context, EIAs could be conducted at the regional level.

The US supported:

- EIAs as a procedural mechanism, which does not prescribe any outcome;
- protection of non-public information;
- obligations on states to conduct EIAs, with the possibility to contract a third party; and
- possible consideration of impacts of activities that occur in ABNJ on adjacent coastal states.

He opposed a global decision-making or oversight body, and the inclusion of social and economic considerations.

The Russian Federation opposed internationalizing decision-making or a global EIA evaluation procedure. Japan cautioned against a central decision-making body undermining sectoral organizations' mandates; favored EIA guidelines as an annex to the ILBI; and noted that EIAs should be conducted by states, circulating the EIA plan to adjacent coastal states for consultation.

IUCN recommended subjecting all activities to EIAs and offering assistance to ensure adherence to international best practices. Oceancare called for incorporating anthropogenic underwater noise under mandatory and comprehensive EIA requirements; preferred a combination of activity- and impact-based approaches; and drew attention to the Convention on Migratory Species Family Guidelines on Environmental Impact Assessment for Marine Noise Generating Activities as best practice. The International Cable Protection Committee urged exempting submarine cable laying and repairing from EIA requirements.

**Content of EIA reports:** The G-77/China proposed including a non-technical summary and description of:

- planned activities;
- reasonable alternatives to planned activities, including non-action alternatives;
- scoping results;
- potential effects on the marine environment, including cumulative impacts and transboundary impacts;
- the environment likely to be affected;
- socio-economic impacts;
- measures for avoiding, preventing, and mitigating impacts;
- follow-up actions, including any monitoring and management programmes; and
- uncertainties and gaps in knowledge.

Chile proposed that the report should also contain the purpose of the proposed activity, time period, area of influence, and

ecosystem services provided in the area. Togo favored including worst-case-scenario considerations. China recommended that transboundary EIAs address both the location and the impact. Palau supported including activities, location, methodologies, possible environmental impacts, and environmental management plans. The US suggested including: the description of activities and reasonable alternatives; potential direct and indirect, individual and cumulative impacts; and mitigation and monitoring measures.

**Consultation:** AOSIS recommended wide consultations, including adjacent coastal states, IPLCs, and relevant regional and intergovernmental organizations. CARICOM emphasized public participation at each stage of the EIA process and publicly available information. P-SIDS requested: mandatory consultation with adjacent SIDS; information-sharing, including across frameworks; and joint EIA submissions by SIDS. Mexico proposed making EIAs public when they do not contain confidential information. IUCN highlighted customary international law requirements on consultation and meaningful participation regarding transboundary impacts, suggesting notifying all states of activities likely to pose significant adverse impacts wherever the activity occurs. The EU favored consulting adjacent coastal states and addressing their concerns, and making the EIA process transparent through a communication platform. Australia proposed an obligation, in case of possible transboundary harm, to consult with potentially affected coastal states. Mexico suggested establishing a consultation process to resolve disputes in a non-adversarial manner.

**Monitoring and review:** The G-77/China proposed establishing an M&R body. The African Group emphasized the need for compliance and liability provisions. P-SIDS described a review process, requiring alternative measures or a modified process for resubmitting a proposed activity, with the scientific body requesting independent expert panel reviews, and the decision-making body addressing non-compliance issues. CARICOM highlighted a self-reporting requirement for proponents and sponsoring states, with an evaluation body ensuring compliance and accurate reporting. Morocco underscored that when an activity in ABNJ impacts adjacent coastal states, these states should be notified for coordination purposes. Mexico supported monitoring activities and compliance during and after activities. China emphasized states' role in monitoring, reporting, and review, noting that other bodies may provide advice.

The EU favored requiring parties to monitor effects and ensure compliance with conditions of authorizations. Canada stressed that states would monitor at project level, favoring follow-up and post-monitoring measures. Norway highlighted sponsoring states' monitoring duties and the need for transparent reporting. Chile preferred that the scientific/technical body ascertain the validity of measures proposed and state parties periodically submit M&R reports to a review committee. The US encouraged states to monitor the EIA process and share monitoring-related information.

IUCN called for regular reviews. The High Seas Alliance supported: procedures for requesting the scientific committee's review of EIAs or decisions not to carry them out; provisions for M&R and regular reporting on actual and anticipated effects of activities for possible adjustment, termination, reparation, and compensation; and requirements for sponsoring states to monitor and report annually to the COP.

**Strategic Environmental Assessments:** The EU defined SEAs as the formalized, systematic process of identifying and evaluating the environmental consequences of proposed

programmes to ensure they are fully included and addressed at the earliest possible stage of decision making. She suggested setting rules and conditions for SEAs to be carried out by states individually and collectively, including via regional cooperation through *ad hoc* or existing regional or global institutions. Mexico underscored the need to clarify SEA parameters, content, and relationship to EIAs. Canada supported including SEA provisions, with their scope to be determined on the basis of nature, size, and degree of impact. Iran supported including SEAs in the ILBI.

The African Group underscored that SEAs address broad-level policies. Nigeria and Senegal underscored the importance of SEAs for ABMTs and MPAs. CARICOM supported provision for SEAs in various regions, noting that the ISA could provide guidance. China queried the kind of policies, plans, and programmes that would require SEAs.

The Russian Federation argued against including SEAs in the ILBI, doubting their viability in ABNJ and their coherence with UNCLOS and RFMO mandates. The US opposed SEAs, as UNCLOS does not require them and it is unclear who should conduct them.

