

Summary of the Second 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: 25 March - 5 April 2019

Delegates convened for the second session of the Intergovernmental Conference (IGC) 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 at UN Headquarters in New York from 25 March to 5 April 2019. Participants deliberated on the basis of the IGC President's Aid to Negotiations, which contained options structured along the lines of the elements of a package agreed in 2011 on:

- marine genetic resources;
- area-based management tools including marine protected areas;
- environmental impact assessments (EIAs); and
- capacity building and marine technology transfer.

In their discussions on the President's Aid, delegates continued to elaborate their positions on issues previously identified as areas of divergence, achieving convergence on a few areas, such as:

- the need to promote coherence, complementarity, and synergies with other frameworks and bodies;
- benefit-sharing as part of conservation and sustainable use; and
- EIAs being mutually supportive with other instruments.

However, delegates were unable to bridge the gaps on major issues including:

- the scope of the instrument;
- whether benefit-sharing would be carried on a monetary or non-monetary basis; and
- the overarching principles governing the future international legally binding instrument, in particular the common heritage of humankind and the freedom of the high seas.

On the way forward, several called on IGC President Rena Lee (Singapore) to prepare and circulate a "no-options" document containing treaty text. Many also stressed that it was time to revise the meeting format, calling for a more informal set-up to facilitate in-depth negotiations. IGC President Lee noted her intention to provide a concise document, containing treaty language in advance of IGC-3, and said that the format of the meeting would be communicated in advance to facilitate delegations' preparations.

A Brief History of the IGC on BBNJ

The conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction (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.

The UN Convention on the Law of the 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

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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 December 2017, decided to convene an IGC to elaborate the text of an international legally binding instrument (ILBI) under UNCLOS on the conservation and sustainable use of BBNJ, with a view to developing the instrument as soon as possible. The IGC was mandated to meet for four sessions beginning in September 2018, with the last session programmed for 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, marine genetic resources (MGRs), marine scientific research (MSR) on marine biodiversity, marine protected areas (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 area-based management tools (ABMTs), including MPAs; and capacity building and marine technology transfer (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 urgently address, 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 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, that does not contain treaty text, and that would not constitute the zero draft.

IGC-1: At the first meeting of the IGC, held from 4-17 September 2018, delegates made some progress in clarifying positions on the package elements and tabling more detailed options for a process on ABMTs. President Lee suggested preparing a document that would 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.

IGC-2 Report

IGC President Rena Lee (Singapore) opened the session, inviting participants to observe a moment of silence to mark the passing of Amb. Virachai Plasai, Permanent Representative of Thailand to the UN, and other recent tragedies. Lee urged delegates to build on the “excellent” start at IGC-1.

Miguel de Serpa Soares, Secretary-General of the IGC, Under-Secretary-General for Legal Affairs, and UN Legal Counsel, drew attention to relevant developments in different fora, including the:

- work on Ecologically or Biologically Significant Marine Areas (EBSAs) under the CBD;
- the forthcoming global assessment on biodiversity and ecosystem services by the Intergovernmental Panel on Biodiversity and Ecosystem Services (IPBES); and
- forthcoming report on the Ocean and Cryosphere in a Changing Climate from the Intergovernmental Panel on Climate Change (IPCC).

Administrative Matters: Delegates approved the provisional agenda (A/CONF.232/2019/L.1) and the programme of work (A/CONF.232/2019/L.2). President Lee informed delegates that package elements would be discussed in informal working groups:

- 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).

These groups met from Monday, 25 March, to Friday, 5 April, with facilitators reporting to plenary on Friday, 5 April.

On Monday, 25 March, delegates offered general statements. A summary of the general statements can be found at <http://enb.iisd.org/vol25/enb25186e.html>

Credentials: On Friday, 5 April, Chair of the Credentials Committee Carl Grainger (Ireland) introduced the Committee's report (A/CONF.232/2019/4). The European Union (EU), supported by Japan, called for free and fair elections in Venezuela, expressing their support for Juan Guaidó as interim president. Venezuela, supported by Cuba, Iran, Syria, and the Russian Federation, opposed external interference in the internal affairs of a sovereign state. Iran said that there was no legal basis to challenge Venezuela's credentials. The Russian Federation, Cuba, Syria, and Iran opposed the politicization of the BBNJ process. China said the IGC was not the right forum to discuss this issue.

Peru indicated that the adoption of the credentials report at this meeting should not be interpreted as support for the political situation in Venezuela. Delegates then adopted the report of the Credentials Committee.

Marine Genetic Resources

The Informal Working Group on MGRs, facilitated by Janine Coye-Felson (Belize), met from Monday to Wednesday, 25-27 March 2019. During deliberations on the President's Aid to Negotiations (A/CONF.232/2019/1), delegates focused on, *inter alia*:

- the scope, with discussions addressing the geographical, material, and temporal aspects;
- access and benefit sharing (ABS), including whether access would be conditional on benefit-sharing, questions on objectives, principles and approaches, benefits, clearinghouse mechanism, and modalities;
- intellectual property rights (IPRs); and
- monitoring of the utilization of MGRs.

Scope: On **geographical scope**, Switzerland, Canada, Iceland, and Japan called for a general ILBI provision on geographical scope. Singapore suggested that consultations with interested states in cases where MGRs of ABNJ are also found in areas within national jurisdiction should include a trigger related to the anticipated level of impact of the activity to the marine environment. Chile, with Indonesia and Papua New Guinea (PNG), supported consultation with coastal states that have made a submission to the Commission on the Limits of the Continental Shelf.

Tonga highlighted the need to protect the rights of coastal states, noting that interaction between those states, the instrument's institutions, and those conducting activities in ABNJ would clarify how consent from the coastal state could be obtained. The US said that the reference to coastal states is problematic and underlined that a system of prior consent is not acceptable, calling for further clarity on the meaning of "consultations."

Thailand, Iran, the Federated States of Micronesia (FSM), and Eritrea stated that the instrument should apply to high seas and the Area (seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction). Australia, Colombia, and Norway supported the instrument's application to MGRs in ABNJ. Indonesia and Mauritius called for clarifying the legal status of MGRs in the water column. PNG emphasized that the notion of compatibility between ABNJ measures and those adopted in areas within national jurisdiction needs "clear, detailed, and

precise drafting." FSM, with Mauritius and Seychelles, noted the instrument should not include the continental shelf.

On **material scope**, India, Colombia, Indonesia, and PNG stressed that the instrument should apply to digital sequence information as well as to MGRs collected *in situ*, accessed *ex situ*, and *in silico*, including derivatives. Argentina proposed referring to "genetic information" rather than "digital sequence information." The African Group maintained that *in silico* is sufficiently covered by genetic sequence data. Japan preferred excluding digital sequence information and, with China, derivatives. The Deep Ocean Stewardship Initiative proposed working with scientists to clarify key terms, such as *in silico*.

Fish: China, Japan, Canada, Iceland, the US, and Chile did not support including fish or other biological resources as commodities. Eritrea underscored the need to include fish or other biological resources as commodities, with Seychelles; and called for a safeguarding mechanism to ensure responsible extraction under MSR. The Holy See proposed two general provisions: a general stipulation of all activities not regulated by the ILBI; and a stipulation for MSR.

Canada and Iceland preferred that MGRs refer to those collected *in situ*. The High Seas Alliance called for the broader scope discussion to be addressed in one provision to prevent fragmentation, noting that this should include issues related to the interaction with regional fisheries management organizations (RFMOs).

On the **temporal scope**, Chile, Canada, Iceland, and the US supported the instrument applying to MGRs collected after entry into force. Argentina expressed concern that the proposed text did not cover MGRs collected before entry into force. Switzerland stressed that the ILBI guard against retroactive action.

ABS: On **access**, the Caribbean Community (CARICOM) preferred a *sui generis* approach to ABS, and a non-intrusive track and trace regime. Pacific Small Island Developing States (P-SIDS) supported the same approach, but proposed including the "fair and equitable" sharing of benefits. The Republic of Korea preferred not to include text on access in this section.

The Like-Minded Latin American Countries noted that provisions on access should apply to all activities, requesting clarification on the prerequisite conditions to promote and encourage MSR, particularly in cases of change of intent. The EU also asked for clarification on the access mechanism associated with traditional knowledge. P-SIDS recommended that language on indigenous peoples and local communities (IPLCs) is consistent across the ILBI; and called for more stringent access mechanisms for monetary benefit-sharing from permit and licensing schemes. Singapore queried how to operationalize language on traditional knowledge, including questions on which IPLCs should be approached to obtain prior informed consent or approval. Tonga suggested drawing inspiration from the International Seabed Authority (ISA). Turkey supported provisions applying to all activities related to MGRs of ABNJ, adding that access *in situ* should require a permit.

China did not support notification requirements, or free and open *ex situ* access. New Zealand questioned how the access notification system would operate.

Japan stressed that access to MGRs in ABNJ should not be restricted. He further emphasized that EIAs should not be required for small samples as the relevant thresholds of UNCLOS Article 206 (assessment of potential effects of activities) would not be met. Responding to this, P-SIDS emphasized important

informational and functional content of small samples. Australia questioned whether access requires a separate provision, favoring governance by UNCLOS.

The Holy See recommended that the instrument focus on exploitation of MGRs rather than exploration; that there are additional requirements for vulnerable marine ecosystems; and that MSR be defined to distinguish scientific use from commercial intentions.

PNG highlighted the importance of traceability and disclosure of origin, regardless of the medium of access. He further emphasized that patent applications based on information from databases and not dependent on physical access should also be subject to traceability and benefit-sharing requirements.

Iceland cautioned against impeding access to MGRs and hampering MSR, maintaining that UNCLOS provides for free access. He noted that any notification mechanism should not be a condition for access. Cuba suggested facilitating MSR in an organized manner.

The International Council of Environmental Law (ICEL) pointed to the opportunity for market-based solutions and certifications to incentivize companies.

In their discussions on **benefit-sharing**, delegates considered objectives, benefits, and modalities, including a related clearinghouse. On **objectives**, Singapore, supported by Viet Nam, Indonesia, Eritrea, and several others, preferred either a statement of objectives, or an overall provision for objectives covering the entire ILBI. Norway said that whether or not a specific section on objectives regarding MGRs is required should be decided at a later stage.

The Alliance for Small Island States (AOSIS) highlighted the need to consider the special case of small island developing states (SIDS), with Nepal adding landlocked developing countries (LLDCs). The Like-Minded Latin American Countries preferred a general section including common heritage of humankind. Japan recalled that UNCLOS Article 133 excludes living resources and refers to “all solid, liquid, or gaseous mineral resources *in situ* in the Area”; and Article 166 contains provisions on transfer of marine technology that the new instrument should reflect. PNG, supported by FSM, proposed “fair” and equitable benefit sharing to align with the Nagoya Protocol. P-SIDS noted that benefits should be tied to, or be a precondition for access. Cuba called for clarifying the term “sustainable use.”

On the **benefits** to be shared, the African Group, CARICOM, P-SIDS, LLDCs, and the Like-Minded Latin American Countries preferred both monetary and non-monetary benefits, while the US, the Republic of Korea, Japan, the Russian Federation, and Switzerland supported only sharing non-monetary benefits.

CARICOM, the African Group, and the Like-Minded Latin American Countries supported the development of a non-exhaustive list of benefits, as opposed to a list of benefits to be reviewed and further developed at a later stage.

On benefit-sharing **modalities**, the African Group, LLDCs, CARICOM, and AOSIS favored benefit-sharing arising from the utilization of MGRs in ABNJ in accordance with modalities adopted by the body, with P-SIDS proposing that both parties and project proponents be required to share benefits. The Russian Federation, Japan, the Republic of Korea, and the US favored voluntary benefit-sharing.

