

Summary of the Further Resumed Fifth Session of the Intergovernmental Conference to Adopt 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: 19-20 June 2023

The Ocean, which covers 70% of the planet, supports every facet of life on Earth. Nearly two-thirds of it, along with its unique species and ecosystems, are in areas beyond national jurisdiction. Fragmented legal frameworks have left biodiversity in these areas vulnerable to ever growing threats, including climate change, plastic pollution, oil spills, overfishing, habitat destruction, ocean acidification, and underwater noise.

Since 2018, an Intergovernmental Conference (IGC) on an international legally binding instrument under the United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) has worked on a new agreement to address these threats. The IGC's negotiations focused on four elements of a package agreed to in 2011, namely: marine genetic resources, including benefit sharing considerations; area-based management tools, including marine protected areas; environmental impact assessments; and capacity building and the transfer of marine technology (CB&TT). In hammering out the finer details of this new Agreement, they also addressed cross-cutting issues, including the principles and approaches governing the new instrument, financial and technical considerations, institutional arrangements, and dispute-settlement measures.

While negotiations on the Agreement concluded successfully in early March 2023, the draft text had to undergo a technical edit by an informal open-ended working group before it could be adopted. Thus, on 19 June 2023, governments finally adopted the new international legally binding instrument on BBNJ. This is the third implementing agreement under UNCLOS, after the 1994 Agreement establishing the International Seabed Authority, and the 1995 Fish Stocks Agreement.

During the much-anticipated event, delegates celebrated the historic achievement as a triumph for multilateralism, with many acknowledging that the Agreement could not have come soon enough, as threats to the Ocean continue to increase. The adoption of the new Agreement was heralded as new era for ocean governance, with several delegations making links to the 2030 Agenda for Sustainable Development, and the 2022 Kunming-Montreal Global

Biodiversity Framework under the Convention on Biological Diversity. Although the Agreement was adopted by consensus, delegations agreed to include a footnote in the Conference Report recording the Russian Federation's statement distancing itself from the consensus.

Delegations lavished praise on IGC President Rena Lee for her efforts to "steer the ship safely to shore." In celebrating their achievement, many also called for early ratification of the new Agreement to ensure that implementation can begin as soon as possible. Several delegations representing both the Global South and the Global North called for robust resource mobilization efforts to bolster the Agreement's implementation.

Several members of the IGC welcomed specific provisions in the Agreement, particularly those related to the principle of equity and of the common heritage of humankind, as well as provisions related to the establishment of subsidiary bodies to guide implementation. They also lauded the establishment of a special fund for the sharing of monetary benefits derived from MGRs and digital sequence information, as well as a CB&TT Committee.

Looking ahead, several delegations called on states to sign the Agreement when it opens for signature on 20 September 2023.

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They also called for the initiation of a preparatory process to pave the way for entry into force of the Agreement, alongside a pledging conference to mobilize the requisite resources for ratification and implementation.

Closing a negotiating process that has spanned nearly two decades, the further resumed fifth session of the IGC convened at UN Headquarters in New York from 19-20 June 2023, bringing together over 200 delegates representing governments, civil society, academia, and UN and other international organizations.

A Brief History of the BBNJ Negotiations

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

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

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. The Convention applies to processes and activities carried out under the jurisdiction or control of its parties. The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, which entered into force on 12 October 2014, applies to genetic resources within the scope of CBD Article 15 (Access to Genetic Resources) and to traditional knowledge associated with genetic resources within the scope of the Convention.

Following more than a decade of discussions convened under the United Nations General Assembly, the Assembly, in its resolution 72/249 of 24 December 2017, decided to convene an Intergovernmental Conference to elaborate the text of an internationally legally binding instrument under UNCLOS on the conservation and sustainable use of BBNJ, with a view to developing the instrument as soon as possible.

Key Turning Points

Working Group: Established by General Assembly resolution 59/24 in 2004, the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of BBNJ exchanged views on institutional coordination, the need for short-term measures to address illegal, unregulated, and unreported (IUU) fishing and destructive fishing practices, marine genetic resources (MGRs), marine scientific research on marine biodiversity, marine protected areas (MPAs), and environmental impact assessments (EIAs). It met three times between 2006 and 2010.

The “Package”: The fourth meeting of the Working Group (31 May – 3 June 2011) 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 included a “package” of issues to be addressed in this process, namely:

- MGRs, including questions on benefit-sharing;
- area-based management tools (ABMTs), including MPAs;
- EIAs; and
- CB&TT.

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

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

Preparatory Committee (PrepCom): Established by General Assembly resolution 69/292, the PrepCom was mandated to make substantive recommendations to the General Assembly on the elements of a draft text of an international legally binding instrument 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. The PrepCom considered the scope of an international legally binding instrument and its relationship with other instruments, guiding approaches and principles, as well as the elements of the package. Despite diverging views, with a wide majority of countries arguing that the PrepCom had exhausted all efforts to reach consensus, the PrepCom’s outcome, which was adopted by consensus, comprised:

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

The UN General Assembly, in resolution 72/249, established the IGC with a mandate to meet for four substantive sessions and conclude its work by the first half of 2020.

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 newly-elected IGC President Rena Lee (Singapore) to prepare a concise document that identifies areas for further discussion, that does not contain treaty text, and that would not constitute a zero draft.

IGC-1: At the first meeting of the IGC, held from 4-17 September 2018, delegates clarified positions on the package elements and tabled 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.

IGC-2: Delegates convened for the second session of the IGC from 25 March – 5 April 2019. They deliberated based on the IGC President's Aid to Negotiations, which contained options structured along the lines of the 2011 package. 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. During the closing session, several called on IGC President Lee to prepare and circulate a "no-options" document containing treaty text, and to revise the meeting format, calling for a more informal set-up to facilitate in-depth negotiations.

IGC-3: Delegates at the third session of the IGC convened from 19-30 August 2019 and delved, for the first time, into textual negotiations based on a zero draft containing treaty text, developed by IGC President Lee. The document's structure addressed general provisions and cross-cutting issues, as well as the four elements of the 2011 package.