IUCN highlighted opportunities linked to SEAs for:

- harmonizing best practice in environmental assessments across regions;
- enhancing cross-sectoral cooperation; and
- implementing the precautionary and ecosystem approaches, consistency, transparency, inclusiveness, and participation, as well as regular monitoring.

WWF underlined:

- links between SEAs and cheaper and more effective EIAs, guidance for ABMTs, and cost-effective CB&TT activities;
- the relevance of biogeographical classifications to identify interests and stakeholders to be included in SEA processes; and
- possible support from existing expert groups, such as the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) and the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socio-economic Aspects.

The International Council of Environmental Law argued that SEAs foster collaboration among states and engagement of the scientific community.

**Summary of Discussions:** On Friday, 14 September, Informal Working Group Facilitator Lefebvre reported on:

- convergence on an obligation to conduct an EIA for planned activities under states' jurisdiction and control that can cause pollution or result in adverse changes to the marine environment, avoiding duplication with existing EIA procedures;
- different views on an indicative, regularly updated, and non-exhaustive list of activities, and a tiered-threshold approach;
- options on establishing under the ILBI: an EIA threshold as a minimum standard; EIA requirements applying to activities carried out in accordance with rules and guidelines established by existing regional and sectoral bodies, irrespective of whether EIAs are required under those rules or guidelines; and functional equivalence of EIAs undertaken under other frameworks that meet ILBI requirements;
- options on how to consider cumulative impacts, particularly for land-based activities like climate change;
- convergence on protecting ecologically or biologically significant or vulnerable areas and an option requiring EIAs for all activities in them;
- options on modalities and degree of internationalization for decision-making, public consultation, monitoring and review, and compliance and enforcement;

- options on internationalization, with global institutional arrangements managing at least part of the decision-making and/or monitoring and review process, to ensure global coherence;
- convergence on EIA reports to indicate sources of information, the environmental record of the proponent, and an environmental management plan;
- options on considering transboundary impacts, based on activities or impacts;
- options on notification requirements for adjacent coastal states; and
- options on scope, level, and responsibility for SEAs, with some preferring to exclude SEAs from the ILBI due to complexity, cost, and length of time required for completion.

### **Capacity Building and Technology Transfer**

The Informal Working Group on CB&TT, facilitated by Olai Uludong (Palau) met from Wednesday to Friday, 5-7 September. Discussions focused on: the legal nature of CB&TT obligations; objectives and need-based and country-driven approaches; modalities; a clearinghouse; M&R; and a financial mechanism.

**Legal Nature:** The G-77/China noted that the ILBI should define general obligations to promote cooperation for CB&TT, recognizing the importance of MSR and the special cases of LLDCs, SIDS, LDCs, coastal African states, and developing middle-income states. AOSIS called for a binding mechanism, including mandatory and non-mandatory CB&TT provisions. Bangladesh, for LDCs, underscored clear mandatory and non-mandatory provisions in the ILBI; a networking mechanism; and multi-stakeholder partnerships. The FSM noted that technology transfer could include voluntary elements, but should be mandatory in nature; and proposed incorporating traditional knowledge when discussing ABMTs. Paraguay advocated focusing on the needs of LLDCs, emphasizing mandatory cooperation obligations.

The EU favored a voluntary approach, supported by the Russian Federation, and MATs. The US indicated that any benefit-sharing regime should focus on capacity building consistent with UNCLOS provisions that are already binding. The Republic of Korea emphasized that UNCLOS hortatory language on promoting capacity development supports a voluntary approach. The African Group cautioned against a voluntary approach and MATs as they promote business-as-usual scenarios, calling for adding value to UNCLOS provisions on CB&TT. The Holy See highlighted "keepwell agreements" as a middle ground between voluntary and mandatory measures, by providing "binding comfort" and clarifying the due regard obligation vis-à-vis the interests of other states.

Australia, China, Canada, and the US recommended respecting IPRs on the basis of MATs. The African Group emphasized that the ILBI should balance protection of IPRs and technology dissemination. Iran cautioned against IPRs posing an obstacle to technology dissemination.

**Objectives and Approaches:** The EU proposed: a general provision setting out CB&TT objectives under the ILBI, supported by the US and Canada; reference to developing states' special requirements; and needs-driven and responsive CB&TT. Switzerland supported demand-driven CB&TT. Canada and Australia favored a needs-based approach. Japan argued that CB&TT objectives should relate to BBNJ conservation and sustainable use. Norway underscored the link with ILBI implementation, supported by New Zealand, as well as with MGRs.

The US said CB&TT should apply to BBNJ conservation and sustainable use, not to activities covered by UNCLOS; and opposed language according preferential treatment to developing countries. Colombia, Senegal, and PNG underlined that CB&TT objectives need to be defined on the basis of the overall ILBI objectives. Emphasizing the need for sustainable funding, Ecuador proposed recognizing developing countries' special requirements and guaranteeing that all states have the ability to access MGRs.

AOSIS stressed:

- needs-based and country-driven capacity building should be applied across the ILBI, proposing a non-exhaustive list of objectives and principles with special regard to developing countries' requirements;
- reference to the SIDS Accelerated Modalities of Action (SAMOA) Pathway;
- priority for SIDS;
- support not only for implementation, but also for effective participation in activities under the ILBI; and
- preferential and simplified access for SIDS to a future financial mechanism.

P-SIDS referred to CB&TT as a means of implementing the ILBI objectives, and called for: specific provisions addressing SIDS' special needs; and CB&TT needs assessment, supported by Togo and New Zealand. Nigeria called for identifying gaps, needs, and ways to address them at the subnational, national, and regional levels. Mauritius suggested a mechanism for states to identify their own needs.