The EU focused on operationalizing sharing of information, scientific data, and knowledge as well as strengthening scientific research capabilities on MGRs. He clustered relevant activities

around: pre-research information; post-cruise notification; and databases, including genetic sequence data. He stressed that, following the relevant research efforts, states parties should:

- make available, in public repositories or databases, environmental metadata, taxonomic information, and genetic sequence data;
- facilitate access to MGRs collected according to the provisions of the new instrument and held under their jurisdiction; and
- facilitate access to databases under their jurisdiction that contain relevant data.

On the **beneficiaries**, P-SIDS preferred including developing states parties as well as non-governmental entities, such as academic or research institutions or coastal communities. The Like-Minded Latin American Countries preferred that only states parties receive benefits, with special consideration to developing countries.

Intellectual Property Rights: The Group of 77 and China (G-77/China), the African Group, Turkey, Cuba, and others supported including IPRs in this section.

China and Singapore supported addressing IPRs under existing mechanisms, such as the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO). The EU, Canada, the US, Switzerland, Norway, the Holy See, Japan, the Republic of Korea, the Russian Federation, and Australia did not support the ILBI addressing this issue. The African Group lamented the lack of an appropriate forum for discussing the monetary aspects of benefit-sharing, given that the relationship between BBNJ, WIPO, and the WTO is unclear in terms of an IPR mechanism.

CARICOM and P-SIDS supported a *sui generis* system. FSM suggested including a provision to prevent parties from undermining the traceability and benefit-sharing of MGRs. Fiji proposed that the disclosure of origin of MGRs be considered.

Monitoring of MGR Utilization: CARICOM noted that no single institution can address issues related to monitoring, noting the need for cooperation between relevant existing bodies. The G-77/China, the African Group, and the Like-Minded Latin American Countries supported outlining monitoring measures. P-SIDS noted that disclosure of origin for patent applications should be required, emphasizing the need for stringent traceability mechanisms. Tonga recommended an institutional mechanism to determine “appropriate policy measures, conduct, and guidelines” for the use of benefits in ABNJ.

Canada and China expressed concerns that the current language would create burdensome institutions. The EU, along with the Russian Federation, Australia, and the Republic of Korea, preferred no discussions on this.

Summary of Discussions: On Friday, 5 April, Informal Working Group Facilitator Coye-Felson reported some convergence on benefit-sharing as part of conservation and sustainable use; the purpose of benefits; and the need for a general provision on cooperation. She also highlighted the need for further discussions on, *inter alia*:

- access *in situ*, *ex situ*, *in silico*, and digital sequencing information for MGRs, and derivatives,
- whether and/how to regulate access vis-à-vis promoting MSR;
- options related to monetary or non-monetary benefit-sharing as well as the voluntary or mandatory nature of benefit-sharing, as well as who shares the benefits and with whom;
- IPRs, including options relating to the creation of a *sui generis* system, consistency with WIPO and the WTO, or whether the ILBI should address it at all;

- options on if and how to monitor MGR utilization; and
- aspects of the geographical and material scope, including addressing MGRs in the high seas and the Area, in ABNJ, or only MGRs of the Area.

Area-based Management Tools

The Informal Working Group on ABMTs, facilitated by Alice Revell (New Zealand,) met from Wednesday to Friday, 27-29 March 2019. During deliberations on the President's Aid to Negotiations, delegates focused on, *inter alia*:

- objectives of ABMTs;
- questions of relationship with other instruments, including the promotion of coherence and complementarity, the respect for the rights of coastal states, and the relationship between measures;
- questions of process, including identification of areas, decision-making, and the designation process;
- implementation; and
- monitoring and review.

Objectives: Many supported a non-exhaustive list of objectives, with New Zealand and Canada calling to streamline the list. The Like-Minded Latin American Countries called for the establishment of a comprehensive system of ABMTs. The EU, CARICOM, Vanuatu, and Monaco supported establishing a connected network of MPAs, while the US queried the meaning of “equitably managed” areas. Singapore, China, and Bangladesh emphasized that regulations should not impede the duties of states parties under existing instruments.

CARICOM and Norway called for outcome-oriented objectives. The EU underscored the precautionary principle and ecosystem approach and said that enhancing cooperation and coordination is a tool to deliver objectives. P-SIDS proposed including the protection of cultural values.

Relationship with Other Instruments: On the *promotion of coherence and complementarity*, the G-77/China and the African Group preferred an option on coherence and complementarity of ABMT measures and asserted that MPA-only options would be problematic, called for enhancing cooperation and coordination on ABMTs, and sought clarification on the meaning of compatibility.

CARICOM supported the promotion of coherence and complementarity where no competent global, regional, or sectoral bodies exist, while supporting complementarity with measures designated under existing instruments.

The Like-Minded Latin American Countries, supported by New Zealand, Canada, Singapore, and the Philippines, favored a global overarching framework for the recognition and establishment of ABMTs to complement measures designated under existing regional and sectoral bodies. He further explained that the BBNJ instrument should not evaluate ABMTs by regional and sectoral bodies, but rather ensure their compatibility with other instruments. The US suggested encouraging coherence and complementarity between measures identified under the ILBI and measures from regional and sectoral bodies. The EU, with New Zealand, highlighted the need for mainstreaming; providing a platform for cooperation, communication, and collaboration; and establishing general standards or guidelines.

Cuba called for incorporating the concept of synergies. China stressed that the new instrument should neither establish a hierarchical structure nor function as an evaluation body. Norway suggested promoting coherence through the application of measures developed within existing relevant legal instruments

and frameworks. Japan, with the Russian Federation, suggested that parties work “through consultation, cooperation, and sharing knowledge and experience.”

Australia, with Japan and the Republic of Korea, favored a representative network of MPAs that does not undermine existing instruments.

Monaco supported the idea of a global overarching framework that supplements existing frameworks. Supported by the High Seas Alliance, Monaco outlined a process of:

- ABMTs' establishment by the internationally legally binding instrument (ILBI);
- acknowledgement of ABMTs already set up by existing global, regional, and sectoral bodies; and
- a combination of the two to create a global ABMTs network.

Australia, with the Russian Federation, did not support the formal notion of “recognition” in the text.

ICEL highlighted different processes for ABMTs establishment: global MPAs, regional MPAs, sectoral ABMTs, and other ABMTs.

On *enhanced cooperation*, the Like-Minded Latin American Countries and Monaco stressed that cooperation and coordination should be enhanced through a consultation process. New Zealand and the Philippines supported a coordination mechanism. Canada, with Singapore, favored enhancing cooperation and coordination between relevant legal frameworks and bodies. Samoa called for a coordination mechanism and a consultation process, including at the regional level.

P-SIDS preferred not to establish a scientific working group. The US did not support the establishment of a formal coordination mechanism between different independent bodies.

Japan and the Russian Federation stated that the ILBI should not undermine existing instruments. China emphasized that the new instrument should not pre-empt the mechanism for cooperation and coordination. Norway suggested establishing a structure to ensure coordination. Iceland favored coordination mechanisms established at the regional level, pointing to the role of regional seas organizations.

On *respect for the rights of coastal states*, the EU noted that the ILBI should be without prejudice to the rights and duties of states under UNCLOS and respect the rights of coastal states, even in cases where an exclusive economic zone (EEZ) has not been established. The Philippines and India called for the ILBI not to prejudice the rights, jurisdiction, freedoms, and duties of states under the Convention, including those of coastal states.

China added that when jurisdiction is unclear, ABMTs should not be applied. Japan proposed that an ABMT should be amendable if it impedes the rights of coastal states. The Russian Federation called for consulting coastal states when MPAs affect economic activities.

The Like-Minded Latin American Countries, New Zealand, and Turkey noted that general language on the sovereign rights of coastal states should be reflected under general principles. Australia and Iceland suggested that language be contained in a general provision.

On the *relationship between other measures*, the EU and Palau called for reflecting that states parties should cooperate to promote compatibility of ABMT measures. Canada stressed that language around “compatibility” in the ILBI should align with the UN Fish Stocks Agreement (UNFSA). The US stressed that the notion of “established measures” pre-supposes a model for ABMTs and MPAs, suggesting more general language and requesting further clarifying the notion of adjacency. China

noted that focusing on compatibility is not essential, suggesting that, when establishing ABMTs, all relevant countries, not only coastal states, should be consulted. Australia and Japan expressed reservations about “compatibility.” Norway and the High Seas Alliance stressed that measures adopted in ABNJ should not undermine measures taken in areas under national jurisdiction. PNG recommended a provision for prior notification of adjacent coastal states in order to ensure inclusive consultations.

P-SIDS and the Like-Minded Latin American Countries preferred consultations with adjacent coastal states, with P-SIDS also including IPLCs with relevant traditional knowledge.

India called for due regard to the rights and legitimate interests of coastal states.

Process: Paraguay, speaking on behalf of Armenia, Rwanda, Burkina Faso, and Eswatini, stressed the special needs and circumstances of LLDCs. Noting that ABMTs are broader than MPAs, Australia recommended that the ILBI set out a process for coherence between MPAs, ABMTs, and other pre-existing frameworks.

On the *identification of areas*, the G-77/China, CARICOM, Sri Lanka, the African Group, Singapore, and the Like-Minded Latin American Countries supported:

- a non-exhaustive list of standards and criteria for the identification of areas in the ILBI, with the High Seas Alliance;
- identifying areas in proposals submitted in accordance with the ILBI; and
- deciding on area identification at the ILBI’s decision-making body.

India proposed regularly revising the list. China called for flexibility, noting that standards and criteria would be subject to further development.

The EU, China, the Russian Federation, and FSM supported developing a list of standards and criteria under the ILBI and, with Cameroon and Norway, merging some of the current criteria.

The Russian Federation, with Australia, Singapore, and Japan, disagreed with the criteria on the adverse impacts of climate change and ocean acidification, and cumulative and transboundary impacts.

CARICOM, FSM, Norway, Bangladesh, the High Seas Alliance, and Canada, opposed by Australia, suggested including “economic and social factors” in the list of standards and criteria. Switzerland and the EU said this language should not be reflected at the identification level. The African Group requested clarification on this criterion.

The EU, FSM, Cameroon, New Zealand, and the High Seas Alliance favored reference to traditional knowledge as an additional source of information. The Republic of Korea, Togo, and the Russian Federation queried the role of traditional knowledge in the identification process. To highlight the relevance of traditional knowledge to ABMTs, FSM highlighted three components related to marine species, environmental management practices, and marine features.

On *decision-making*, China supported the ILBI’s decision-making body deciding on the identification of areas, noting that this should be without prejudice to the work and mandates of existing international bodies and organizations.

New Zealand envisaged that a global body would have a role in identifying priority areas for the establishment of ABMTs and coordinate with relevant existing bodies. Supported by Cameroon, she added that criteria relating to EBSAs and MPAs from the CBD could be considered.

The US outlined a general process whereby regional and sectoral organizations would propose areas to be identified as MPAs through scientific justification. Iceland and the Russian Federation noted with concern that most options on identification and designation assign decision-making authority at the global level, expressing their preference for additional focus on regional and sectoral bodies. The Russian Federation proposed that the competence of existing bodies could be extended, if necessary.

Monaco and the Republic of Korea suggested that standards and criteria could be developed later, possibly by a scientific body under the ILBI. The EU noted that decision-making should be dealt with elsewhere in the ILBI text.

Canada suggested broadening the title to “Designation and planning process.” Argentina, for the Like-Minded Latin American Countries, and Canada stressed that this section refers to all ABMTs, including MPAs. Switzerland and Seychelles called for balance between ABMTs and MPAs in the document. The Republic of Korea stressed that the new instrument should supplement, support, and inform existing regional bodies, rather than replace them.

Proposals: Many delegations supported states parties submitting proposals to the secretariat. China said proposals should only be submitted by states parties to the scientific/technical body via the decision-making body. CARICOM preferred that the ILBI facilitate joint submissions and proposals from IPLCs. The Republic of Korea suggested proposals be made by states parties with direct interest and responsibilities under the regional mechanism, expressing flexibility on involvement of other states parties. P-SIDS preferred that submissions be made to a scientific/technical body via the Secretariat. CARICOM preferred submission to a decision-making body. Merging options, Eritrea preferred that proposals be submitted to the decision-making body or the Secretariat, informed by the scientific/technical body.