Virtual Intersessional Work: Due to the COVID-19 pandemic, delegations worked remotely from September 2020 to February 2022 via an online discussion platform to share views on the more contentious issues in the draft text. President Lee clarified that the intersessional work would not substitute for negotiations at IGC-4 but would allow for clarifying positions and enhancing mutual understanding.

IGC-4: Delegates reconvened in an in-person informal-informal setting governed by Chatham-house rules from 7-18 March 2022. With COVID-19 restrictions only permitting two representatives per delegation in the room at one time and extremely limited observer participation, delegates addressed a revised draft text of the agreement. For the first time, delegations prepared and submitted textual proposals, many times jointly, to make progress. Diverging views still persisted on the establishment of an access and benefit-sharing (ABS) mechanism. On EIAs, delegates agreed to base future negotiations on a cross-regional proposal on a tiered approach to conduct EIAs, although they were unable to reach consensus on who would be ultimately responsible for decision making. On CB&TT, some delegates supported a capacity-building mechanism, with a regional group proposing a cooperation and coordination mechanism addressing all relevant sections of the agreement. Delegates also agreed to ask the General Assembly to extend the IGC's mandate.

IGC-5.1: The first part of IGC-5, which convened from 15-26 August 2022, made notable progress in reaching agreement on some key issues. However, consensus could not be reached, and the session was suspended. Outstanding issues included: the establishment of an ABS mechanism; monetary benefit-sharing; intellectual property rights; decision-making; thresholds related to EIAs; and area- versus impact-based approaches.

IGC-5.2: The second part of IGC-5 convened from 20 February – 4 March 2023. After more than 36 hours in closed-door President's consultations to hammer out the final articles, lasting well into the weekend, IGC President Lee emerged with the text of an agreement. Delegates agreed to establish an open-ended informal working group to undertake technical edits to ensure uniformity of the text and harmonize the wording in all six UN official languages, requesting the working group to report to a further resumed session of IGC-5.

Report of the Further Resumed Session of IGC-5

On Monday, 19 June 2023, IGC President Rena Lee opened the session, thanking all delegates for their commitment, dedication, and perseverance towards the effective conclusion of the agreement.

Csaba Kőrösi, President of the UN General Assembly, thanked all delegates for their hard work towards this "landmark achievement, which bears witness to your collective commitment" on the conservation and sustainable use of marine biodiversity in ABNJ. He stressed that succeeding in crafting the Agreement testifies to the power of multilateralism, and emphasized that, along the way, "we recognized common problems, overcame our differences, and advanced transformative sustainable solutions," inviting all participants to carry the momentum forward.

UN Secretary-General António Guterres stressed that the new agreement pumps new life in the Ocean at a critical time where it is threatened by climate change, biodiversity loss, and pollution. He emphasized that this historic achievement is a testimony of the strength of multilateralism building on the legacy of UNCLOS, and demonstrating that global threats deserve global action. He highlighted that "the spirit of multilateral cooperation is alive and well," and urged timely ratification of the agreement so it can enter into force and achieve our common targets. He thanked IGC President Lee for her leadership and dedication as well as all delegates and participants, congratulating them on their achievement.

Adoption of the Agenda and Credentials Report

On Monday, the Secretariat introduced the meeting's documents and explained the process for submission of credentials and electronic statements. IGC President Lee introduced the programme of work ([A/CONF.232/2023/L.4](#)), which delegates adopted without comment. Lee, on behalf of Karl Grainger, Credentials Committee Chair, provided a report on credentials, noting those received for the further resumed session in addition to the ones submitted during IGC5.2. Delegates approved the oral report, including amendments made on Tuesday during the closing plenary.

Report of the Informal Open-ended Working Group

Pablo Adrián Arrocha Olabuenaga (Mexico), Coordinator of the Informal Open-Ended Working Group tasked with conducting a technical edit of the draft agreement and harmonizing the text in the six official UN languages, reported on the work of the group. He noted that following two meetings held from 4-6 April and 3 May 2023, the group was able to finalize pending matters in the English version, including editorial corrections, and also address technical revisions in all other languages. He said that the final text of the Agreement ([A/CONF.232/2023/L.3](#)), was circulated on 16 June 2023, and thanked all participants for their support, constructive spirit, and sense of cooperation and camaraderie that allowed timely conclusion of the mandate of the working group.

Adoption of the BBNJ Agreement

IGC President Lee then invited delegates to consider, with a view to adopt, the text of the draft agreement as contained in A/CONF.232/2023/L.3. By consensus, delegates adopted the new international legally binding instrument under UNCLOS on BBNJ, followed by a sustained standing ovation.

In statements explaining national positions on the Agreement, the RUSSIAN FEDERATION lamented that many key issues in the text had not been resolved, including how the creation of a hierarchical structure will not place existing, relevant, international organizations

in a subordinate position. He highlighted that regional organizations have an advantage regarding the collection of scientific information on local ecosystems compared to a global body, adding that the financing structure is insufficient to cover implementation expenses. He underscored the risk of politicizing ocean conservation, stressing that any decision can be taken through a simple vote, adding that MPAs will be designated for political reasons without the necessary scientific research. He further highlighted that the Agreement distorts the nature of EIAs and expressed concerns regarding the conduct of strategic environmental assessments. He stressed that the Agreement does not achieve a balance between conservation and sustainable use, with conservation being the priority to the detriment of legitimate uses of marine biodiversity. He concluded by noting that his country distances itself from the consensus, but is not demanding a vote out of respect for the position of many developing countries, which are convinced that the agreement will promote their rights and interests. He further stressed the need to closely follow the Agreement's implementation to ensure that it does not undermine international law and the mandates of relevant international organizations.

VENEZUELA recognized the importance of the Ocean, including for socio-economic development, and underscored the need to "rectify our course towards a more just, inclusive, and equitable world economic order." He highlighted the principle of the common heritage of humankind, mechanisms to establish MPAs and conduct EIAs under the new Agreement, and benefit-sharing provisions. He stressed that, while joining the consensus, his country's position, as a non-party to UNCLOS, should not be interpreted as a modification on its traditional position on UNCLOS, adding that Venezuela is not bound by these norms except for those recognized and incorporated in national legislation. In that respect, he highlighted provisions of the Agreement on non-parties to UNCLOS, sovereignty claims, and dispute settlement, reserving the right to make future comments.