The Holy See highlighted the need for better operationalization of mutual sharing of benefits under the IOC Criteria and Guidelines on the Transfer of Marine Technology. Tonga proposed: objectives related to capacity building to implement the ILBI and to engage in MSR, and an adaptation of Article 25 of the UN Fish Stocks Agreement (forms of cooperation with developing states).

China highlighted objectives including: promoting BBNJ exploration, understanding, conservation, and sustainable use; enhancing international cooperation; and taking into account developing countries' special needs. Iran prioritized developing countries' needs and priorities, especially on ABS, favoring, with Uruguay, preferential treatment and availability of funds. The Philippines suggested an objective to cooperate directly and through international institutions, providing flexibility and legal conditions for fair and reasonable technology transfer.

**Modalities:** The EU stressed that all CB&TT measures should be related to facilities and equipment, human resources and institutional strengthening, and knowledge dissemination. Jamaica referred to the Cartagena Protocol on Biosafety where subsequent decisions were left to the governing body. Norway recommended building on existing structures, underscoring, with Canada, the potential role of the IOC and the approach of the FAO Port State Measures Agreement to mandate a working group to elaborate a flexible list that is easy to update. The Russian Federation disagreed with: limiting access to MGRs under whatever conditions, such as payment to a fund or other mandatory provisions, and references to the CBD, arguing that this Convention is only applicable to areas within national jurisdiction.

CARICOM highlighted: scientific and technical capacity building, education, training, data, and specialized knowledge; CB&TT duties, including coordination and collaboration; and preferential treatment, considering SIDS' special circumstances. China noted that the ILBI should draw on existing CB&TT provisions, including those from the IOC; and encouraged

promoting research and innovation. Fiji proposed public-private partnerships for CB&TT, using the International Convention for the Prevention of Pollution from Ships (MARPOL) as a model. Mexico called for: capacity building to access and research MGRs *in situ*, *ex situ*, and *in silico*, including addressing IPRs, which was supported by Colombia; regional training workshops; participation in fieldwork; and scholarships, similarly to those offered by the ISA. Jamaica called for taking into account lessons learned in, and building on, existing mechanisms, including the ISA. Tonga referred to the capacity to translate science into effective policies and to the example of mandatory capacity-building activities under the ISA. The Philippines envisaged: joint research projects, and national and regional centers of excellence; a long-term, sustainable and country-driven response to CB&TT; and building on existing modalities, such as the IOC and ISA.

**List of modalities:** The G-77/China supported including a list of modalities in the ILBI concerning enhancing technological capacities in MSR, infrastructure, and equipment. He cautioned against undermining or duplicating UNCLOS provisions or initiatives under the ISA, and the IOC, recommending coordinated efforts. AOSIS favored the inclusion of:

- a broad and non-exhaustive list of modalities;
- a definition of CB&TT drawing from the IOC Guidelines, UNCLOS, the Nagoya Protocol, ISA guidelines, and mechanisms under the UN Framework Convention on Climate Change;
- SIDS' full participation in EIAs and ABMTs; and
- CB&TT requirements concerning ABS from MGRs.

CARICOM supported updating the list based on evolving needs and advances in technology. The Philippines supported regularly updating the list through consultation, building on existing mechanisms. The International Council of Environmental Law proposed updating the list on advancement in science and also changes in ecosystems.

The US indicated that: if a list is included, it should contain broad categories and be non-legally binding; CB&TT related to EIAs and ABMTs should focus on information-sharing; and a capacity-building process should be responsive to needs and build upon existing efforts. The Republic of Korea expressed reservations on including an indicative list, especially if intended to infer CB&TT obligations, arguing for voluntary CB&TT. The High Seas Alliance emphasized: a strong capacity-building programme for EIAs and MPAs; SDG target 14.A on CB&TT; and a combination of learning from other agreements and innovative thinking, including new funding sources.

**Clearinghouse:** The G-77/China supported developing a clearinghouse mechanism and a capacity-building network platform to access and disseminate information. He also called for a central repository for baseline data, including online compilations of best practices and EIA reports, and requests for CB&TT on a case-by-case basis. AOSIS favored an easily accessible, central information-sharing mechanism linked to existing ones to match needs with available support. LDCs preferred a clearinghouse for visibility, needs articulation, and awareness of opportunities. The EU pointed to the IOC Guidelines, including for developing the clearinghouse.

CARICOM noted that the clearinghouse should be a one-stop-shop, linked to regional or sectoral networks of existing mechanisms, broad in scope, and managed at the global level, with, supported by the EU, the IOC having a coordinating role. CARICOM also considered a clearinghouse part of a "track and trace" mechanism on MGRs. The FSM suggested opening the clearinghouse to states and other actors, supported by Norway, and incorporating traditional knowledge. Tonga said

the clearinghouse could include an information portal, notice of upcoming *in situ* collections, and information triggering EIAs.

Mexico favored a clearinghouse for: storing, processing, and disseminating technical and scientific information, highlighting the IOC and the Nagoya Protocol; supporting transfer of software and knowhow; and serving as a one-stop-shop for technology transfer. Argentina suggested including genetic sequence data of collected resources in a clearinghouse. Brazil proposed developing a virtual platform to assess priorities and needs among states. China advocated for an open and transparent clearinghouse aimed at: integrating resources, including information from existing information-exchange platforms, such as the IOC; facilitating the sharing of data, materials, and information; and promoting cooperation and compliance among parties.

The Holy See suggested that a clearinghouse should make license opportunities and agreements accessible, categorizing the types of available licenses, as well as digital or genetic information involved, and anti-trust provisions to prevent undue influence by a single country or corporation. The High Seas Alliance noted the importance of data and information relevant to ecological characteristics to underpin a science-based approach to ABMTs.