On *principles governing the designation process*, the EU, Togo, and Switzerland supported the application of the precautionary principle. The US, Singapore, Australia, Canada, and Japan favored the precautionary approach. Eritrea suggested addressing principles in a general section, and called for reference to relevant traditional knowledge of IPLCs. High Seas Alliance supported the application of the precautionary principle, an ecosystem approach, and use of traditional knowledge.

On *content*, the EU, Monaco, and Switzerland suggested adding descriptions of “what we want to protect” to the required proposal elements. P-SIDS, supported by Singapore and the High Seas Alliance, suggested that proposals focus on: “where it is”; “what you want to do”; “what is happening now”; and “how you are going to do it.” The Like-Minded Latin American Countries favored the adoption of an indicative list of elements with the inclusion of “among others.” New Zealand and Togo argued that the list of required elements should be amendable.

Japan favored the format of proposals being elaborated by the ILBI rather than adopted in an indicative list, calling for prior consultation, as under the UNFSA.

Canada reiterated the need to address the level of detail included in the body of the agreement, suggesting considering strategic impact assessments and marine spatial planning. Switzerland suggested adding biodiversity value and sensitivity. China proposed including a basic description of proposed areas and specific protection measures, goals, and objectives.

Eritrea called for: drawing from the framework of the Intergovernmental Panel on Biodiversity and Ecosystem Services

(IPBES) regarding values, including information on connectivity to neighboring areas, and clarifying the notion of adjacency.

On the duration, New Zealand and others favored the “no text” option. Singapore preferred linking duration to conservation and sustainable use objectives. Eritrea proposed deciding on duration based on periodic review of the area under consideration.

The International Cable Protection Committee (ICPC) recommended that the presence of existing or planned submarine cable routes be listed as a human activity to be considered within proposals.

Consultations on and assessments of the proposal: The African Group supported outlining inclusive, transparent, and open consultation, with Switzerland and others; but, with Iceland and the US, did not support text outlining relevant stakeholders.

Japan said the relevant stakeholders list should be developed by the decision-making body. P-SIDS said the listing should be updated as necessary and envisaged a pool of independent experts to conduct the scientific peer review. Singapore and the Philippines noted the need to incorporate SIDS into the list of stakeholders. ICPC called for consulting owners and operators of submarine cables.

The EU suggested that: states be encouraged to submit their views on proposals’ potential effects on their sovereign rights; regional or sectoral organizations consider the complementarity and compatibility of proposals with existing measures; and consultations re-open if significant issues emerge.

The EU, the African Group, the Philippines, and others supported proposal review by a scientific/technical body. China preferred review by the decision-making body.

Canada suggested an initial consultation with a large number of stakeholders, and an additional, proactive consultation with key players such as relevant bodies and, with Switzerland and Eritrea, supported consulting adjacent coastal states.

Decision-making: Turkey suggested merging the decision-making provisions on the identification and designation process. The African Group, the EU, CARICOM, and P-SIDS supported giving the decision-making body authority over managed areas. The African Group, China, the US, Turkey, Switzerland, the Republic of Korea, and Japan favored consensus-based decision-making. The Like-Minded Latin American Countries and New Zealand supported other measures in cases of non-consensus. Switzerland noted that the rules of procedure may deal with instances of non-consensus.

Canada argued that consensus-based decision-making is a delicate matter, highlighting the risk, “on the one hand, of distant parties imposing measures on specific oceanic regions and, on the other, of decisions being blocked by one or a few countries.”

The Like-Minded Latin American Countries supported the decision-making body or forum making decisions on the designation of all ABMTs, while the US favored the body only designating MPAs. Japan, China, the Republic of Korea, and the US did not consider it necessary to require the consent of adjacent coastal states, while Canada noted that measures recognizing rights of adjacent coastal states might assist in consensus-based decision-making. Seychelles stressed that adjacent coastal states must be part of the decision-making process.

Canada and Switzerland noted that decisions should be made at the global level, but also welcomed the recognition of the authority of relevant global, regional, and sectoral bodies. The High Seas Alliance favored global-level decision-making. Switzerland and Holy See called for further consideration of the hybrid models.

The Republic of Korea and the Russian Federation supported that decisions be taken by relevant regional and sectoral bodies. Canada expressed preference for a case-by-case determination on whether to propose an ABMT at the global level.

CARICOM and others called for reference to science in the decision-making procedure. The International Indian Treaty Council highlighted the role of traditional and indigenous knowledge.

The International Union for Conservation of Nature (IUCN) emphasized, *inter alia*:

- potential diversity of protected areas that could lead to resilient MPA networks;
- ecosystem-based management;
- interim measures for areas under review in case a two-step designation process is selected; and
- the need for an open, transparent, participatory, and workable process.

Implementation: Many said that implementation should be the responsibility of states parties in the future instrument. The EU, with Switzerland, proposed referring to ABMT decisions, rather than measures, and strengthening language on assessing the effectiveness of measures; and, with CARICOM, suggested that states be able to adopt stricter measures. P-SIDS called for avoiding disproportionate burdens on coastal states, especially SIDS.

The US, New Zealand, the Republic of Korea, Japan, Norway, and the Russian Federation underscored the implementation role of existing global, regional, and sectoral bodies.

Japan proposed including a duty for non-parties to cooperate. Mexico called for clarifying the interactions between different parts of the system’s architecture before deciding on the implementation roles. The Holy See emphasized the notion of states’ due diligence.

Monitoring and review: The Like-Minded Latin American Countries and Vanuatu stressed that the ILBI should be responsible for monitoring and review. CARICOM, Turkey, Singapore, and China noted that the scientific/technical body should perform this role, while the Like-Minded Latin American Countries, with Vanuatu and Monaco, opined it could be done in collaboration with an ILBI monitoring and compliance committee. P-SIDS proposed referring to scientific information and knowledge, including traditional knowledge. China recommended that project-proponent states take leadership in monitoring.

The US, Japan, and Iceland underlined that monitoring and review are the responsibility of relevant global, regional, or sectoral bodies. The Russian Federation and the Republic of Korea cited the potential complexity and expense of monitoring ABMTs under a global regime.

The EU, supported by Switzerland, said that states parties should be able to report individually or collectively on implementation measures, reports should be publicly available, and a follow-up mechanism should be incorporated to monitor the implementation of conservation objectives. Japan supported a regular review, with Iceland suggesting that this be conducted by a review conference.

New Zealand, with Canada and Cook Islands, noted that the ILBI should differentiate between monitoring and reviewing ABMTs’ effectiveness, and its implementation.

Summary of Discussions: On Friday, 5 April, Informal Working Group Facilitator Revell welcomed the constructive engagement on the implementation and monitoring of ABMTs. She noted a number of points of convergence, including:

- the need to consider best scientific information as well as traditional knowledge;
- that ABMT proposals be submitted by states parties to the secretariat;
- the need to promote coherence, complementarity, and synergies with other frameworks and bodies; and
- that the ILBI not prejudice the rights of coastal states.

She also summarized points of divergence requiring further discussions, including:

- the standards and criteria for ABMTs and MPAs;
- the modalities for scientific assessments of ABMTs;
- decision-making mechanisms under ABMTs;
- consultation between different instruments; and
- whether monitoring and review will be taken on by global or regional bodies, if at all.

Environmental Impact Assessments

The Informal Working Group on EIAs, facilitated by René Lefebvre (Netherlands), met on Friday, 29 March, as well as on Monday and Tuesday, 1-2 April. Discussions focused on:

- EIA obligations;
- relationship to EIA processes under other instruments;
- activities requiring an EIA;
- EIA process;
- content of EIA reports;
- monitoring, reporting, and review; and
- strategic environmental assessments (SEAs).

Obligation to conduct an EIA: CARICOM, P-SIDS, Canada, Iceland, Japan, the Philippines, and Indonesia favored states parties assessing the potential effects of planned activities within their jurisdiction or control in ABNJ under UNCLOS obligations. The Like-Minded Latin American Countries and the Russian Federation supported states conducting an EIA when they have reasonable grounds to believe that planned activities may cause substantial pollution.

CARICOM, Canada, and Indonesia said that states parties need to take measures to implement UNCLOS provisions on the conduct of an EIA. The African Group, the EU, Singapore, the Philippines, Norway, and Iceland preferred that states parties should require any proponent of an activity to conduct an EIA when the threshold requirement is met.

The Russian Federation requested further drafting on states parties' responsibilities. The African Group, with the EU, Canada, Switzerland, Indonesia, New Zealand, Iceland, and Singapore, added that the requirement for EIAs should only apply to activities conducted in ABNJ.

P-SIDS, CARICOM, the Philippines, and the High Seas Alliance called for EIAs for all activities with impacts in ABNJ. The Holy See offered provisions to redefine jurisdiction beyond licensing or funding, supported by the EU, and operationalize the polluter pays principle by including financial obligations with respect to anticipated activities.

Relationship to Other EIA Processes: Many agreed that the EIA process should "not undermine" existing instruments, with Australia and New Zealand calling to elaborate this provision. The Like-Minded Latin American Countries said that relationship issues should be discussed in a general provision. The G-77/China, the EU, CARICOM, Switzerland, and the African Group

suggested that the ILBI "respect and support" other relevant instruments. P-SIDS, Canada, and others supported the ILBI consulting and coordinating with relevant bodies. Switzerland, Iceland, and others insisted on the importance of eliminating duplication or hierarchy between bodies. The Russian Federation did not support consultation.

The EU, Japan, Iran, the Republic of Korea, and others argued against references to customary international law. Cameroon, IUCN, and the High Seas Alliance supported reference to customary international law, including rules and standards developed by other bodies. The African Group requested clarification on the relationship between UNCLOS, customary international law, and the conduct of EIAs.

CARICOM and P-SIDS preferred working with minimum global standards and/or guidelines developed through consultation or collaboration with global, regional, and sectoral bodies. Iceland suggested that guidelines be developed with relevant bodies in cooperation with states parties. The Russian Federation recommended that EIA guidelines be contained in an annex.

Canada and Norway supported that the ILBI provisions should constitute global standards and minimum requirements for EIAs for ABNJ. The African Group, the Like-Minded Latin American Countries, and others suggested that all other instruments and bodies conform to these standards. The EU and the US requested clarification on minimum global standards and guidelines, cautioning, with Singapore and others, against "imposing obligations on other bodies."

In cases where an activity in ABNJ is already covered by existing frameworks/bodies, the Russian Federation, Iceland, Japan, and the Republic of Korea suggested that no EIA be required if an activity is in accordance with regulations of such bodies. The African Group and the Philippines emphasized that the EIAs should be "functionally equivalent." Indonesia and the EU proposed that the threshold for the conduct of EIAs be met or exceeded, and that states parties ensure that EIAs are conducted for activities regulated under other existing bodies.

The International Maritime Organization (IMO) highlighted that potential impacts from shipping activities, including dumping, are regulated under the London Convention and the London Protocol. The North East Atlantic Fisheries Commission (NEAFC) underscored relevant provisions on vulnerable marine ecosystems, including on bottom fisheries.

Activities Requiring an EIA: On thresholds and criteria, the African Group, China, and Japan preferred states parties assessing the potential effects that fall under a "more than minor or transitory effect" on the marine environment. Canada noted that this could also include a set of criteria and thresholds. P-SIDS, CARICOM, the Republic of Korea, and the Philippines preferred progressing from an initial EIA to a comprehensive EIA as states determine reasonable grounds to consider negative impacts.

The Like-Minded Latin American Countries, the US, Norway, Australia, New Zealand, and India supported states parties assessing effects if they have reasonable grounds for believing that these activities may cause substantial pollution or significant and harmful changes to the marine environment. The EU proposed a list of criteria to measure the threshold and suggested that a subsidiary body guide this process. Holy See suggested that planned activities that may have substantive negative impacts to marine biodiversity be subject to EIAs.