General Exchange of Views

On Monday and continuing through Tuesday morning, delegates delivered general statements on the adoption of the new agreement. They expressed their appreciation to IGC President Lee as well as the Division of Ocean Affairs and Law of the Sea (DOALOS) and civil society participants for their efforts in supporting the work of the IGC throughout the negotiating process. Delegates hailed the adoption of the Agreement as a remarkable achievement for multilateralism, humanity, and life on Earth, with delegation after delegation lauding it as a milestone in support of global efforts for conservation of the Ocean, achieving the Sustainable Development Goals (SDGs), and addressing climate change, biodiversity loss, and pollution.

Recalling IGC President Lee's words that the "ship has reached the shore," HSH Prince Albert II of MONACO praised all delegations for fulfilling the mandate put before them, working towards a sustainable future for the Ocean. He underscored that UNCLOS was a visionary document now reinforced by the new Agreement, and underlined that the Agreement breaks the status quo on the conservation and protection of the Ocean from threats such as pollution, climate change, and biodiversity loss.

Vivian Balakrishnan, Minister of Foreign Affairs, SINGAPORE, lauded delegates for their political commitment to this process, noting it is fitting that this Agreement is adopted during the same week as the International Day for Women in Diplomacy (24 June). He said that the BBNJ Agreement is a victory for international law, the global commons, and multilateralism in general. He highlighted

that his country feels privileged to have been chosen to steer the process to its successful conclusion. He called on states to ratify the agreement when it opens for signature on 20 September 2023.

Alberto Van Klaveren, Minister of Foreign Affairs, CHILE, welcomed the new Agreement and urged states to ratify and implement it as soon as possible. He noted that just benefit-sharing will require coordination and cooperation, and noted his country's efforts to conserve the marine ecosystem including through global efforts on regulating fisheries. He reaffirmed his country's offer to host the Secretariat of the new Agreement in the city of Valparaiso.

Abdulla Shahid, Minister of Foreign Affairs, MALDIVES, welcomed the Agreement, which offers a framework to safeguard high seas biodiversity, linked to the future wellbeing of the planet and future generations. He highlighted that the Agreement provides a lifeline for the conservation and sustainable use of BBNJ, and offers a framework to operationalize equity, specifically related to benefit-sharing. He underscored the principle of the common heritage of humankind, and highlighted the need for financial resources, capacity building, and technology transfer for implementation.

Carlos Sorreta, Undersecretary, Department of Foreign Affairs, the PHILIPPINES, noted that activities in the Ocean impact human beings, and welcomed the Agreement as a regime to coordinate the conservation and sustainable use of BBNJ. He welcomed the inclusion of both monetary and non-monetary benefits, as well as the principle of the common heritage of humankind. He noted that concerted action towards ratification of the Agreement will be important for its speedy entry into force and implementation.

Noting that the adoption of this Agreement is a historic step in international law, Alejandro Celorio Alcántara, Legal Adviser, Ministry of Foreign Affairs, MEXICO, praised the new Agreement as a step towards the protection of the Ocean. He called on states to sign and ratify the Agreement, expressing hope for its universal acceptance. He reaffirmed the principle of the common heritage of humankind as the main legacy left to future generations, noting that the adoption of this Agreement "closes the chapter, accomplishing the mission."

Cuba, for the Group of 77 and China (G-77/CHINA), noted that this adoption is a victory for developing countries in shaping a progressive Agreement. He lauded their efforts to ensure the inclusive benefit-sharing model and digital sequence information sharing aspects of the Agreement. He also praised efforts to include the principle of the common heritage of humankind. He stated that it was an honor for Cuba to lead the group in the successful adoption of the new Agreement. He called on the international community to support the ratification campaign for the entry into force of the Agreement, noting that "today we start a new era for the conservation and sustainable use of the Ocean."

Somalia, for the AFRICAN GROUP, welcomed the new Agreement and thanked IGC President Lee for her efforts to "berth the BBNJ ship." He stressed the African Group's resolve towards an implementable, future-proof BBNJ Agreement, stressing the urgency of saving the planet is best demonstrated by operationalizing the principle of the common heritage of humankind. He noted that a healthy Ocean is the greatest tool to fight climate change, highlighting that the provisions on MPAs and EIAs contained in the new Agreement contribute towards climate change mitigation and adaptation. He called to fulfill the clauses related to CB&TT, including the establishment of the CB&TT Committee. He concluded by noting there is more work to deliver

the implementation of the agreement, including financing for developing countries.

Samoa, for the ALLIANCE OF SMALL ISLAND STATES (AOSIS), underlined that impacts in ABNJ spill into the exclusive economic zones of small island developing states (SIDS), stressing that this Agreement will be pivotal in conserving the Ocean. Noting that there are some outstanding issues to be resolved by the Conference of the Parties (COP), she underlined that this should not be an exercise in reopening the text. She expressed hope that the same spirit that guided delegations through the negotiations would permeate into the implementation of the Agreement.

Botswana, on behalf of LAND-LOCKED DEVELOPING COUNTRIES (LLDCs), noted that the importance of the Agreement for global governance of the Ocean cannot be overstated, highlighting the recognition of the special circumstances of certain countries, particularly LLDCs that lack access to sea. He welcomed the inclusion of the principle of the common heritage of humankind and capacity-building provisions, and urged states to fulfil all their obligations to ensure the full implementation of the new Agreement.

The EUROPEAN UNION, also on behalf of NORTH MACEDONIA, MOLDOVA, and MONACO, celebrated the historic achievement, expressing satisfaction with the adoption by consensus. He highlighted that the new Agreement, together with the recent adoption of the Kunming-Montreal Global Biodiversity Framework (GBF) under the Convention on Biological Diversity (CBD), are game changers for the protection of the Ocean and the sustainable use of marine resources. He highlighted important elements of the Agreement, including its robust institutional structure, and expressed readiness to support swift implementation.