Canada highlighted the clearinghouse as a repository of information, as well as, with Australia, a tool for matching needs and support, and facilitating cooperation. Switzerland supported a central clearinghouse. The US favored a clearinghouse or repository linked to other databases facilitating knowledge-sharing and capacity on EIAs, and exclusion of non-public information contained in EIAs due to IPRs or national security concerns. Norway called for views from recipients of capacity building on proposals concerning the IOC's role.

**Monitoring and Review:** The G-77/China proposed regular M&R of capacity-building needs and priorities by an ILBI advisory body reporting to the COP. AOSIS suggested: a global, streamlined M&R mechanism of support provided and gaps in provision for review by the ILBI COP; and voluntary reports to be publicly available. P-SIDS proposed regular reviews and updates of CB&TT, with a committee for regional coordination and review of implementation. CARICOM proposed a review conference to oversee implementation of CB&TT. The Bahamas suggested an auditing team comprised of experts from states that could make recommendations. The Philippines suggested M&R against a defined set of performance indicators, in consultation with parties at the national, regional, and global levels. Chile recommended transparent, exhaustive, simplified, and regular M&R reports. Mexico suggested discussing the nature and frequency of ILBI meetings to clarify M&R of CB&TT.

China, supported by Japan, preferred that states report to the COP, which would provide guidance. The EU suggested that a treaty organ could undertake M&R, assessing the success of CB&TT in achieving the ILBI objectives and periodically assessing needs, without follow-up procedures. Canada suggested discussing CB&TT review provisions under the ILBI's overall M&R framework. The US cautioned against imposing burdensome responsibilities such as reporting requirements, and considered discussion on M&R premature before defining CB&TT obligations. The Russian Federation questioned the need for a review mechanism for the ILBI as a whole.

**Financial Mechanism:** The G-77/China underscored the necessity for adequate, predictable, and sustainable voluntary and mandatory funding; and supported establishing a trust fund for benefit-sharing. AOSIS emphasized: the establishment of a separate capacity-building fund; ISA's Endowment Fund as a useful model; contributions from states, the private sector, and

international organizations; and, opposed by the EU, the US, the Russian Federation, and Canada, mandatory contributions as conditions for access to MGRs in ABNJ or as fees and penalties in cases of non-compliance. Fiji and Nigeria noted that voluntary funding could also be included. Mauritius highlighted that the shipping, insurance, and MGR-related industries could contribute to the fund. P-SIDS prioritized SIDS and traditional knowledge holders as beneficiaries, and called also for an operational fund and a contingency or rehabilitation fund, to finance ecological restoration of BBNJ in case of pollution or adverse impacts. CARICOM and Colombia stressed the need for a dedicated funding mechanism from a range of sources. IUCN proposed a high seas biodiversity fund to support the ILBI's implementation.

The EU suggested a voluntary trust fund from various sources, including official development assistance, the GEF, and innovative sources. He underscored the role of the ILBI in improving coherence and accessibility of existing funding mechanisms, including through a clearinghouse. Monaco cited a fiduciary trust fund for MPAs in the Mediterranean, which is recognized by the Plan of Action of the Barcelona Convention and could support capacity building under the ILBI. The US argued that paying for access to the high seas would be inconsistent with UNCLOS and would disincentivize states from joining the ILBI.

**Summary of Discussions:** On Friday, 14 September, Facilitator Uludong highlighted:

- options to incorporate multiple CB&TT-focused objectives or a single objective linked to the ILBI overarching objective;
- convergence on an indicative, non-exhaustive, and flexible list of CB&TT types and modalities that can be updated;
- disagreement on mandatory and/or voluntary CB&TT provisions;
- the requirement for needs assessment to address regional characteristics, also on a case-by-case basis;
- the opportunity to draw on UNCLOS Part XIV (technology transfer) and the IOC Guidelines;
- different options for addressing IPRs;
- the need for an adequate, predictable, and sustainable funding mechanism, with options on establishing a new one or using an existing mechanism, like the GEF;
- options on roles and modalities for M&R; and
- the need for a clearinghouse, drawing inspiration from other processes.

### ***Institutional Arrangements***

Throughout the discussions on the elements of the package, delegations exchanged views on the ILBI's institutional arrangements, focusing on a decision-making body and possible subsidiary bodies. The African Group suggested: as a minimum institutional arrangement, a COP making decisions, setting standards, and monitoring and reviewing, together with a secretariat and an advisory scientific and technical body; and, as beneficial for the ILBI, an implementation body, a clearinghouse, and a financial mechanism. Senegal added allowing for the creation of *ad hoc* bodies to tackle new issues.

P-SIDS highlighted: a global decision-making COP to follow up on implementation and progress; a scientific body, including for assessing ABMT proposals; and a possible list of independent experts or a committee/working group under the ILBI, with the FSM stressing that traditional knowledge should play a central role and complement formal science. CARICOM envisaged a COP, a secretariat, a scientific or technical advisory committee, and a repository for sharing information.

China proposed establishing a COP, a council, and a secretariat, without prejudice to existing bodies' mandates. The Philippines suggested drawing from global institutions, and being guided by transparency and efficiency. Nepal proposed assigning additional responsibility to the ISA to support CB&TT for BBNJ. LDCs considered that the ISA has demonstrated support for capacity building. Uruguay recommended an independent scientific body to analyze proposals prior to referring them to COP.