The US clarified that planned activities are those where the state party exercises effective control or jurisdiction in the form of

licensing or funding. Norway emphasized the need to address the relationship between the flag and the proponent states.

On activities that require or do not require an EIA, P-SIDS, the Like-Minded Latin American Countries, CARICOM, and others favored an indicative, non-exhaustive list in an annex, with the Philippines suggesting it be updated regularly. The US and ICPC suggested developing lists of activities that normally meet the relevant thresholds and thus require an EIA, and those that do not. The Republic of Korea supported preparing voluntary guidelines.

The African Group, Australia, New Zealand, and the EU noted that the development of a list would be burdensome. Norway noted that the threshold could be used to determine which activities require EIAs. China noted that a case-by-case analysis would be required for each item on the list.

The EU, Japan, Norway, and the Like-Minded Latin American Countries favored considering cumulative impacts. CARICOM favored a set of guidelines, with Canada noting that they could be developed at a later stage and included in an annex. PNG, with FSM, suggested including climate change impacts.

On transboundary impacts, the EU suggested a provision whereby impacts on ABNJ would be taken into account in EIAs for activities undertaken within the scope of the ILBI. The Holy See recommended including foundational text in the ILBI regarding cumulative and transboundary effects.

On EBSAs or vulnerable ecosystems, the African Group, China, Australia, the Russian Federation, New Zealand, and the EU preferred not defining thresholds. The US, Norway, and Canada did not support a double set of standards. The High Seas Alliance cautioned against setting different standards for conducting EIAs. CARICOM and P-SIDS favored special provisions for EBSAs or vulnerable areas.

The High Seas Alliance: supported the application of thresholds, noting that even a non-exhaustive list would be cumbersome to negotiate; highlighted the need to reflect cumulative impacts, including their definition; and cautioned against setting different standards for conducting EIAs.

WWF stressed that all activities should be subject to an EIA regime, underscoring that requirements would depend on the likelihood and severity of impacts. She highlighted the need to consider whether there is a potential impact that requires further assessment and the level of assessment required.

EIA Process: The G-77/China did not support postponing the development of the EIA process. The African Group, the EU, Solomon Islands for P-SIDS, Uruguay for the Like-Minded Latin American Countries, CARICOM, and Canada favored outlining the steps for conducting an EIA. China underscored that the relevant options should be streamlined, and the entire process should be non-compulsory, offering relevant text in this respect. The EU did not favor compliance, enforcement, and auditing as part of the process; supported simplifying the public notification process; and stated, with CARICOM, that the proponent should bear the costs of the EIA.

The Like-Minded Latin American Countries outlined a process for EIAs that would include determination of whether an EIA is needed; delineation of scope; and clarification regarding responsibilities. He emphasized that general provisions should include text on: mitigation of impacts; identification of alternatives and possible compensation for adverse impacts; notification and public consultation; public issuance of the evaluation outcome; a process for adoption; and decision-making.

The US stressed that the state party with jurisdiction and control over the planned activity shall be the decision-making

body, without overview by an overarching framework. He further outlined a process including:

- scoping;
- development of an EIA document for public review, including description of activity, consideration of potential direct, indirect, and cumulative impacts, consideration of mitigation and monitoring, and reasonable alternatives to all of the above;
- time-bound opportunity for comments;
- a requirement to consider substantive comments and respond; and
- production of a written decision document for public release.

The Republic of Korea and the Russian Federation expressed a preference for allowing details to be developed by a scientific/technical body at a later stage, with the Russian Federation recommending a series of non-binding principles for states to adopt within national legislation. Singapore cautioned against creating an overly descriptive, burdensome instrument.

On **screening**, the US and New Zealand preferred that states parties be responsible for determining whether an EIA is required or not. P-SIDS and Cameroon supported states parties seeking the approval of the scientific/technical body to determine that an EIA is not required. Australia called for a practical, state-driven, tiered process involving screening, with proponents responsible for preparing assessment documentation.

On **scoping**, P-SIDS, Australia, and others called for including cumulative impacts, and best available scientific information and knowledge, including traditional knowledge.

On **impact prediction and evaluation**, P-SIDS said that states parties with jurisdiction and control over the planned activity should be responsible for the conduct of EIAs, including the possibility to require the proponent to conduct the EIA or to conduct it via an independent consultant. P-SIDS supported joint submission of EIAs for SIDS and the creation of a pool of experts, with the US subjecting its support for the pool of experts to potential budgetary implications. The US reiterated that the obligation to conduct EIAs lies with states parties, stressing that EIAs conducted by a third party must be submitted to states parties for review and decision-making. Canada did not support EIAs being conducted by an independent consultant and, with the US, reiterated that traditional knowledge is different from scientific information and should be included as other source of information. CARICOM proposed including social, economic, cultural, and other relevant considerations.

On **public notification and consultation**, P-SIDS stressed it should: be transparent and inclusive, with the US and others; and take place in each stage of the EIA process involving adjacent coastal states' IPLCs, with relevant traditional knowledge, relevant global, regional, and sectoral bodies, and those with existing interests in a specific area. The US underscored that substantive comments received during the consultation process should be considered and responded to, but noted that further relevant provisions go beyond the scope of the instrument. Canada suggested adding access to information. Japan recommended that EIA proposals be shared publicly for comments with all states parties, including adjacent coastal states, so long as it does not impose excessive burdens on the proponents of activities. On public notification and consultation, the High Seas Alliance favored these taking place with states, international organizations, and the public. The ICPC preferred a time-bound period and supported inclusion of confidentiality provisions.

On **decision-making**, P-SIDS suggested that the ILBI be responsible for determining whether an activity may proceed

in accordance to relevant recommendations by the scientific/technical body, following public consultations. Cameroon preferred that decisions be made by a scientific/technical body. The US reiterated that responsibility for decision-making lies with states parties. He further noted that details on the process for conducting EIAs may be developed by a body established by the instrument, but that further guidance should impose no further requirements for parties. Australia did not support a formal process for reviewing reports.

The High Seas Alliance and the ICPC favored outlining the steps for conducting an EIA. The ICPC preferred that activity proponents take responsibility for determining whether an EIA is required. ICCEL reflected on biotechnology-related activities in ABNJ and advocated drawing from the CBD. On decision-making, the High Seas Alliance preferred that a review and recommendation from a scientific/technical body be required prior to a state's decision if the proposed activity is expected to exceed the threshold, even though that state is responsible for approving the activity.

On monitoring and review, the EU and others noted the difference between monitoring under an EIA process, and general monitoring, reporting, and review, underlining that the former section implies observing, measuring, evaluating, and analyzing by recognized scientific methods, while the latter refers to keeping activities under surveillance.

Content of EIA reports: The EU, with the Like-Minded Latin American Countries, CARICOM, and China, supported streamlining the text. The US said that non-binding, indicative, further guidance could be developed by future bodies.

The G-77/China, the African Group, the EU, CARICOM, P-SIDS, the Like-Minded Latin American Countries, and others supported detailing the required content of an EIA. The Russian Federation cautioned that the language is too detailed. The Food Agriculture of the UN (FAO) warned against burdensome requirements for developing countries, and ICPC warned against lengthy EIA review processes.

The African Group, the EU, CARICOM, P-SIDS, Norway, China, Monaco, and New Zealand supported requiring a description of planned activities, with the African Group, India, Indonesia, Eritrea, and Canada recommending also including the purpose of the activity, and CARICOM its location. The US, Eritrea, and Canada requested clarification on the distinction between "planned" and "proposed" activities. The African Group, the EU, P-SIDS, Norway, Canada, Indonesia, and the US supported including a description of reasonable alternatives to planned activities, while CARICOM, India, and FSM supported this "where appropriate."

Under *descriptions of impacts*, the African Group, the EU, P-SIDS, the US, India, Norway, Indonesia, and Canada supported describing effects, including cumulative and transboundary impacts, with Switzerland noting other impacts could be included. The African Group, Norway, Monaco, China, and the Philippines supported including socio-economic impacts, while the US and Australia opposed. The Holy See underscored the need to consider the proponent's financial and social responsibility.

CARICOM recommended including "potential social, economic, and cultural" impacts, as well as, with Indonesia, an estimation of their significance. Nigeria noted the description of impacts could include consideration of reasonably foreseeable potential impacts and alternatives. The EU, Norway, the US, and New Zealand requested clarification regarding the need for the description of a "worst-case scenario."

On impact mitigation measures, the African Group, the EU, Canada, Norway, Monaco, Australia, the Philippines, China, and New Zealand supported a description of any measures for "avoiding, preventing, and mitigating impacts"; while CARICOM, P-SIDS, Eritrea, FSM, and Nigeria supported a description of measures for avoiding, preventing, mitigating, and redressing pollution or harmful changes to the marine environment. India suggested combining the two options. Indonesia supported a description of alternatives and measures. The US suggested drawing from the Protocol on Environmental Protection of the Antarctic Treaty.

The US and Norway did not support references to contingency plans and, with Canada, environmental records, or business plans. The EU, CARICOM, P-SIDS, New Zealand, the Philippines, and Nigeria supported developing further details on the required content of an EIA, with P-SIDS proposing the inclusion of traditional knowledge. Indonesia and Eritrea suggested the ILBI develop further details. Canada favored an annex to allow for a lighter amendment process.

Monitoring, reporting, and review: The Holy See called for provisions for emergency measures suggesting, *inter alia*, a due diligence provision to protect states from liability if they adopt a legal framework to reasonably secure compliance.

On monitoring, many supported states parties ensuring impacts of activities in ABNJ are "monitored, reported, and reviewed," consistent with UNCLOS Articles 204 (risk monitoring), 205 (publication of reports), and 206 (assessment of potential effects). The Republic of Korea stressed that monitoring and reporting take place in accordance with monitoring and management plans contained in the EIA reports. Japan emphasized that a simple provision that monitoring and review should be conducted in accordance with Articles 204 and 205 would suffice. Canada recommended deleting reference to UNCLOS articles. Singapore stressed that results of the monitoring and review process must be published, noting that the clearinghouse can collate such information.

The Like-Minded Latin American Countries, CARICOM, India, the Philippines, New Zealand, Indonesia, the Holy See, and P-SIDS supported that states parties submit monitoring and review reports to the scientific/technical body. Concurring, the African Group and CARICOM also suggested reporting by relevant regional and sectoral organizations; and, with India, supported a non-adversarial consultation process to resolve monitoring controversies. Indonesia suggested reference to "differences" rather than "controversies." Singapore emphasized that the clearinghouse mechanism can perform similar functions and the High Seas Alliance supported this mechanism if it is open and transparent.

Norway, Australia, the Like-Minded Latin American Countries, China, and the US did not support a non-adversarial consultation process. The Holy See suggested "conciliation" as opposed to "non-adversarial." CARICOM called to delete a reference to judicial or non-judicial bodies regarding conflict resolution. New Zealand noted that dispute resolution is a cross-cutting issue.

On compliance, the African Group, Iran, the Philippines, and Indonesia suggested that a compliance committee review reports, and that the decision-making body receive non-compliance reports. The EU, with many others, argued that compliance should be taken up under cross-cutting issues. The US and Japan emphasized that compliance should be discussed after agreeing on an EIA regime.

On involvement of other states, the US proposed a time-bound comment period during scoping and drafting that would cover all concerned stakeholders. India, Canada, Iran, and CARICOM argued that all states be kept informed, with CARICOM specifying “all states, in particular adjacent coastal states.” Indonesia and the Philippines suggested consulting adjacent coastal states and SIDS, and, with P-SIDS, supported “active consultation.” PNG also favored a system of prior notification with adjacent coastal states with a continental shelf, including those that have made relevant submissions to the Commission on the Limits of the Continental Shelf.

The EU, New Zealand, and Australia suggested that this issue be covered under the EIA process. The Like-minded Latin American Countries proposed moving this section to the general provisions. The African Group and China suggested deleting the section.