Barbados, for the CARIBBEAN COMMUNITY (CARICOM), welcomed the adoption of the Agreement, noting it will address gaps in global ocean governance, focusing on ABNJ. He stressed that the Agreement, while not perfect, will have a significant impact on ocean conservation and sustainable use, highlighting CB&TT provisions as well as the need for adequate financing to support implementation. He emphasized shared rights and common interests regarding the Ocean that create a common responsibility to safeguard and sustainably use our common heritage. He urged for early entry into force of the new Agreement.

Fiji, on behalf of the PACIFIC ISLAND FORUM STATES, celebrated the culmination of two decades of work with a milestone achievement, which “demonstrates our collective responsibility and commitment.” He highlighted links to climate change and the need for further progress on the Ocean-climate nexus. He called for urgent implementation so that the new Agreement can fulfil its potential and contribute to the health, resilience, and productivity of the Ocean. He further highlighted initiatives to address sea-level rise and the Kunming-Montreal GBF under the CBD.

Thanking all involved for their commitment to the process and to future generations, Palau, for the PACIFIC SMALL ISLAND DEVELOPING STATES, stressed that ocean governance will be bolstered by robust provisions recognizing the special circumstances of SIDS, as well as the recognition of the traditional knowledge of Indigenous Peoples. She underlined the importance of financial and technological resources for the implementation of the Agreement. She emphasized that more work needs to be done for the operationalization of the Agreement, welcoming the support from private sector entities for implementation. She called for the COP to be scheduled to continue work, including in discussing financial issues, and technical and technological cooperation.

Costa Rica, for the CORE LATIN AMERICAN GROUP (CLAM), noted that the new Agreement is a significant step towards the protection of the Ocean, especially in ABNJ. She said that developing countries will require capacity building for implementation, calling on developed countries to fulfil their commitments to finance, technical assistance, and technology transfer. She said that CLAM is committed to the development of international law, lauding their constructive efforts in the negotiating process. She underlined the importance of the provisions on, *inter alia*: the electronic system proposed by the MGR articles; the CB&TT Committee; and the robust system for financial assistance for developing countries.

BANGLADESH stressed the importance of the principle of the common heritage of humankind and called for translating the Agreement into action through early ratification, resource mobilization, and cooperation and coordination with the scientific and knowledge communities.

AUSTRALIA said that the new Agreement will work alongside and complement other instruments and bodies, including the Kunming-Montreal GBF’s 30x30 target under the CBD.

ANTIGUA AND BARBUDA underscored provisions on capacity building, the transfer of marine technology, and adequate financing, and stressed the Agreement is a “true testimony to multilateralism in these difficult times.”

VIET NAM stressed that the Agreement is another milestone in the development of international law and shall reinforce UNCLOS. He highlighted the inclusion of the principle of common heritage of humankind, and provisions on ABMTs, which include areas within national jurisdiction.

NEW ZEALAND stressed that the new Agreement is a “huge win for the Ocean and for global cooperation,” explaining it represents a major step forward in our collective efforts to safeguard our global commons for future generations at times of geopolitical complexities.

Drawing attention to the level of contributions to the benefit-sharing fund, general benefit-sharing modalities, and the role of the Global Environment Facility in providing financial assistance, CAMEROON stressed that “the ship has arrived at the port, but still difficult maneuvers are required so that it can be safely docked.”

MOROCCO emphasized the need to address degradation of marine ecosystems, marine pollution, biodiversity loss, and the impacts of climate change to the marine environment, noting that “nature sends us a clear message: to care about ourselves, we must care about nature and preserve biodiversity for future generations.”

Highlighting critical decisions to be taken at COP 1, including the establishment of subsidiary bodies, KENYA stressed that UNCLOS is not a static document, encouraging the adoption of constructive interpretation to ensure the Agreement is fit for purpose.

The FEDERATED STATES OF MICRONESIA highlighted important provisions of the Agreement, including on, *inter alia*: the rights and entitlements of adjacent coastal states; a tiered approach to EIAs; the relevance of traditional knowledge of Indigenous Peoples and local communities (IPLCs) as a source of information on par with science; the utilization of MGRs, including digital sequence information, for the benefit of all humankind; and the identification and establishment of MPAs in a manner that will enable achieving the 30x30 target adopted under the Kunming-Montreal GBF under the CBD.

EL SALVADOR highlighted the principle of the common heritage of humankind as well as equity and benefit-sharing as

key to implementation. She reserved her country's position on the freedom to choose the best method of dispute settlement, which may not be limited to those methods suggested under UNCLOS.

Calling on all states to take the necessary actions for entry into force, INDONESIA underlined the significance of the new Agreement for the protection of the rights and interests of coastal communities and sustainable development. He noted the importance of ensuring the peaceful use and health of the Ocean.

ARGENTINA pointed to the pressures and threats facing the Ocean including climate change, biodiversity loss, and land-based sources of pollution, and welcomed the Agreement's provisions on the protection of the rights of coastal states, particularly noting the provisions on dispute settlement.

PERU stressed that the implementation of the new Agreement will lead to equity and justice for future generations, and expressed hope that it will strengthen synergies with other instruments and bodies concerned with BBNJ. She reminded delegations of her country's status as a non-party to UNCLOS.

PAKISTAN underscored that marine scientific research (MSR) should be interpreted in light of the provisions of UNCLOS Article 241 and welcomed the provision on the clearinghouse mechanism for information on access to MGRs, as well as those related to CB&TT.

PAPUA NEW GUINEA noted that, as a maritime archipelagic state, the BBNJ Agreement fills a significant gap in Ocean governance and called for caution in the interpretation of the text, noting that it has both general and specific objectives that must be interpreted in light of the Vienna Convention on the Law of Treaties.

GUATEMALA underlined the importance of the new Agreement for ocean governance and international peace and security. She noted that her country prioritizes the provisions related to CB&TT alongside the other parts of the Agreement and called for the Agreement to be interpreted alongside other instruments' mandates.