New Zealand proposed a COP providing guidelines and administering a global database, and a subsidiary scientific body. Canada called for a decision-making body, a secretariat, and a strong, scientific advisory body; and supported making use of existing mechanisms. Norway noted the need for an ILBI secretariat, with the UN Division for Ocean Affairs and the Law of the Sea serving that role.

### **Closing Plenary**

On Monday, 17 September, Chair of the Credentials Committee Carl Grainger (Ireland) introduced the Committee's report, which delegates approved. President Lee provided an overview of progress made during IGC-1, including:

- modalities for a clearinghouse and different options on funding;
- the “unpacking of the spectrum of options” for the process on ABMTs;
- practical modalities for EIAs, and the role of SEAs; and
- approaches to move forward on ABS from MGRs.

She confirmed that she would prepare a document, well in advance of IGC-2, to facilitate discussions and text-based negotiations, containing treaty language and reflecting options on the four elements of the package, taking into account all inputs during IGC-1, as well as the PrepCom's report. She lauded delegates' flexibility, commitment, and well-prepared interventions.

China stated that IGC-1 laid the foundations for future negotiations, and called for future negotiations that should strictly follow: the mandate of UN General Assembly resolution 72/249; the principle of consensus; and UNCLOS as the reference framework.

President Lee closed the meeting at 10:41 am.

## **A Brief Analysis of IGC-1**

### **IGC-1 or PrepCom-5?**

“The sea is everything...” Intergovernmental Conference (IGC) President Rena Lee quoted from Jules Verne's *Twenty Thousand Leagues Under the Sea* at the first session of negotiations for a new treaty on marine biodiversity in the high seas. The conference opened against the backdrop of increasing attention on oceans, which cover over 70% of the Earth's surface and provide immeasurable and abundant marine life. The fact that over half of the oceans lie in areas beyond national jurisdiction brings the enormity of the challenge of protecting the marine environment into sharp focus. However, public perceptions are hardening in light of disturbing images of beaches strewn with plastic waste and the devastating impacts of human activities. This could be a pivotal moment to turn the tide, as some have suggested, dubbing the beginning of the IGC process as negotiating a “Paris Agreement for the Oceans.”

In spite of IGC-1 being touted as a much needed opportunity to save life in the ocean “while we still can,” not every delegation was ready to engage in textual negotiations of an international

legally binding instrument (ILBI). To accommodate those who did not think the previous PrepCom had agreed by consensus on the elements of an ILBI, the IGC focused discussions on a “President's Aid to Discussions” document rather than a “zero draft.” While this strategy offered comfort to some, others did not think it helped delegates “switch into negotiating mode” after more than a decade of preliminary discussions on marine biodiversity in areas beyond national jurisdiction (BBNJ).

Nevertheless, delegates got down to business and most considered the exchange productive, even if it was largely based on recycled PrepCom positions. For some, this was a “necessary evil.” Since the status of the PrepCom's outcome under the IGC remains unclear, it was deemed prudent by some to articulate their positions once again in this new negotiating process. For others, it was a symbolic exercise to ensure that the major ocean players who are not convinced of the need or the value added of an ILBI remain engaged in the process. Both objectives were largely achieved. As one long-standing delegate observed, “even the most skeptical delegations participated quite constructively in this session.”

As concerns over a reprised PrepCom dissipated, a general sense of accomplishment permeated the proceedings in terms of steps taken towards negotiating an ILBI, to the point of some suggesting that even “something less than a zero draft” for IGC-2 would be acceptable. “As long as the new paper consists of treaty language, IGC-2 can push the process forward,” summed up a delegate.

Against these widely shared feelings, this brief analysis will assess substantive progress achieved in this session on the different elements of the ILBI, as well as outline expectations for IGC-2.

### **Treading Water?**

Initial discussions, particularly on capacity building and technology transfer, largely followed the PrepCom format and reiterated familiar positions. Similarly, discussions on marine genetic resources (MGRs) confirmed divergent views on a number of issues well-known to PrepCom veterans. Disagreement over whether the regime of the common heritage of humankind or high seas freedoms should apply to MGRs persisted. Those favoring high seas freedoms emphasized free access to MGRs, whereas those arguing for common heritage called for some sort of international oversight and equitable benefit-sharing.

“This is the tip of the iceberg of our dissonance. If we don't agree on this, we will find it difficult to agree on specific aspects of benefit-sharing or modalities on access,” opined a delegate.

Some delegations over the years of the BBNJ discussions have also pointed out to the possibility of a hybrid approach between these two regimes. “But those proposing a hybrid approach have not yet spelled out what this may mean,” chimed another participant. That said, for the first time the Group of 77 and China (G-77/China), the long-standing advocate of common heritage, expressed openness to applying the high seas regime to access, by requiring a notification rather than an authorization for it, with common heritage still informing benefit-sharing, as well as intra- and inter-generational equity across all elements of the ILBI. Nevertheless, another stressed: “It is not easy for me to see how the application of one of the two general principles does not pose serious limitations on the other.”

For instance, those favoring high seas freedom have repeated that monetary benefit-sharing is not going to be included in the ILBI, but have not offered anything in exchange for a potential concession by the G-77/China on common heritage. Referring to developed countries' preference for voluntary capacity building

and technology transfer, relying on current development aid and funding practices, including under the Global Environment Facility (GEF), an expert commented: “That is simply not good enough, particularly if many seem to agree that we need an approach that responds to beneficiaries’ identified needs. Such a needs-based approach hasn’t characterized the GEF operations so far, including under the Nagoya Protocol, where priority has been allocated to private-sector-driven pilot projects than to the creation of domestic ABS frameworks as vocally prioritized by developing countries.”