Strategic Environmental Assessments: The G-77/China preferred postponing discussions on this issue, while the Like-Minded Latin American Countries and the Republic of Korea called for clarifying the scope of SEAs. The Russian Federation and the US underscored that SEAs were developed for areas under national jurisdiction. Switzerland and Norway favored setting out rules and conditions for conducting SEAs. Canada noted that SEAs provide a means of identifying cumulative impacts. Nigeria supported developing thresholds and criteria to determine activities requiring SEAs. The Holy See said SEAs should be considered under ABMTs, adding that rules and conditions should not be specified.

The African Group, the EU, and P-SIDS supported each party ensuring that SEAs are carried out for plans and programmes under their jurisdiction or control that affect ABNJ. New Zealand and the EU suggested that SEAs be conducted individually or collectively. Australia pointed to efficiencies gained in considering SEAs for multiple activities in the same geographical areas, by multiple actors to inform ABMTs. Eritrea preferred that SEAs only apply to plans and programmes affecting ABNJ and suggested deleting reference to “states’ jurisdiction and control.”

WWF highlighted SEAs as a tool for marshalling information to support integrated ocean management and facilitating CB&TT. The High Seas Alliance emphasized: the need for SEAs for activities in relevant regional sectors; the need to “future proof” SEAs; and that the scientific body could carry out SEAs where necessary.

Summary of Discussions: On Friday, 5 April, IGC President Lee presented the report for the informal working group on EIAs, on behalf of the working group facilitator René Lefebvre, acknowledging convergence on, *inter alia*:

- obligations to conduct EIAs;
- the need to not undermine, streamline and avoid duplication with EIA processes under relevant instruments, frameworks and bodies;
- EIAs being mutually supportive with other instruments; and
- support for reduction, refining and merging of the options presented under the list of activities that require or do not require an EIA.

She noted the importance of further discussions on, among others:

- modalities for the relationship with relevant global, regional and sectoral bodies;
- whether and how to address cumulative and transboundary impacts;
- EBSAs;

- monitoring, report and review;
- whether socio-economic and cultural impacts should be included in EIA reports;
- compliance;
- involvement of adjacent coastal states; and
- SEAs.

Capacity Building and Technology Transfer

The Informal Working Group on CB&TT, facilitated by Olai Uludong (Palau), met from Tuesday to Thursday, 2-4 April 2019. During its deliberations, delegates focused on: objectives; types of and modalities for CB&TT; funding; and monitoring and review.

Objectives: On *general objectives and principles*, Norway and the US did not support including text on marine biotechnology. Thailand stressed that CB&TT should benefit developing states based on their needs, highlighting an obligation to cooperate and provide assistance towards MSR.

On *specific objectives*, CARICOM, P-SIDS, the Philippines, Togo, and Thailand agreed that additional CB&TT objectives could be included. Singapore suggested that language on “endogenous research capabilities” refer instead to “local” or “homegrown” research capabilities. The EU, Japan, the US, the Russian Federation, and Australia opined that there is no need to go into detail.

On *special states’ categories*, P-SIDS suggested deleting references to “coastal developing states” and, with the African Group, Indonesia, and the EU, called for clarification of “environmentally challenged and vulnerable states.” The Philippines linked “environmentally challenged and vulnerable states” to the CBD. The G-77/China, the African Group, CARICOM, and P-SIDS underlined the need to recognize the special circumstances of SIDS, with China also calling attention to least developed countries (LDCs) and LLDCs. Bangladesh highlighted the difference between LLDCs and geographically disadvantaged states. Iran called for recognizing the capacity needs of all developing countries. Indonesia, Togo, and others advocated preferential treatment for developing countries, opposed by Norway and the US. The EU queried how preferential treatment would work in practice, and opposed the categorization of states. Japan, the Russian Federation, and the Republic of Korea preferred not including this section, with the Russian Federation noting that special requirements would not be necessary for CB&TT.

Types and Modalities: On *types*, the African Group, the EU, Norway, China, and others said that the proposed list was too long. The EU proposed streamlining the types of activities in two parts: first broadly setting out CB&TT provisions, including identification of needs and formulation of requests; then mandating a body to provide guidance on CB&TT. New Zealand and ICES suggested grouping CB&TT types into categories. Australia supported broadly outlining types of CB&TT and then providing illustrative guidelines. The Russian Federation did not support addressing the types of CB&TT.

The G-77/China, CARICOM, AOSIS, the Like-Minded Latin American Countries, and New Zealand supported including a list of CB&TT activities in the body of the ILBI. Japan preferred an annexed, indicative, periodically revised list. The African Group, New Zealand, the Like-Minded Latin American Countries, and India favored the list being reviewed, assessed, and adjusted periodically. P-SIDS, AOSIS, and Norway supported including the list and also providing for its further development by a

subsidiary or decision-making body, supported by the Republic of Korea, or an *ad hoc* working group, or by regional bodies. The US maintained that it was unclear which subsidiary bodies would be created, and was thus unwise to mandate such a body to perform this function.

On **modalities**, the G-77/China, CARICOM, the Like-Minded Latin American Countries, and P-SIDS preferred an option outlining the modalities for CB&TT. AOSIS and Australia said that modalities, procedures, and guidelines should be needs-based and country-driven. The US noted that the text was too detailed. India, Japan, and the US pointed to the Intergovernmental Oceanographic Commission of UNESCO (IOC-UNESCO) Criteria and Guidelines on Transfer of Marine Technology as an example of operationalizing CB&TT, and Norway to the FAO Port State Measures Agreement. AOSIS drew attention to UNCLOS provisions on technology transfer. CARICOM preferred that CB&TT be carried out through a needs-identification mechanism. P-SIDS supported regional needs-assessment mechanisms coordinating with a global body. The Like-Minded Latin American Countries favored a case-by-case needs review through a specific CB&TT mechanism. Canada and the Like-Minded Latin American Countries preferred excluding provisions related to a needs-assessment review body.

The G-77/China called for stronger language on technology transfer. The US, Norway, Japan, and others, opposed by P-SIDS, supported technology transfer according to mutually agreed terms. The Like-Minded Latin American Countries preferred CB&TT to be carried out in a fair and reasonable manner through favorable terms and conditions. P-SIDS did not support the terms of technology transfer being freely negotiated between the supplier and the recipient, and called for clarification on the terms “voluntariness,” “reasonableness,” and “reciprocity.”

The Like-Minded Latin American Countries and the African Group preferred that IPRs do not preclude technology transfer under the agreement. The Russian Federation maintained that states should respect IPRs, with New Zealand suggesting that this be consistent with the CBD and the International Treaty on Plant Genetic Resources for Food and Agriculture. Australia said reference to respecting IPRs should be contained in the general part of the agreement.

The EU, Senegal, and Norway opposed text on IPRs, as they are discussed under WIPO and the WTO. Singapore said IPRs should enable, rather than obstruct, technology transfer.

On the **clearinghouse mechanism**, the G-77/China, CARICOM, P-SIDS, AOSIS, the Like-Minded Latin American Countries, and the EU supported setting out the functions of a clearinghouse mechanism, with the EU suggesting outlining its goals and, supported by Australia, the main functions. Singapore observed that developing a protocol, code of conduct, or guidelines for environmental protection are not the functions of a knowledge repository. Japan maintained that the clearinghouse should not carry out rule-making functions.

IOC-UNESCO said a hybrid clearinghouse mechanism should be proactive, cost-effective, and avoid duplication. ICEL recommended that a clearinghouse mechanism adapt to scientific developments and that states not solely bear the burden of updating databases.

Funding: On **types**, the African Group, the G-77/China, the EU, CARICOM, the Like-Minded Latin American Countries, and P-SIDS agreed that funding should be both voluntary and mandatory. ICEL highlighted that mandatory funding promotes stability and predictability. The EU underlined that mandatory

funding should be restricted to institutional and clearinghouse mechanism costs. Eritrea, Sri Lanka, and Togo asserted that funding should be adequate, accessible, sustainable, and predictable. The US underscored that funding should be voluntary across the board. Vanuatu noted that voluntary sources are neither sustainable nor predictable. Australia underlined that it is not practical to frame accessible and predictable funding as an absolute obligation, with Canada stating that this implies mandatory, assessed contributions. The Republic of Korea preferred voluntary consultation between the supplier and recipient.

On **sources**, the EU called for including national funding sources, and P-SIDS welcomed the inclusion of innovative funding sources. Singapore sought clarity on the source of funding for an endowment fund, and China on the recovery and liability funds. Eritrea pointed out that an endowment fund would be prone to unpredictable funding, preferring a “sinking fund.”

On the **funding mechanism**, the African Group underscored the cross-cutting nature of the mechanism and recommended, with CARICOM, that it be considered under institutional arrangements. Eritrea proposed establishing a centralized financing mechanism. AOSIS preferred that states identify appropriate operational entities. Togo and Kenya supported the creation of a voluntary trust fund to facilitate developing countries’ participation. Cameroon favored both a voluntary trust fund and a special fund. Tuvalu said an endowment fund could be supplemented by a trust fund. Australia suggested that the decision-making body determine the scope and reference for the voluntary funding mechanism and questioned the purpose of the proposed multiple funds. The Russian Federation did not support the creation of a funding mechanism. Japan pointed out that it is difficult to discuss a funding mechanism without a common understanding of the future ILBI’s CB&TT regime.

On **access**, AOSIS proposed specific allocations for SIDS and LDCs, drawing on the Green Climate Fund as an example, and emphasized simplified, prioritized access and approval procedures as provided for under the Paris Agreement on climate change. The African Group supported access to developing country “parties.” AOSIS stressed that ease of access should be a guiding principle in CB&TT and that the process should address the interests of IPLCs.

Indonesia called for providing archipelagic and coastal states with access to funding. Togo, Kenya, and Sri Lanka supported considering the needs of landlocked and geographically disadvantaged developing countries, SIDS, LDCs, coastal African states, and developing middle income countries. Sri Lanka suggested adding “environmentally challenged and vulnerable states,” as well as a descriptive list. The EU did not support listing potential beneficiaries.

Monitoring and Review: The G-77/China, the African Group, AOSIS, CARICOM, and others supported including CB&TT monitoring and review provisions in the ILBI. The US and the Russian Federation dissented. The Russian Federation underscored that CB&TT should take place on the basis of mutually agreed terms and conditions. The EU, supported by Norway, suggested that a regular review of CB&TT activities should take place under the direction of the Conference of the Parties (COP) and should include needs and priorities, as well as progress in achieving CB&TT objectives and the effectiveness of related activities. Australia, Canada, and the Republic of Korea emphasized that detailed provisions could be developed by a decision-making body, preferring to focus on effectiveness. FSM

highlighted that the ability of SIDS to effectively participate in the conservation and sustainable use of BBNJ depends on available CB&TT opportunities.

The African Group and Canada suggested reviewing CB&TT needs and priorities. The Philippines supported assessing CB&TT needs. AOSIS, P-SIDS, and CARICOM called for considering SIDS' special circumstances. CARICOM and P-SIDS requested clarification regarding "equitable use of rights."

On **reporting**, the African Group and the Philippines noted that details of the procedures of review and monitoring should be determined by the decision-making body. AOSIS, Australia, and Singapore emphasized that reporting requirements should not be onerous, and the Republic of Korea that they should be voluntary. Singapore preferred them to be identical for all parties. Japan supported public reports from recipient countries to incentivize donor countries.

Regarding the **monitoring and review entity**, the African Group opted for an expert auditing team from states parties reporting to the decision-making body. The Philippines, Canada, and China expressed preference for the decision-making body, with CARICOM suggesting that this body coordinate with regional CB&TT committees. P-SIDS emphasized that states parties and regional bodies should be consulted, in coordination with regional CB&TT committees. Indonesia supported a monitoring and review committee reporting to the decision-making body. Singapore stressed that monitoring and review of CB&TT should not take place at the regional level.