COSTA RICA underlined the need to establish the Scientific and Technical Body, expressed hope for the Agreement's entry into force in time for the Third UN Ocean Conference in June 2025, and underscored that deep seabed mining should not begin before robust regulations on environmental protection are in place.

GREECE said that the new Agreement allows maximizing synergies and cooperation, consistent with the 2030 Agenda for Sustainable Development, and highlighted CB&TT provisions as well as the principle of the common heritage of humankind and participation in decision making.

Welcoming that the dispute settlement framework includes advisory opinions by the International Tribunal on the Law of the Sea, GERMANY urged swift ratification and closing the governance gap.

PORTUGAL emphasized the Agreement demonstrates the vitality of UNCLOS as the overarching legal framework and noted it represents a "much-needed success of multilateralism."

KIRIBATI underscored that the Agreement provides tools to participate meaningfully in the protection of marine resources from activities carried out in ABNJ while building resilience to climate change and drew attention to IUU fishing and its destructive impacts.

PANAMA said that the Agreement is "a unique opportunity to come together as a global community and safeguard more than half of the planet," guaranteeing the achievement of the 30x30 target to reverse rapid biodiversity loss.

Noting that "the most difficult stage is beginning just now on the path towards COP 1," COLOMBIA stressed that effective implementation of the Agreement will lead to just and equitable access to benefits from the use of MGRs, taking into account the knowledge of IPLCs.

PALESTINE stressed the importance of conservation and sustainable use of the Ocean and its resources for sustainable development, including contributions to poverty eradication, food security, and creation of sustainable livelihoods. He underscored that the international community must strive for further progress, including on benefit-sharing, disclosure of information on use of MGRs, and aligning with other international biodiversity instruments.

MAURITIUS underlined that the sustainable management of the Ocean is crucial for the wellbeing of the planet and underscored the need to support SIDS in the implementation of the Agreement to reinforce the principle of equity and ensure no nation is left behind.

GABON noted the Agreement will also address climate change and stated that it aligns with the Kunming-Montreal GBF under the CBD, particularly the 30x30 target, and called for a collective responsibility for implementation, financing, fair and equitable benefit-sharing, and implementing monitoring mechanisms to ensure effective implementation.

INDIA noted that the Agreement could help catalogue new species and provide transparency for activities in the high seas, welcomed the CB&TT provisions, and lauded those on MSR.

TANZANIA underlined that implementation will be crucial, calling for bilateral and multilateral engagement to speed up the entry into force of the Agreement, urging adequate resources to support implementation.

Pointing to the links between climate and the Ocean, EGYPT lauded the consensus-based adoption of the Agreement, despite diverging interests, noting that biodiversity in ABNJ is the common heritage of all humankind, not just those who can afford to exploit these resources.

Noting that only 1% of the Ocean is sufficiently protected from increasing threats, IRELAND welcomed the new Agreement's provisions on sharing the benefits of MGRs, the establishment of MPAs, guidance on EIAs, and the provision of CB&TT for developing countries.

ERITREA emphasized that there are "constructive ambiguities" in the Agreement, including on how to meet the 30x30 target under the Kunming-Montreal GBF under the CBD and how best to ensure the fair and equitable sharing of benefits derived from MGRs.

BRAZIL highlighted the inclusion of the principle of the common heritage of humankind as marking a new era for humankind to benefit as a whole from resources both in the high seas and the seabed in ABNJ. He drew attention to provisions on benefit-sharing, capacity building, and transfer of marine technology, and called for a robust financial mechanism to support implementation.

SOUTH AFRICA noted that the Agreement will need to position itself to play a key role in a complex policy environment, developing synergies and attracting political support, and welcomed the inclusion of the polluter pays principle, the precautionary approach, the ecosystem approach, fair and equitable benefit-sharing, and the principle of the common heritage of humankind.

TUNISIA shared that the Agreement represents a fair, viable and balanced compromise for a healthier and more productive Ocean, and highlighted provisions on the establishment of MPAs, capacity

building, and benefit-sharing based on the principle of the common heritage of humankind.

PARAGUAY highlighted the special needs of LLDCs, in line with UNCLOS, stressing the need to guarantee equity and just access to benefits from MGRs for all.

TUVALU highlighted the interconnectivity of ocean ecosystems and noted the Agreement is a vital instrument for equitable distribution of marine resources, taking into account the unique circumstances of SIDS and the need to protect the marine environment.

NAURU reiterated their commitment to a healthy Ocean, highlighted the special circumstances of SIDS and adjacency, and emphasized the need to advance equity through benefit-sharing and establishing ABMTs, including MPAs, for effective ocean protection.

The US stressed that the Ocean is key to the health of our planet for future generations, and that the Agreement offers a once-in-a-lifetime opportunity to make good on our commitment to the high seas, addressing threats including IUU fishing, climate change, and pollution.

CHINA highlighted the Kunming-Montreal GBF under the CBD, including the 30x30 target as a new blueprint for global biodiversity governance, and added that the Agreement should be interpreted in good faith, seeking consensus in practice and not as a procedural requirement, and “focusing on conservation and sustainable use and not spilling over into sensitive issues under dispute.”

FIJI noted that the BBNJ Agreement represents a framework for a safer and more prosperous Pacific region through management of shared resources, benefit-sharing, CB&TT. He committed to be one of the 60 states that will ratify the Agreement, enabling its entry into force.

The DOMINICAN REPUBLIC emphasized that the Caribbean region contains some of the most diverse, but fragile, ecosystems on the planet, and highlighted provisions on the establishment of MPAs, CB&TT, and cooperation.

TIMOR LESTE highlighted the importance of the Ocean and its resources for sustainable development, food security, and the realization of social and cultural rights, and stressed that the Agreement must be interpreted in a compatible manner with existing initiatives for ocean conservation.

Reiterating their offer to host the Secretariat, BELGIUM urged all states to sign and ratify the Agreement as soon as possible, and highlighted the need for effective implementation, capacity building, and cooperation to turn the provisions into actions.

The REPUBLIC OF KOREA welcomed the third UNCLOS implementing agreement and stressed that the entry into force will establish a legally-binding management system for the high seas and will enable us to respond to the global environmental crisis.