Significant divergence also resurfaced in relation to environmental impact assessments (EIAs). IGC-1 negotiators were not quite ready to respond to the outstanding issue of whether the ILBI will provide for an internationalized decision-making mechanism against which the standards and thresholds set under the instrument will be assessed or if the decision-making will be conducted at the national level and the ILBI would merely serve as an information-sharing mechanism.

Other unresolved issues include whether or not to integrate provisions on strategic environmental assessments (SEAs), which would, according to some, facilitate the assessment of cumulative impacts, act as a capacity-building tool, and assist in the development of area-based management tools (ABMTs). While some pointed out that SEAs are a type of EIA, as per CBD Article 14, others argued that SEAs are not supported by the UN Convention on the Law of the Sea (UNCLOS).

Another pointed to disagreements regarding the inclusion of mandatory provisions on cumulative impacts, which appear crucial to some to understanding the ability of marine ecosystems to cope with the effects of climate change and ocean acidification. “If cumulative effects are not adequately addressed under the ILBI, what are we here for?” questioned a civil society representative, pointing out that cumulative effects’ analysis has even been required under sectoral EIAs, such as those for bottom fishing under UN General Assembly resolutions, as well as biodiversity-inclusive EIAs and SEAs more broadly, as recommended under the CBD’s Voluntary Guidelines for the Consideration of Biodiversity in EIAs in Marine and Coastal Areas.

What the ILBI would require in terms of substantive provisions, in addition to procedural benchmarks for EIAs, is a question that remains to be answered, despite Facilitator René Lefebvre’s efforts to prompt delegates to focus on this issue, including in relation to areas described as ecologically or biological significant marine areas (EBSAs), and identified as vulnerable marine ecosystems (VMEs). Once again, the issues are quite clearly identified and several options have been tabled. It remains to be seen, however, if articulating options in treaty language will help IGC-2 to start identifying solutions.

### ***Looking at a Glass Half Full***

ABMTs seemed to be the ILBI element where IGC-1 delegates made the most progress, many noted, with clearer and more elaborate positions on procedural as well as substantive matters, even though a wide range of positions on key components continue to characterize the discussions. Some delegations and civil society have advocated a global approach, entailing the creation of a new global decision-making body to coordinate existing regional and sectoral institutions, and fill gaps. Others, however, have argued that regional bodies are already well placed, and have significant expertise, to create and manage ABMTs, so efforts should focus on enhancing their efforts and coordination among them. Yet others have indicated that combining the two proposals is possible through various hybrid

approaches. Eventually the ABMTs Facilitator Alice Revell pointed out that, “it may be more useful to consider the proposals as ranging along a spectrum of such options.”

There was no disagreement that all approaches will have to involve the sectoral bodies such as FAO, IMO, and the ISA, as well as regional fisheries management and regional seas bodies. But the degree of their involvement vis-à-vis a global decision-making body established under the ILBI is the crux of the matter. Those favoring a global model argued that to make a real difference and ensure global governance coherence for achieving conservation and sustainable use of BBNJ, the decision-making body of the ILBI would have to be mandated to establish, implement, and enforce ABMTs, including marine protected areas (MPAs), albeit consulting with existing competent bodies. Delegates favoring a hybrid approach instead supported a process under which existing frameworks, including regional and sectoral bodies, would share responsibilities with the global body in establishing, implementing, and enforcing ABMTs, with the global body assessing overall effectiveness.

Meanwhile, those supporting a regional approach argued that the ILBI could strengthen the effectiveness of existing bodies by creating mechanisms for collaboration between and among regional and sectoral bodies, limiting the ILBI to setting standards and principles for regional and sectoral bodies’ consideration. The proponents of a global approach, however, did not consider new global principles sufficient to ensure that ecologically representative MPA networks would be established and effectively implemented in all ocean basins. They pointed to shortcomings of the UN Fish Stocks Agreement model, which has been useful in strengthening regional fisheries management organizations’ (RFMOs) effectiveness, but is not robust enough in its implementation review process to ensure full operationalization of its standards, principles, and obligations.

The role of regional seas organizations (RSOs) was more prominently discussed during and in the margins of the IGC, with a few delegates calling for coordination at the regional level by these organizations, as well as the ILBI’s recognition of ABMTs established under RSOs. “Even if a UN Environment Assembly resolution encouraged the expansion of mandates of the RSOs, there is no guarantee that these structures have the necessary capacities to play such a key role in ocean management right away,” exclaimed a veteran. Another related area of concern was rumored to be the position of states that are not party to RSOs.

In addition to procedural options, other original proposals emerged with regard to the substance of ABMTs. One was the call for interim measures provisions under the ILBI to ensure that areas in need of protection would not become more degraded while waiting for an MPA to be established. This is considered to be in line with the precautionary principle and growing RFMO practice with respect to the protection of VMEs and new fishing areas. Another new input addressed the question of temporary MPAs, which were proposed in the PrepCom. The Federated States of Micronesia suggested temporary ABMTs only to rebuild specific species or ecosystem components, while long-term conservation objectives would require a permanent ABMT as an “insurance policy” to secure ecosystem services and resilience, especially in light of climate change, subject to periodic review. “These two approaches are not mutually exclusive and can contribute to developing a system of well-coordinated measures through marine spatial planning,” another negotiator noted.

### ***Zero or Sub-zero Draft?***

The positive atmosphere during the close of IGC-1 clearly indicated that most delegations, including civil society, have

faith in President Lee's ability to prepare a document that will form the basis for textual negotiations on well-known and better-understood options. "The key will be moving away from a conceptual approach to a textual base that will allow us to explore constructively the space for compromise," considered a participant.