Summary of Discussions: On Friday, 5 April, Facilitator Uludong reported on areas of convergence on, *inter alia*:

- the importance of CB&TT;
 - streamlining objectives;
 - having a general obligation on the promotion of cooperation on CB&TT; and
 - needs-based and country-driven CB&TT.
- She also noted issues for further discussions, including on:
- whether CB&TT is voluntary or mandatory;
 - the categorization of states in relation to CB&TT and preferential treatment for CB&TT;
 - the clearinghouse mechanism;
 - CB&TT and its relationship to IPRs; and
 - establishing a funding mechanism.

Cross-Cutting Issues

The Informal Working Group on cross-cutting issues, facilitated by President Lee, met from Wednesday to Friday, 3-5 April 2019. Delegates focused on: institutional arrangements; the clearinghouse mechanism; general elements; principles and approaches; and international cooperation.

Institutional Arrangements: The G-77/China, AOSIS, the African Group, the EU, Canada, Iceland, and others supported establishing a COP under the implementing agreement. The EU noted that a provision on the first meeting of the COP should be explicitly included in the agreement. Bangladesh preferred establishing an assembly and a council, which was opposed by Canada, Australia, and others. The Russian Federation supported a non-bureaucratic, cost-efficient structure, and did not favor including specific provisions on institutional arrangements.

On the **functions**, the African Group, supported by many, suggested, *inter alia*, that the COP:

- establish processes for cooperation and coordination between relevant global, regional, and sectoral bodies;
- follow-up on implementation;

- establish subsidiary bodies and *ad hoc* working groups; and
- conduct monitoring and review.

The EU, with Monaco, emphasized that the functions and competencies should be adequate to achieve the objectives, suggesting distinguishing between institutional and substantial functions, and, with CARICOM and others, cautioning against a long list. New Zealand warned against an overly broad or duplicative mandate. Singapore called for making use of existing mechanisms where possible, including the UNCLOS dispute settlement mechanism in cases of non-compliance. Iceland did not support the COP following up on implementation and progress on meeting global objectives, and maintained, with Norway, that it would not be appropriate for such a body to consider cases of non-compliance. The US underscored that relevant functions would depend on the substantive provisions of the instrument; queried a number of potential functions included in the draft document, considering them beyond the mandate of a decision-making body; and supported consensus-based decision-making.

On a **scientific/technical body**, the G-77/China, AOSIS, the African Group, the EU, CARICOM, and others supported its establishment. The EU preferred a scientific committee and called for flexibility to allow additional tasks to be mandated by the COP, suggesting setting out the possibility of establishing a pool of independent scientific experts, but also using expertise from existing arrangements. Canada highlighted the need to include a "network of experts." The African Group, with P-SIDS, favored including in the body's functions: monitoring utilization of MGRs of ABNJ; and providing recommendations on ABMTs, including MPAs and EIAs, to the decision-making body. CARICOM recommended recognizing the body's capacity to provide advice to other subsidiary bodies. The Like-Minded Latin American Countries sought clarity on the composition of the body. P-SIDS, supported by Indonesia and Thailand, but opposed by the US, suggested that the scientific body should be permanent. Australia favored an *ad hoc* committee that meets in the margins and/or before the meetings, but not permanently. ICES suggested an "advisory body." The US underscored that the structure, functions, composition, and role could be discussed at a later stage, and queried a number of functions contained in the text. Iceland did not foresee the need for a large scientific/technical body, preferring regional level guidance; and, with Norway, using existing arrangements.

Regarding **other subsidiary bodies**, AOSIS, P-SIDS, the African Group, and CARICOM suggested establishing CB&TT and financial mechanisms. The African Group proposed an implementation body as well as a finance committee. CARICOM favored the creation of an integrated implementation and compliance committee. The EU and the US underscored that "form follows function," noting that the establishment of subsidiary bodies would depend upon the evolution of the negotiations. The Like-Minded Latin American Countries said that establishing subsidiary bodies would be beyond the purview of the instrument.

Regarding the **secretariat**, the G-77/China, CARICOM, P-SIDS, the Like-Minded Latin American Countries, and others supported establishing the body. The African Group preferred creating an independent secretariat or requesting the UN Division for Ocean Affairs and the Law of the Sea (UNDOALOS) to perform the relevant functions, with Bangladesh and Indonesia suggesting that the International Seabed Authority take on the secretariat function. Iceland preferred strengthening

UNDOALOS. Norway, with New Zealand, acknowledged the need for extra resources for a secretariat. The EU and the US said this discussion was premature.

Clearinghouse Mechanism: G-77/China, the African Group, CARICOM, P-SIDS, and others supported including relevant provisions in the implementing agreement. The G-77/China and the African Group called for allowing the decision-making body to develop the functions of the clearinghouse mechanism. The Like-Minded Latin American Countries expressed flexibility on where the mechanism would reside. CARICOM highlighted the need for centralized access to information and tools. The EU and New Zealand preferred that the decision-making body, at its first meeting, determine how to establish the clearinghouse mechanism.

P-SIDS called for an open access, web-based platform that links the global, regional, and national levels. Canada, with P-SIDS and ICEL, agreed with including traditional knowledge. The EU, with Norway, the Russian Federation, and the US emphasized that the clearinghouse mechanism could be addressed once the ILBI modalities have been decided.

President Lee clarified the difference between the two lists presented in the President's Aid, noting that one relates to the type of information that would be available in the mechanism and the other explains what could be done. Norway noted more information related to ABMTs, CB&TT, and MGRs could be included in the list. Indonesia supported both lists. Australia deemed the lists to be unnecessary. The US cautioned against the potential burden of providing a case-by case option for CB&TT. The G-77/China and P-SIDS supported linking the clearinghouse mechanism to gene banks, with the African Group suggesting referring to "genetic data banks" instead. Canada, with Norway and Japan, stressed the importance of confidentiality, highlighting that "due regard" to the confidentiality of information provided under the instrument may not suffice.

P-SIDS, Switzerland, Norway, and Iceland, noted that the secretariat could manage the clearinghouse mechanism, assisted by relevant organizations and regional hubs. CARICOM, Indonesia, and WWF supported relying on existing frameworks such as IOC-UNESCO, ISA, and IMO, with Norway also proposing FAO. The Russian Federation requested clarity on how the mechanism would affect these organizations' mandates, while the US suggested that an additional mechanism could be beyond their scope. Canada, Iceland, Indonesia, Australia, and others did not support the clearinghouse mechanism assisting in the administration of the fund.

Review and Other Issues: On *review*, G-77/China, the African Group, CARICOM, and others supported convening a review conference to assess the ILBI's effectiveness. CARICOM noted that the decision-making body could undertake the first review, as per the Nagoya Protocol. P-SIDS and the Russian Federation pointed to the UNFSA. The Like-Minded Latin American Countries and the High Seas Alliance noted that the review should be conducted regularly. Iceland, the US, and Australia, opposed by the African Group, maintained that there was no need for a separate review conference if the COP meets annually.

On *financial resources*, the African Group suggested drawing from CBD Article 20 (financial resources). CARICOM reiterated the crucial role of funding and SIDS' special circumstances. The EU said details could be elaborated by states parties in due course, supporting a combination of voluntary and mandatory funding, with mandatory funding restricted to institutional costs. The Holy See outlined economic tools that should be

considered, including guarantees, licensing fees, bonds, and tools for prevention of sale or supply of technologies that may pose environmental risks.

On *compliance*, the African Group noted that the function could be performed by a subsidiary implementation body. The EU supported the implementing agreement requiring states parties to adopt regulations and measures. P-SIDS maintained that compliance should include respecting ABMTs or EIA management-plan provisions, proposing an international compliance committee reporting to a decision-making body, complemented by regional and sub-regional enforcement committees based on the UNFSA.

On *responsibility and liability*, the African Group, CARICOM, and New Zealand noted that UNFSA Article 35 (responsibility and liability) could provide inspiration. The Holy See underscored that states parties should not be liable if they have adopted and enforced appropriate laws to ensure compliance. The EU and Canada pointed out that rules reflecting customary law have already been elaborated by the International Law Commission. P-SIDS called for a rehabilitation and liability funding mechanism. China maintained that, *inter alia*, environmental baselines in ABNJ are difficult to define, and scope and degree of damage is difficult to assess.

On *dispute settlement*, the African Group suggested drawing from the Paris Agreement on climate change. CARICOM highlighted UNFSA Articles 27-32, with New Zealand also pointing to the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean. The EU, China, and IUCN favored an obligation to settle disputes by peaceful means as provided for under UNCLOS and the UNFSA. The Holy See queried the meaning of non-adversarial consultations, noting that disputes of a commercial nature may require different types of dispute settlement procedures. P-SIDS proposed that the mechanism also provide for advisory opinions. The US said it was too soon to consider the details.

On *final clauses*, the African Group, with the EU, suggested provisions on: ratification; entry into force; reservations and exemptions; declarations and statements; and annexes and amendments.

General Elements: On *the use of terms*, the G-77/China and others preferred discussing definitions after substantive provisions have been agreed upon. The EU recommended that each cluster of definitions be dealt with by its respective working group and, with others, offered that all definitions be subject to review based on the context of the final instrument. Norway called for consistency with definitions developed under existing relevant bodies. The Like-Minded Latin American Countries stressed that definitions should be contained in a single paragraph. Iceland highlighted that definitions could affect the scope of the instrument's application, pointing to UNCLOS, UNFSA, and CBD as potential sources of inspiration. The Philippines, with Samoa and the Republic of Korea, also highlighted IOC-UNESCO.

Indonesia and Turkey asked for a definition of ABNJ. Senegal suggested including reference to, among others, sustainable development, biodiversity, sustainable management of ecosystems, and resilience. China, Singapore, and Canada underscored that there is no need to define concepts that enjoy international recognition. Australia preferred limiting definitions to those where a specific technical meaning is necessary.

On terms related to **MGRs**, CARICOM recommended adding digital sequencing data and information. P-SIDS rejected only defining MGRs as “any marine genetic material”; recommended broadening the scope of MGRs; and called for definitions of “origin” and “source.” The EU suggested that MGRs definitions build on those agreed under the CBD. P-SIDS, opposed by China, Japan, and the US, proposed defining *in situ*, *ex situ*, and *in silico*. China and the US opined that it is unnecessary to define derivatives, bioprospecting, biotechnology, cumulative effects, and access. The US, Norway, and others highlighted that MSR was deliberately not defined in UNCLOS, cautioning that relevant discussions could prove difficult and lengthy.

On terms related to **ABMTs, including MPAs**, the EU and New Zealand called for distinguishing MPAs from ABMTs because of their geographical scope and conservation objectives, with Canada and Australia proposing inserting a reference to “sustainable use.” P-SIDS proposed merging both ABMT definitions to clarify defined objectives and use in conservation. The Like-Minded Latin American Countries emphasized that MPAs are one of many ABMTs. China defined ABMTs as tools designed and applicable in a specific area located beyond national jurisdiction with a view to achieving defined objectives, “including the conservation and sustainable use of biodiversity.” The US underscored that different definitions could be acceptable depending on the scope, adding, regarding MPAs, that distinction is needed between designation, regulation, and management. Norway and others called for clarifying the concept of SEAs, prior to defining it. The High Seas Alliance stressed the need to establish, not designate, MPAs.

On terms related to **EIAs**, the EU pointed to the UNCLOS definition. CARICOM recommended including socio-economic impacts. On cumulative impacts, Australia expressed willingness to take into account the impact of historical activities and likely future impacts. P-SIDS, opposed by the Russian Federation, suggested reflecting climate change impacts and ocean acidification. China and the Russian Federation argued that no definition is needed. The US stressed that it is premature to discuss a definition before deciding on the substance of EIAs. Canada preferred using the Espoo Convention definition of SEAs.

On terms related to **CB&TT**, CARICOM called for defining both “capacity-building” and “marine environment,” and proposed a hybrid definition of “transfer of marine technology” including physical equipment, processes, and IPRs.