ICELAND emphasized that long-term sustainability is at the core of all management decisions for a healthy Ocean, stressing that “conservation and sustainable use are two sides of the same coin.” He cautioned that while the adoption was a victory for multilateralism, it is just the beginning as “nothing has been protected yet, no benefits have been shared.”

Welcoming an integrated approach to conservation, CANADA said that this historic Agreement will play an important role in achieving targets of the Kunming-Montreal GBF under the CBD, including the 30x30 target.

SAUDI ARABIA underscored the importance of the UNCLOS framework and the new implementing Agreement and reiterated

his country’s support for all international and regional efforts to strengthen sustainable development initiatives.

Recalling the importance of the Ocean for sustainable development, including for food security and for the enjoyment of economic, social, and cultural rights, MADAGASCAR acknowledged the importance of a comprehensive, inclusive, and universally applicable framework that “will allow us to respond to the loss of marine biodiversity.”

NEPAL welcomed the Agreement’s acknowledgement of the special circumstances of developing countries, including LLDCs, and expressed hope that it will do more to ensure effective participation of all states in implementation.

Calling for a pledging conference to meet the financial needs for both ratification and implementation, ECUADOR highlighted threats to the Ocean, including climate change, IUU fishing, and pollution, and welcomed the new Agreement for setting up a new economic model for addressing ocean threats.

NORWAY said that the Agreement provides for the fair and equitable sharing of benefits derived from MGRs and provides a framework for cooperation across sectors to ensure ocean health. She welcomed cooperation and coordination with regional fisheries management organizations, the International Seabed Authority, and the International Maritime Organization, among others.

The UK noted that in adopting the Agreement by consensus, the “ship has been safely berthed,” underlining that the Agreement will play a role in delivering on the Kunming-Montreal GBF under the CBD as well as SDG 14 (life below water).

SURINAME thanked the donors to the BBNJ Trust Fund for facilitating his country’s participation throughout the process and reiterated his support for speedy entry into force.

TONGA noted that “as one voyage was completed, other voyages begun” towards signing, ratifying, and implementing the new Agreement, and reiterated her country’s priorities, including cooperation, CB&TT and financial assistance, and access to knowledge and science.

Noting that the high seas represent 60% of the Ocean and before the adoption of the Agreement this area was ungoverned, FRANCE underlined the new Agreement’s links to the 30x30 target and noted that the Third UN Ocean Conference will be co-hosted with Costa Rica in Nice, France, in 2025.

JAPAN expressed hope that science will underpin implementation, called for fair contributions from all parties without a disproportional burden on vulnerable states, and underlined the need for universal participation for effective implementation.

THAILAND lauded the transparent and inclusive negotiating process, which allowed all voices to be heard, and lauded the inclusion of the principle of the common heritage of humankind, the CB&TT provisions, and those on EIAs and MPAs, which will be critical for ocean governance far into the future.

SENEGAL pointed to implementation as the next step, noting the importance of fair and equitable benefit sharing and CB&TT, which will create a more equitable world. He said that the implementation of the Agreement as soon as possible will be important for intergenerational equity.

SRI LANKA called for the establishment of the CB&TT Committee at the earliest stage to ensure smooth implementation and reiterated the country’s support to safeguard the Ocean as the common heritage of humankind for present and future generations.

Noting his country’s deep connection to the sea by nature, culture, history, and economy, ITALY stressed that the Agreement

represents a historic achievement for multilateralism, aiming at protecting delicate marine ecosystems, and emphasized connections with the Kunming-Montreal GBF under the CBD.

The NETHERLANDS expressed commitment to sign and ratify the Agreement as soon as possible and called on other states to do the same. She highlighted the EIA framework, clear rules on MPAs, a fair regime for benefit-sharing, and multilateral decision making to ensure that the conservation of the Ocean has the broadest possible support.

TÜRKİYE welcomed the inclusion of Article 5 in the Agreement on the legal status of non-UNCLOS parties and expressed commitment to collaborate with Member States to ensure effective implementation.

TOGO stressed the Agreement comes at a timely juncture as the Ocean faces serious challenges related to overexploitation and poor management. He highlighted the requisite commitment to ensure swift operationalization of the Agreement, leading to fairer and more equitable governance of marine ecosystems. He also underscored that the celebratory environment should not eclipse the next important steps to ensure effective implementation.

MALAWI highlighted the importance of the Agreement for LLDCs, noting that they must often live with the consequences of climate change from activities in the Ocean, while contributing very little, emphasizing that the Agreement provides equal rights to all states.

UGANDA underscored the inclusion of the principle of the common heritage of humankind as well as provisions on EIAs and MPAs, and urged timely signing, ratification, and implementation of the Agreement.

BOLIVIA emphasized the recognition of links to Mother Earth and to the traditional knowledge of IPLCs, stressed that the new Agreement considers geographic limitations, and drew attention to provisions on capacity building, cooperation, and transfer of marine technology.

ALGERIA stressed that adopting the Agreement by consensus is a historic step for the international community and the law of the sea for current and future generations. She urged for transfer of knowledge and marine technology to developing countries to ensure implementation.

Highlighting good-faith negotiations and flexibility that led to a successful result, OMAN stressed the Agreement reflects the aspirations of various states to protect and sustainable use marine biodiversity, and called for fair and equitable benefit-sharing, including least developed countries.

The INTERNATIONAL UNION FOR CONSERVATION OF NATURE (IUCN) stressed that early entry into force, preparations for COP 1, and national implementation will be key to achieving the objectives of the Agreement. She encouraged a request to the UN Secretary-General to establish a preparatory committee by the end of this year to allow timely implementation, and to convene a pledging conference to mobilize funding for the interim period.

The INTERNATIONAL SEABED AUTHORITY (ISA) drew attention to the need to respect the rights and obligations of states under UNCLOS Part XI and the 1994 implementing Agreement on the Area and its resources. She noted the Authority anticipates a stable and productive relationships with the COP, emphasizing that “together we can guarantee the conservation and sustainable of BBNJ.”