Many observers also pondered the considerable amount of homework to be done to start finding middle-ground among options based on common heritage/high seas and global/regional approaches. As a delegate predicted: "We may also benefit from the work on other effective area-based conservation measures under the Convention on Biological Diversity that could shed light on ABMTs other than MPAs." Others pointed to the next phase of negotiations to reform the multilateral benefit-sharing system under the International Treaty on Plant Genetic Resources for Food and Agriculture as helpful to consider upfront payments and other ways to make monetary benefit-sharing work, or understand why it doesn't work. "We need to learn from anywhere we can to address the difficult questions raised by BBNJ," concluded an observer, "and protect, in Jules Verne's words, 'the vast reservoir of Nature' that is the ocean."

## Upcoming Meetings

**Eighth Meeting of the ITPGRFA Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System of ABS (OWG-EFMLS-8):** This Working Group of the International Treaty on Plant Genetic Resources for Food and Agriculture is tasked to develop a proposal for a growth plan to attain the enhanced Multilateral System and revise the text of the Standard Material Transfer Agreement. **dates:** 10-12 October 2018 **location:** Rome, Italy **contact:** ITPGRFA Secretariat **email:** pgrfa-treaty@fao.org **www:** <http://www.fao.org/plant-treaty/meetings/meetings-detail/en/c/1099126/>

**International Symposium on the Conservation and Sustainable Use of BBNJ:** This symposium aims to facilitate in-depth discussions amongst scientists, academics and experts on MGRs, sharing of benefits, ABMTs, EIAs, capacity building, and technology transfer. The meeting is co-organized by the Third Institute of Oceanography and the China Institute for Marine Affairs, and sponsored by the Ministry of Natural Resources and the Ministry of Foreign Affairs, China. **dates:** 16-17 October 2018 **location:** Xiamen, China **phone:** Secretariat +86-18959203906 or +86-18850586688 **email:** liweiwen@tio.org.cn or luoyang@tio.org.cn

**2nd Arctic Biodiversity Congress:** The Conservation of Arctic Flora and Fauna (CAFF), the biodiversity Working Group of the Arctic Council, and the Ministry of the Environment, Finland, will host the 2nd Arctic Biodiversity Congress. This Congress will build on the success of the first Congress, held in Trondheim, Norway, in 2014, and will discuss ways to promote the conservation and sustainable use of Arctic biodiversity. **dates:** 9-11 October 2018 **location:** Rovaniemi, Finland **contact:** Arctic Council Secretariat **phone:** + 47-77-75-01-40 **email:** aces@arctic-council.org **www:** <https://www.arctic-council.org/>

**2018 Arctic Circle Assembly:** The Arctic Circle Assembly is the largest annual international gathering on the Arctic and is attended by heads of state and government, ministers, members of parliaments, officials, experts, scientists, entrepreneurs, business leaders, indigenous representatives, environmentalists, students, activists, and others interested in the future of the Arctic. **dates:** 19-21 October 2018 **location:** Reykjavik, Iceland **contact:** Arctic Circle Secretariat **email:** secretariat@arcticcircle.org **www:** <http://www.arcticcircle.org>

**73rd Session of the Marine Environment Protection Committee of the International Maritime Organization (MEPC 73):** At its last session, the MEPC agreed to include a new output to address the issue of marine plastic litter from shipping in the context of SDG 14 (Life below Water). Member states and international organizations were invited to submit concrete proposals to MEPC 73 on the development of an action plan. **dates:** 22-26 October 2018 **location:** London, United Kingdom **contact:** IMO Secretariat **phone:** +44-20-77357611 **email:** info@imo.org **www:** <http://www.imo.org/en/MediaCentre/MeetingSummaries/MEPC/Pages/Default.aspx>

**Our Ocean Conference 2018:** The fifth Our Ocean Conference will focus on the theme, "Our Ocean, Our Legacy," with participants reflecting on choices and actions to maintain the sustainability of ocean resources and to preserve ocean health, as a heritage presented for our children and grandchildren. **dates:** 29-30 October 2018 **location:** Bali, Indonesia **contact:** Ministry of Marine Affairs and Fisheries Republic of Indonesia **phone:** +62-21-3519070 ext 7156 **fax:** +62-21-3864293 **email:** ourocean2018@kkp.go.id **www:** <http://ourocean2018.org/>

**Fourth Intergovernmental Review Meeting on the Implementation of the GPA:** The UNEP Global Programme of Action (UNEP/GPA) aims to prevent the degradation of the marine environment from land-based activities by facilitating the realization of the duty of states to preserve and protect the marine environment. The Fourth Intergovernmental Review Meeting on the Implementation of the GPA allows governments and other stakeholders to review the status of the implementation of the GPA and decide on action to be taken to strengthen its implementation. **dates:** 31 October – 1 November 2018 **location:** Bali, Indonesia **contact:** UNEP GPA Coordination Office **email:** gpa@unep.org **www:** <http://www.unep.org/nairobiconvention/unep-global-programme-action-unepgpa>

**African Biodiversity Summit:** Egypt, in collaboration with the CBD Secretariat, the African Union, the African Ministerial Conference on the Environment, and other partners, will convene an African Biodiversity Summit prior to the UN Biodiversity Conference. **date:** 13 November 2018 **location:** Sharm el-Sheikh, Egypt **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <https://www.cbd.int/meetings/>

**2018 UN Biodiversity Conference:** The 14th meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD), the 9th Meeting of the Parties to the Cartagena Protocol on Biosafety and the 3rd Meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing (CBD COP 14, Cartagena Protocol COP/MOP 9, and Nagoya Protocol COP/MOP 3) are expected to address a series of issues related to implementation of the Convention and its Protocols, including on marine biodiversity and digital sequence information. A High-level Segment will be held from 14-15 November. **dates:** 17-29 November 2018 **location:** Sharm el-Sheikh, Egypt **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <https://www.cbd.int/conferences/2018>