General Scope: On geographical scope, Bangladesh maintained that the instrument should apply to ABNJ, including the water column and subsoil thereof. On the material scope, Canada and New Zealand suggested that text reflecting the IGC’s mandate be deleted. Japan stressed that the instrument should not apply to: MSR; IPRs; fish and other biological resources used as commodities; and activities that fall under the authority of other existing frameworks and bodies. The Holy See favored a simple text focusing on resource utilization in ABNJ. The Russian Federation proposed setting aside consideration of geographical and material scope until substantive provisions had been agreed.

General Objectives: Canada supported fewer objectives listed in a single part of the document. New Zealand proposed aligning the objectives with the UNFSA, providing for long-term conservation and sustainable use, as well as referencing relevant UNCLOS provisions. The Holy See suggested, *inter alia*: implementing and supplementing existing conservation measures; ensuring CB&TT; maximizing cooperation between states parties; promoting monitoring of biodiversity and ecosystem health; and

applying a holistic view on ocean conservation by recognizing the importance of existing bodies. Indonesia suggested modifying language to ensure consistency with UNCLOS. China suggested removing language regarding the rights and jurisdiction of coastal States. China preferred including language on vessels owned or operated by states for non-commercial service, and supported language on the instrument extending international cooperation and coordination. Iran recommended including reference to “relevant articles” of UNCLOS.

Relationship with UNCLOS and Other Instruments:

CARICOM and P-SIDS preferred that the ILBI promote greater coherence with relevant instruments and frameworks, while the African Group recommended implementation in a mutually supportive manner. The EU suggested merging the options. Indonesia recommended merging options such that the instrument complement and be mutually supportive of existing frameworks. Canada and others emphasized that the new instrument should not undermine existing relevant global, regional, and sectoral bodies, while promoting great coherence and complementarity. The Marshall Islands and China preferred language on “not undermining.” New Zealand underscored that “not undermining” needs further elaboration. The Holy See suggested a “carve-out” provision on MSR and on conflict of laws and regulations. PNG recommended adding language to include general international law. China and Iran supported the option that the legal status of non-parties to UNCLOS not be affected by the ILBI. Australia proposed making reference to UNFSA in the context of ILBI consistency.

General Principles and Approaches: The G-77/China, the African Group, and P-SIDS espoused common heritage of humankind as a general principle. The African Group and Like-Minded Latin American Countries suggested removing references to high seas freedoms. Holy See highlighted due regard, emphasizing that defining the concept will capture many principles and approaches, and can contribute towards a compromise between the common heritage of humankind and the freedom of high seas. The African Group, CARICOM, and P-SIDS called for using the precautionary principle throughout the section. CARICOM and P-SIDS supported references to the special circumstances of SIDS, with P-SIDS recommending specific reference to the role of traditional knowledge and practices. The Marshall Islands supported including language on “the adverse effects of climate change and ocean acidification.” Iran recommended broadening the list of developing countries. The High Seas Alliance called for, *inter alia*, reflecting transparency, the precautionary principle, and the polluter pays principle.

The EU preferred distinguishing between principles that need to be stated in general provisions and those that should be operationalized in guiding the work of the agreement. The Like-Minded Latin American Countries and Norway preferred presenting principles in one section. Singapore and Australia asserted that the fundamental consideration was how principles are operationalized in the substantive provisions, questioning the relevance of principles like common but differentiated responsibilities. ICPC said the principles should reflect those in the UNCLOS preamble, as well as the need to take into account the international communication needs of SIDS and conservation measures based on best available science.

Canada, Japan, and New Zealand called for eliminating duplication in the text and, with the High Seas Alliance, preferred a single list of principles and approaches. Singapore called for

a uniform set of obligations, especially on conservation and sustainable use of MGRs. Iceland underscored that contentious issues under the general principles have not been resolved, calling for substantive discussions on fundamentally differing views, including on the common heritage of humankind versus the freedom of high seas.

International Cooperation: The G-77/China, the African Group, and P-SIDS supported language on international cooperation and coordination. New Zealand called for including the obligation of states parties to strengthen existing global, regional, and sectoral bodies, and establish new ones when necessary. Iceland suggested an obligation for states parties to pursue cooperation either directly or through existing instruments as per UNFSA Article 8. ICES called for a specific obligation for parties to cooperate and for defining objectives for cooperation.

Summary of Discussions: On Friday, 5 April, President Lee, as Facilitator, provided a summary of the discussions, noting general agreement on:

- establishing a scientific/technical body, but divergent views on modalities with suggestions to also rely on existing arrangements;
- that the COP should have ability to establish other subsidiary bodies; and
- establishing a secretariat.

She also noted convergence on, *inter alia*: stipulating principles and approaches in a single section; including geographical scope without prejudice to rights of states and inclusion of ABNJ; and the modalities for an effectiveness review.

She highlighted areas requiring further discussions including on, *inter alia*:

- material scope;
- the functions and relationship of a global decision-making body to relevant global, regional, and sectoral bodies;
- whether the clearinghouse mechanism should be global, or include regional and other components, and whether it is web-based, or build on existing mechanisms;
- agreement on periodically reviewing effectiveness, but divergent views on modalities for review;
- preference for ensuring consistency with other instruments on definitions and need to agree on which terms to define; and
- need to address relationship with other instruments and frameworks.

Discussions on the Way Forward

On Friday, 5 April, IGC President Lee requested delegates to provide input on the way forward for IGC-3. The African Group stressed the need to conclude the negotiations within the stipulated timeframe, with the EU underlining that the “world is watching.”

IGC-3 text: Several delegates praised the President’s Aid to Negotiations as having provided a solid foundation for discussions at IGC-2. The G-77/China, with the African Group, the Pacific Island Forum, and CARICOM, called on IGC President Lee to prepare a “no-options” zero draft, containing treaty language to facilitate discussions and promote consensus. AOSIS called for a streamlined zero draft. The EU called for a draft treaty text. The Republic of Korea preferred to have treaty-type text as soon as possible, but did not see this as absolutely necessary. The US and Monaco called for a streamlined document reflecting treaty-text to facilitate text-based negotiations. FSM expressed hope that the next iteration of the document would strengthen linkages between science and traditional knowledge.

China supported the preparation and circulation of a new document, prepared by the President and, with the US, called to delete options that did not enjoy support. The Russian Federation called for a focused and revised version of the President’s Aid to Negotiations.

Many called for the draft text to be circulated as soon as possible.

IGC-3 Format: The African Group expressed flexibility on negotiating in no more than two parallel sessions to progress negotiations. CARICOM stated their willingness to proceed in plenary, informal meetings, and “informal-informals” to ensure the most efficient use of time, and also called to reduce the number of side events. The US, with Monaco, supported informal sessions and “informal-informal” negotiations. The EU supported adapting the format of the meeting, calling for a “tailor-made solution” to facilitate participation, and further stressing the importance of civil society participation. The Philippines supported informal sessions.

The Russian Federation called for the bulk of IGC-3 to be held in closed meetings to facilitate frank discussions towards consensus. China emphasized that all parties should be able to propose new ideas during the negotiations and called for a more interactive session, comprising “informal-informal” sessions as necessary.

The African Group, P-SIDS, the Like-Minded Latin American Countries, and AOSIS requested those able to do so to contribute to the Voluntary Trust Fund to ensure developing country participation.

The World Ocean Council stressed the importance of engaging the ocean business community in the BBNJ process, fostering blue economy. Highlighting the need for inclusiveness and transparency, the High Seas Alliance and ICES called for a zero draft with no options to complete work by 2020.

President Lee emphasized that a document will be produced prior to IGC-3 with the aim of furthering the negotiations. She noted that the document will be as concise as possible and will contain treaty language. She further underscored that informal discussions in smaller rooms will probably take place during the next session, stressing that the number of parallel meetings to be held will be no more than two, and the session’s structure will be circulated in a timely manner to facilitate delegations’ preparations.

Other Matters

Gabriele Goettsche-Wanli, Director, UNDOALOS, reported on the status of the Voluntary Trust Fund established to promote developing country participation. She noted the fund facilitated the participation of 37 delegates from LDCs, LLDCs, and SIDS at IGC-2. Calling for continued contributions to the Fund, she announced the deadline for the applications for IGC-3 is 28 June 2019.

Closure of the Meeting

President Lee provided an oral report of the session, thanked UNDOALOS, the facilitators, delegates, and the *Earth Negotiations Bulletin* team for their hard work. She expressed appreciation for the spirit of cooperation, flexibility, positive energy, and determination, and closed the session at 5:50 pm.

A Brief Analysis of IGC-2

The Road to a New Treaty

Picking up from where the first Intergovernmental Conference (IGC) left off in the waning days of summer, delegates converged at United Nations Headquarters to reprise the herculean task of negotiating a new treaty on marine genetic resources in the high seas. The expectation at the end of IGC-1 had been to “switch into negotiating mode,” by articulating options in treaty language to help IGC-2 begin to identify solutions and move away from a conceptual approach to text-based discussions to facilitate compromise.

“It’s like obscenity: you know it when you see it—and I’m not seeing much yet,” remarked one delegate, voicing the sentiments of some that the shape and content of the envisaged international legally binding instrument (ILBI) remain elusive after two out of the four mandated IGCs.

IGC-2’s discussions were based on the President’s Aid to Negotiations (the Aid), rather than a zero draft, organized along the elements of the “package” of issues including marine genetic resources (MGRs), area-based management tools, environmental impact assessments (EIAs), and capacity building and transfer of marine technology (CB&TT).

The Aid, as agreed upon at IGC-1, reflected various options on the items under discussion, taking delegations’ positions into account. In terms of inclusiveness, most participants agreed that the Aid reflected a staggering array of options. The jury was out, however, on the extent to which this approach helped to bridge the chasm on seemingly intransigent positions.

Although President Lee encouraged delegates to “consider ideas and proposals that may narrow the range of options, including by developing textual proposals that can help fill in the gaps and bridge the differences in the options presented,” most delegates did not directly engage in this exercise. Many opted instead for merely stating their preferences within the document’s options, hardly reacting to others’ positions and rarely suggesting concrete ideas that could “fill the gaps.” This allowed little room for interaction in some of the IGC-2 sessions.

Some delegates thought that this process of preference identification, accompanied to some degree by relevant elaborations, went a long way towards developing the necessary mutual understanding to allow for eventual trade-offs on the future treaty’s provisions. Others opined that most positions are well-known, well-established, and, according to one participant, “show no indication they are going to significantly shift in the near future.”

This brief analysis addresses the items in the President’s Aid that attracted considerable attention during IGC-2, and furthered understanding delegations’ positions and the nuances behind the options.

It also identifies the core obstacles to an agreement, which—in contrast to differing positions on more technical parts of the instrument—seem to stem from fundamental differences in the way countries view activities in areas beyond national jurisdiction. Finally, this analysis attempts to sketch out the next steps with the clock ticking down to IGC-3, scheduled for August 2019, as the intersessional period only lasts 150 days.

Surfing the Wave

While substantive progress in terms of bridging differing positions has been questioned, few participants at IGC-2 were in

doubt that the Aid facilitated focused discussions on a variety of important topics.

MGRs, a central element of the negotiations, once more, attracted much interest but continued to reveal well-documented disagreements. These include the potential inclusion of digital sequence information or derivatives. A delegate noted that, as the negotiations unfold, parameters change: “Progress in other fora, like the Convention on Biological Diversity (CBD) and the process it initiated on digital sequence information may shed some light and eventually inform our final decisions.”

Different understandings surfaced regarding benefit-sharing beyond the archetypal divides between monetary and non-monetary, and voluntary or mandatory provisions. Intellectual property rights (IPRs) attracted considerable attention, although their relationship with the instrument remains vague. Some delegates called for respecting the role of specialized bodies like the World Intellectual Property Organization (WIPO) and ensuring that IPRs “are supportive and do not run counter to the objectives of the instrument,” with many requesting clarification on just what that would entail. Others suggested addressing IPRs in the new instrument, something that, by its very nature, would generate arduous negotiations.