The UN ENVIRONMENT PROGRAMME (UNEP) underscored that protecting marine ecosystems can contribute to the full enjoyment of the right to a healthy environment and noted that, through its Oceans and Seas Programme, UNEP can contribute to achieving common goal at regional and global levels.

The CBD SECRETARIAT stressed that the BBNJ Agreement together with the Kunming-Montreal GBF can help put humanity on a path to achieve the 2050 vision of living in harmony with nature. She highlighted opportunities for synergies, including on sharing knowledge and experiences on ecologically or biologically significant marine areas (EBSAs), mainstreaming biodiversity conservation, area-based conservation, and access and benefit-sharing.

The FOOD AND AGRICULTURE ORGANIZATION OF THE UN (FAO) underscored that sustainable fisheries cannot be achieved without the conservation and sustainable use of BBNJ, stating that the new Agreement will provide an opportunity for collaboration between FAO and the new instrument.

The INTERNATIONAL MARITIME ORGANIZATION (IMO) highlighted its role in supporting the negotiations, and expressed confidence that the organization will play a role in the Agreement’s implementation.

GREENPEACE INTERNATIONAL expressed hope that delegations had heard the calls of millions of people and called for “setting sail” towards ratification and the protection of the Ocean. She called for a preparatory committee to be held before the end of 2023 and called for the entry into force of the Agreement by June 2025.

The NATURAL RESOURCES DEFENSE COUNCIL, on behalf of the 51-member HIGH SEAS ALLIANCE, lauded the Agreement as a historic agreement for millions who depend on the Ocean for their survival. She praised the many who contributed to the adoption of the Agreement, noting that “now the real work begins” towards ratification and implementation. She called for rapid ratification, the convening of a preparatory process, and a speedy entry into force by 2025 in time for the UN Ocean Conference.

The PEW CHARITABLE TRUSTS highlighted that this is a critical first step to strengthening ocean governance but called on the international community to reach the 30x30 target, and to keep up the momentum by ensuring well-built institutions. She urged the initiation of a preparatory process for the entry into force of the Agreement.

The DEEP SEA CONSERVATION COALITION highlighted the degradation of deep-sea ecosystems that are worsened by deep seabed mining, underlining the calls for a moratorium on deep seabed mining. He called on all states to ensure that deep seabed mining does not occur in ABNJ until there is sufficient knowledge on the potential impacts and requested the functions of the ISA to be reflected in updated norms. He called for an end to deep-sea fishing and better management of deep-sea fisheries, underscoring the need for states not to undermine the BBNJ Agreement by not addressing these harmful practices.

The INTERNATIONAL CABLE PROTECTION COMMITTEE pointed to scientific evidence of the benign impacts of submarine cable installation and repair, noting that they would not meet the threshold to conduct an EIA in ABNJ, and called for regulatory certainty in the implementation of the BBNJ Agreement.

The INTERNATIONAL COUNCIL OF ENVIRONMENTAL LAW (ICEL) noted ICEL's support for a preparatory process towards the entry into force and implementation stages of the new Agreement, underlined the need for education and awareness raising, and called for additional resources for ratification and implementation.

THIRD WORLD NETWORK, also for the PACIFIC NETWORK ON GLOBALIZATION, noted that experience in health and other systems show that proprietary claims to common resources have adverse impacts on communities and MSR. On the transfer of marine technology, she called on developed countries to facilitate this transfer and not leave this up to mutually agreed terms with private entities.

The INTERNATIONAL CHAMBER OF SHIPPING noted international merchant ship owners welcomed the provisions on consultations and cooperation with existing regulators like the IMO. She lauded the transparency and inclusive participation throughout the negotiating process.

IGC President Lee thanked all delegations for their statements and participation throughout the IGC process, noting the repeated emphasis to press on with the work of "constructing the next chapter of the BBNJ story." She expressed thanks to the Secretary-General of the IGC and the entire DOALOS Secretariat, the IGC Bureau, the Credentials Committee, Facilitators, the *Earth Negotiations Bulletin* team, the Singapore team, civil society representatives, and all delegations for their efforts towards the success of this process. She appreciated the flexibility that led to the adoption of the Agreement and looked forward to the next phase of the process, noting "there is no telling how far we will go."

Other Matters

On Tuesday, Vladimir Jares, Director, DOALOS, reported on the status of the Voluntary Trust Fund, which enabled participation of delegates from developing countries. Thanking all donor states that contributed, he noted that, following facilitating participation of 19 delegates for this further resumed fifth IGC session, all the funds had been fully utilized.

Consideration of the Conference Report to the UN General Assembly

On Tuesday afternoon, IGC President Lee suspended the session to allow additional time for delegations to consult on the Conference report, noting concerns related to the placement of the Russian Federation's statement disassociating itself from the consensus adopting the new Agreement.

After nearly two and a half hours, IGC President Lee resumed the session and noted that, following informal consultations, the Conference report was amended to note that "the Conference adopted by consensus the Agreement under UNCLOS on the conservation and sustainable use of BBNJ. Delegations expressed their views in support of the Agreement in the compilation document. Two delegations spoke in explanation of positions after the adoption."

She added that the next paragraph notes that "in its explanation of position, the Russian Federation disassociated itself from the consensus on the text of the Agreement prepared by the conference," followed by a footnote that states "Without creating a precedent for the future, the Conference report reflects the reason for the disassociation provided by the Russian Federation." The footnote explains that the Russian Federation stated the instrument is not

acceptable and the question of the participation of the Russian Federation in it is not considered. It expressed its position that the provisions of the most important existing international treaties, including UNCLOS and the 1995 Fish Stocks Agreement were undermined and that its norms would allow for intrusion into the mandate and competence of relevant sectoral and regional international organizations, including regional fisheries management organizations. The Russian Federation indicated that it will carefully monitor that the new Agreement and the system of global bodies created within its framework do not undermine the provisions of international treaties and mandates of intergovernmental organizations in which it is a participant.

Jamaica, for CARICOM, raised concerns regarding "this unprecedented approach," which goes beyond the standard procedure for disassociation.

The RUSSIAN FEDERATION pointed to mutual flexibility, reiterating its objections to the Agreement on legal, factual, and financial grounds.