**Asia-Pacific Day for the Ocean:** The UN Economic and Social Commission for Asia and the Pacific (ESCAP), in cooperation with the custodian agencies of the Communities of Ocean Action and the UN Secretary-General's Special Envoy for the Ocean, will host this event to bring together member states, UN agencies, civil society, businesses, and other ocean stakeholders to follow up on voluntary commitments for implementation of SDG 14, build partnerships, and engage in concerted regional action for a healthy ocean. **date:** 20

November 2018 **location:** Bangkok, Thailand **contact:** ESCAP Environment and Development Division **phone:** +66 2 288 1234 **email:** [escap-edd@un.org](mailto:escap-edd@un.org) **www:** <https://www.unescap.org/events/asia-pacific-day-ocean>

**Sustainable Blue Economy Conference:** The first global conference on the blue economy will be hosted by Kenya and Canada. Participants from around the world will share ideas on how to transition to a blue economy that harnesses the potential of the ocean, seas, lakes, and rivers to improve the lives of all, particularly developing states and women and girls; and leverages the latest innovations, scientific advances, and best practices to build prosperity, while conserving waters for future generations. **dates:** 26-28 November 2018 **location:** Nairobi, Kenya **contact:** Kenya Ministry of Foreign Affairs **phone:** +254-20-3318888 **email:** [blueeconomykenya@mfa.go.ke](mailto:blueeconomykenya@mfa.go.ke) **www:** <http://www.blueeconomyconference.go.ke>

**International Expert Workshop on a Benefit-sharing Mechanism appropriate for the common heritage of humankind:** This international workshop will discuss benefit-sharing and the proposed financial payment mechanism under the International Seabed Authority in light of the implementation of the common heritage of humankind and taking into account a wider view of deep-sea economics. This workshop will be hosted by the German Environment Agency and the Institute for Advanced Sustainability Studies. **dates:** 26-29 November 2018 **location:** Potsdam, Germany **contact:** Institute for Advanced Sustainability Studies **phone:** +49-331-28822-419 **email:** [sabine.christiansen@iass-potsdam.de](mailto:sabine.christiansen@iass-potsdam.de) or [torsten.thiele@iass-potsdam.de](mailto:torsten.thiele@iass-potsdam.de) **www:** <https://www.iass-potsdam.de/en/events>

**55th Meeting of the GEF Council:** The Council is the GEF's main governing body that meets twice annually to develop, adopt, and evaluate the operational policies and programmes for GEF-financed activities. It also reviews and approves the work programme (projects submitted for approval). **dates:** 17-20 December 2018 **location:** Washington D.C., US **contact:** GEF Secretariat **email:** <https://www.thegef.org/contact> **www:** <http://www.thegef.org/council-meetings/gef-55th-council-meeting>

**25th Session of the ISA Council (Part I):** The International Seabed Authority Council will continue discussions on, *inter alia*, the payment mechanism and the draft exploitation regulations. **dates:** 25 February - 1 March 2019 **location:** Kingston, Jamaica **contact:** ISA Secretariat **phone:** +1-876-922-9105 **fax:** +1-876-922-0195 **email:** <https://www.isa.org.jm/contact-us> **www:** <https://www.isa.org.jm/>

**IGC-2:** The second session of the IGC on an international legally binding instrument on the conservation and sustainable use of BBNJ will continue work on the elements of a draft text of an ILBI. **dates:** 25 March - 5 April 2019 **location:** UN Headquarters, New York **contact:** UN Division for Ocean Affairs and the Law of the Sea **phone:** +1-212-963-3962 **email:** [doalos@un.org](mailto:doalos@un.org) **www:** <https://www.un.org/bbnj/>

For additional upcoming events, see <http://sdg.iisd.org>

## Glossary

ABMTs	Area-based management tools
ABNJ	Areas beyond national jurisdiction
ABS	Access and benefit-sharing
AOSIS	Alliance of Small Island States
Area	Sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction
BBNJ	Biodiversity in areas beyond national jurisdiction
CARICOM	Caribbean Community
CB&TT	Capacity building and marine technology transfer
CBD	Convention on Biological Diversity
COP	Conference of the Parties
EBSAs	Ecologically or biologically significant marine areas
EIA	Environmental impact assessment
FSM	Federated States of Micronesia
GEF	Global Environment Facility
IGC	Intergovernmental Conference
ILBI	International legally binding instrument
IOC	Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (UNESCO)
IPLCs	Indigenous peoples and local communities
IPRs	Intellectual property rights
ISA	International Seabed Authority
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
IUCN	International Union for Conservation of Nature
LDCs	Least developed countries
LLDCs	Landlocked developing countries
MATs	Mutually agreed terms
M&R	Monitoring and review
MGRs	Marine genetic resources
MPAs	Marine protected areas
MSP	Marine spatial planning
MSR	Marine scientific research
PNG	Papua New Guinea
PrepCom	Preparatory Committee
P-SIDS	Pacific small island developing states
RFMO	Regional Fisheries Management Organization
SDGs	Sustainable Development Goals
SEAs	Strategic environmental assessments
SIDS	Small island developing states
TRIPS	Trade-related Aspects of Intellectual Property Rights
UNCLOS	UN Convention on the Law of the Sea
VMEs	Vulnerable marine ecosystems
WIPO	World Intellectual Property Organization
WTO	World Trade Organization