On EIAs, the vast majority of delegates supported outlining the steps for conducting an environmental impact assessment, highlighting their importance. That said, not everybody agreed on the compulsory, binding character of the exercise, or on the responsible entity for conducting these assessments. Some underscored the importance of a central decision-making mechanism to assess the standards and thresholds to be set under the new instrument, while others preferred decision-making at the national level, which would leave information-sharing functions to the new instrument. Furthermore, different opinions surfaced regarding strategic environmental assessments, with some delegates suggesting ensuring they are conducted, others noting that they have been developed for areas under national jurisdiction, and yet others calling for postponing discussions until their scope is clarified.

Caught in the Undertow

While the multitude of opinions on different elements of the future instrument may seem overwhelming at first glance, most experienced negotiators seemed to agree that they are not the biggest hurdle to reaching an agreement. They emphasized that many opposing opinions on technical parts of the new instrument will eventually be bridged through extensive negotiations and trade-offs that, at this stage, are difficult to predict. They simultaneously cautioned that “core underlying disagreements” may have serious negative implications on any final agreement, spilling over into different discussions and threatening to “catch the process in the undertow,” risking drowning it.

The most all-encompassing core disagreement can be found under general principles and approaches on MGRs with two options: the common heritage of humankind, on the one hand, and freedom of the high seas on the other. Those who favor the freedom of the high seas emphasize that access should be unimpeded, while supporters of the common heritage highlight the need for oversight and, more crucially, benefit-sharing.

The consequences are self-evident. Those subscribing to the freedom of the high seas would support non-monetary, voluntary benefit-sharing based on mutually agreed terms. Those supporting the common heritage are looking into standardized, mandatory

benefit-sharing, including modalities for monetary benefit-sharing.

Furthermore, high seas' freedom is compatible with a number of regional and sectoral bodies, many that already exist and more that could be established if needed. The common heritage would necessitate a global, international, umbrella structure, envisaged in a rigorous implementing agreement.

The IGC's mandate regarding "not undermining" existing relevant legal instruments and frameworks, and relevant global, regional, and sectoral bodies has further fueled the debate.

The fundamentally different understanding of the area beyond national jurisdiction and the ocean that leads to preferences towards the one or the other approach is not going to change overnight. As one delegate noted, "Simply suggesting dropping common heritage from the text would cause a huge uproar in the room." Another quipped, "Although Hugo Grotius would probably be surprised on the amount of references his *Mare Liberum* gets 400 years later, the world is not ready to let go." Thus, any meaningful consensus can only be developed in the space between the two concepts.

Getting to Shore

Finding common ground between competing principles will be no easy task and a variety of factors will need careful balancing. One suggestion, which was initially tabled at IGC-1, that access-related provisions could be governed under a high seas freedom regime while benefit-sharing modalities would fall under some interpretation of the common heritage, signifies the general direction that future trade-offs might take. Some delegates suggested that high seas freedoms could be used for activities agreed upon, including navigating or cable setting, while the common heritage would be applicable for the rest.

Most participants agree that reaching an agreement will be difficult and will probably involve complex trade-offs across a wide array of related and unrelated items. Most also seem to agree that the usual motto in international negotiations—"nothing is agreed until everything is agreed"—will be a mantra in the later stages of the negotiations. "The sooner this process starts," as one observer noted, "the better the chances to reach an agreement in a timely manner" and achieve the objective of conservation and sustainable use of biodiversity in areas beyond national jurisdiction (BBNJ). While engaging in these tough negotiations, keeping a constructive spirit and framing the discussion in positive terms can also prove helpful, with one delegate using the example of the provision on "not undermining" the role of existing bodies that is included in IGC's mandate. "We could achieve more or less the same objectives and express the same concerns if we frame the discourse positively, in terms of collaborations and synergies with existing bodies rather than trying to identify what to do so we don't undermine them."

Another delegate focused on the negotiations' timeline, saying that "history shows that some of the more delicate decisions may eventually have to come down to the wire." Another responded, however, that "for negotiations to get down to the wire, one needs, first of all, a wire to get down to," proposing some form of deadline to instill the necessary pressure. Suggesting that the mandate does not infer a strict deadline, others explained that, other than calling for "developing the instrument as soon as possible," it only sets out an "initial" four sessions ending in 2020. Most delegates agree that ocean conservation is the ultimate wire and stress that "as soon as possible" is to ensure the preservation of MGRs for future generations.

During the closing plenary, most delegates supported the development of a new text by President Lee, taking into account IGC-2 discussions, with some suggesting eliminating the different options altogether and moving towards treaty text that will allow for textual negotiations. Most delegates favored holding informal discussions in smaller groups to allow for more interaction, notwithstanding the capacity constraints of smaller delegations. In this respect, any lessons learned from negotiations under the UN Convention on the Law of the Sea (UNCLOS), including the Fish Stocks Agreement or the Convention itself, could prove valuable.

Developing a document that contains treaty language, with a limited number of options or without options altogether, and simultaneously keeping everyone relatively satisfied could prove challenging given the diametrically opposed positions expressed so far. Even if the new document enables productive exchanges in order to bridge the gap between country positions, President Lee's task is daunting. Most participants agree that "the shore is not in sight." One valuable ally that President Lee and all directly involved have in their difficult mission is delegations' trust, as repeatedly highlighted in their closing statements. Trust is an essential component and coupled with the cordial atmosphere, which, despite the opposing positions, characterized IGC-2, allows for cautious optimism going forward.

Upcoming Meetings

The Ninth Deep Sea Mining Summit 2019: This event seeks to deliver leading market intelligence and industry presentations on the latest in deep sea mining advancements. **dates:** 29-30 April 2019 **location:** London, UK **contact:** Sean Collins - Conference Producer **phone:** +1-206-582-0128 **fax:** +1-206-582-0258 **email:** delegates@iQ-Hub.com **www:** <https://www.deepsea-mining-summit.com/index>

14th round of Informal Consultations of States Parties to the UN Fish Stocks Agreement (ICSP/14): This meeting will focus on the topic "Performance reviews of regional fisheries management organizations and arrangements." **dates:** 2-3 May 2019 **location:** UN Headquarters, New York **contact:** UN Division for Ocean Affairs and the Law of the Sea **phone:** +1-212-963-3962 **fax:** +1-212-963-5847 **email:** doalos@un.org **www:** http://www.un.org/depts/los/convention_agreements/fish_stocks_agreement_states_parties.htm

ISA Workshop on Standards, Guidelines, and Key Terms: This workshop will address standards, guidelines, and key terms related to activities in the Area. **dates:** 13-17 May 2019 (tentative) **location:** Pretoria, South Africa **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/>

20th meeting of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea (ICP-20): ICP-20 will focus its discussions on the topic "Ocean Science and the United Nations Decade of Ocean Science for Sustainable Development." **dates:** 10-14 June 2019 **location:** UN Headquarters, New York **contact:** UN Division for Ocean Affairs and the Law of the Sea **phone:** +1-212-963-5915 **fax:** +1-212-963-5847 **email:** doalos@un.org **www:** http://www.un.org/Depts/los/consultative_process/consultative_process.htm

29th Meeting of States Parties to the 1982 United Nations Convention on the Law of the Sea: The 29th meeting of the parties to UNCLOS will convene in New York and review, among others, the work of the International Seabed Authority. **dates:** 17-19 June 2019 **location:** UN Headquarters, New York

contact: UN Division for Ocean Affairs and the Law of the Sea **phone:** +1-212-963-3962 **fax:** +1-212-963-5847 **email:** doalos@un.org **www:** http://www.un.org/Depts/los/meeting_states_parties/meeting_states_parties.htm

Ninth Meeting of the ITPGRFA Working Group to Enhance the Functioning of the MLS: The Working Group of the International Treaty on Plant Genetic Resources for Food and Agriculture will continue its deliberations on the revision of the Standard Material Transfer Agreement and other issues within its mandate. **dates:** 17-21 June 2019 **location:** Rome, Italy **contact:** ITPGRFA Secretariat **phone:** +39-6-57053441 **fax:** +39-6-57053057 **email:** pgrfa-treaty@fao.org **www:** <http://www.fao.org/plant-treaty/meetings/>

Commission on the Limits of the Continental Shelf: The fiftieth session of the Commission on the Limits of the Continental Shelf will convene for seven weeks. **dates:** 1-26 July 2019 for the Sub-commissions; 29 July - 2 August 2019 for the Plenary; 5-9 August 2019 for the Sub-commissions; and 13-16 August 2019 for the Plenary **location:** UN Headquarters, New York **contact:** UN Division for Ocean Affairs and the Law of the Sea **phone:** +1 212-963-5915 **fax:** +1 212-963-5847 **email:** doalos@un.org **www:** http://www.un.org/Depts/los/clcs_new/clcs_home.htm

HLPF 2019: The 2019 High-level Political Forum on Sustainable Development will address the theme, “empowering people and ensuring inclusiveness and equality.” It will conduct an in-depth review of Sustainable Development Goal (SDG) 4 (quality education), SDG 8 (decent work and economic growth), SDG 10 (reduced inequalities), SDG 13 (climate action), and SDG 16 (peace, justice and strong institutions), in addition to SDG 17 (partnerships for the Goals), which is reviewed each year. Among other items, the Forum will consider the Global Sustainable Development Report (GSDR), which is issued every four years. **dates:** 9-18 July 2019 **location:** UN Headquarters, New York **contact:** UN Division for SDGs **fax:** +1-212-963-4260 **email:** <https://sustainabledevelopment.un.org/contact/> **www:** <https://sustainabledevelopment.un.org/hlpf/2019>

25th Session of the ISA Assembly and the ISA Council (Part II): The International Seabed Authority Council will consider the 2017 report of the Finance Committee, including the 2019-2020 budget proposals, and the 2018 report of the Legal and Technical Commission. The ISA Assembly will consider the 2019-2020 budget, a draft strategic plan for the ISA, and the Council’s report. **dates:** 8-10 July 2019 for the Finance Committee; 15-19 July 2019 for the Council; and 22-26 July 2019 for the Assembly **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/>

BBNJ IGC-3: This session will continue to negotiate issues related to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, in particular, marine genetic resources, including questions on the sharing of benefits, marine protected areas, environmental impact assessments and capacity building and the transfer of marine technology. **dates:** 19-30 August 2019 **location:** UN Headquarters, New York **contact:** UN Division for Ocean Affairs and the Law of the Sea **phone:** +1-212-963-3962 **fax:** +1-212-963-5847 **email:** doalos@un.org **www:** <https://www.un.org/bbnj/>
For additional meetings, 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 transfer of marine technology
CBD	Convention on Biological Diversity
COP	Conference of the Parties
EBSAs	Ecologically or biologically significant marine areas
EIA	Environmental impact assessment
FAO	Food and Agriculture Organization of the UN
FSM	Federated States of Micronesia
ICEL	International Council on Environmental Law
ICPC	International Cable Protection Committee
IGC	Intergovernmental Conference
ILBI	International legally binding instrument
IMO	International Maritime Organization
IOC	Intergovernmental Oceanographic Commission of the UN Educational, Scientific and Cultural Organization (UNESCO)
IPLCs	Indigenous peoples and local communities
IPRs	Intellectual property rights
ISA	International Seabed Authority
IUCN	International Union for Conservation of Nature
LDCs	Least developed countries
LLDCs	Landlocked developing countries
MGRs	Marine genetic resources
MPAs	Marine protected areas
MSR	Marine scientific research
PNG	Papua New Guinea
P-SIDS	Pacific small island developing states
SEAs	Strategic environmental assessments
SIDS	Small island developing states
UNCLOS	UN Convention on the Law of the Sea
UNDOALOS	UN Division for Ocean Affairs and the Law of the Sea
UNFSA	UN Fish Stocks Agreement
WIPO	World Intellectual Property Organization
WTO	World Trade Organization