Delegates adopted the Conference report, as amended.

Closure of the Conference

IGC President Lee noted that "this IGC was the learning journey of a lifetime." She thanked participants for teaching her with their experience, suggestions, flexibility, and contrary views, stressing that being their President was a privilege.

She urged "taking action to sign the Agreement, ratify it, and prepare for the first meeting," cautioning that if we do not halt, or at least slow down, one-third of marine mammals and reef-forming corals will be lost. She jokingly warned delegates that she will expect a long queue of ministers waiting to sign the Agreement on 20 September 2023.

She stressed that the main message of this journey is that "if we can work together, we can set aside our differences and reach positive outcomes, leading other processes by example." She underlined that it is possible to work collectively, positively in service of our Ocean, planet, and people. She stressed that the Ocean was worthy of all the pressure and sleepless nights, and gavelled the final session of the IGC to a close to a standing ovation at 6:10 pm.

A Brief Analysis of IGC-5.3

The new Agreement pumps new life in the Ocean at a critical time where it is threatened by climate change, biodiversity loss, and pollution. This historic achievement is a testimony to the strength of multilateralism.

~ UN Secretary-General António Guterres

A new legally-binding agreement on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ), expected by many to be a game changer in ocean governance, was adopted at UN Headquarters in New York. This new Agreement is the third implementing agreement under the UN Convention on the Law of the Sea (UNCLOS). Following the effective conclusion of the negotiations at the resumed fifth session of the Intergovernmental Conference (IGC-5.2) in early March 2023, IGC-5.3 was able to swiftly adopt the agreement by consensus.

This brief analysis will focus on the significance of the new Agreement and the main steps to put words into practice, drawing on delegates' expectations as shared during this final round of deliberations.

The Dawn of a New Era for the Ocean

“A milestone for the conservation of the Ocean and towards achieving the Sustainable Development Goals (SDGs)”; “A historic landmark for the Ocean and a huge win for global cooperation”; “A major step forward in our collective efforts to safeguard our global commons for future generations.” Such statements summarize the collective sentiment of the vast majority of government delegates towards the new Agreement. The celebratory environment at IGC-5.3 was not surprising as negotiations had been arduous and lengthy, lasting almost two decades. A sense of historic achievement was palpable during the two-day final session.

The main elements of the new Agreement have already been analyzed over the past few months and were highlighted by delegates in their final statements. Provisions on marine genetic resources (MGRs), including the fair and equitable sharing of benefits (Part II, Articles 9-16) aim to equitably share benefits arising from activities with respect to MGRs and digital sequence information for the conservation and sustainable use of BBNJ, building relevant capacities of parties, particularly developing states. Part III (Articles 17-26) on area-based management tools (ABMTs), including marine protected areas (MPAs), aims to establish a comprehensive system of ABMTs with ecologically representative and well-connected networks of MPAs, strengthening regional and international cooperation towards preserving and restoring marine biodiversity and fragile ecosystems.

Part IV (Articles 27-39) on environmental impact assessments (EIAs) establishes processes, thresholds, and other requirements, ensuring that EIAs are conducted and reported by parties. Part V (Articles 40-46) focuses on capacity building and the transfer of marine technology. It aims to assist parties, in particular developing countries, to develop their scientific and technological capacity towards the conservation and sustainable use of BBNJ, assisting them in implementing the provisions of the new Agreement. In addition, the Agreement contains robust provisions on institutional arrangements (Articles 47-51); financial resources and mechanism (Article 52); implementation and compliance (Articles 53-55); and settlement of disputes (Articles 56-61), including envisaged roles for the International Tribunal for the Law of the Sea and the International Court of Justice.

According to many delegates, the importance of the new Agreement cannot be overstated as it creates an enabling environment for global ocean governance. Many further highlighted the multiple, complex challenges on the way to reach consensus. They pointed to differing national priorities, interests, levels of socio-economic development, political understandings, and cultural beliefs, emphasizing that reaching agreement should be celebrated as a triumph of multilateralism and good faith negotiations. As one veteran participant noted, “While all universal agreements under UN auspices require some degree of transcendence, reaching consensus on the BBNJ Agreement had to tick all the boxes and was a highly demanding task.” After a long and winding voyage that lasted twice as long as Odysseus' journey, slightly amending the metaphor used over the years by IGC President Lee, the ship has indeed finally reached Ithaca.

The Ship is at the Port, but it Needs to Dock

Final statements made clear that despite the celebratory environment, the momentum cannot be lost. Delegates and civil society alike repeatedly underscored that concrete steps are necessary to put words into action and move towards effective implementation. At a minimum, three concrete steps can be identified towards this direction.

First, there is an urgent need for governments to sign and ratify the new Agreement. Once the Agreement is open for signature on 20 September 2023, 60 instruments of ratification need to be deposited for it to enter into force. Depending on political will and national processes, this may take some time. UNCLOS took 12 years to enter into force and the UN Fish Stocks Agreement took more than six years. For this new Agreement, time is of the essence, given the critical state of the Ocean due to threats posed by climate change, biodiversity loss, and pollution.

In addition to the required number of ratifications, as close to universal participation as possible is of paramount importance. As one delegate bluntly put it, “The quantity of ratifications is key, but the quality is equally important,” pointing to the fact that if states that are major actors in high seas activities do not join the new Agreement, its effectiveness will be severely compromised.

Second, the new Agreement will have to place itself in a complex and fragmented policy environment. Cooperation and synergies with bodies and instruments with relevant mandates and initiatives will be central for the Agreement to be successful. As many observers noted, in some cases, this could be a seamless process. For example, many emphasized the parallel goals of the BBNJ Agreement and the Kunming-Montreal Global Biodiversity Framework, which was adopted in December under the Convention on Biological Diversity. In particular, they focused on the 30x30 target aiming to conserve 30% of the earth's land and sea through the establishment of protected areas and other ABMTs by 2030, and the clear interlinkages with the establishment of MPAs under the new BBNJ Agreement.

In other cases, however, ensuring efficient synergies may prove more challenging. The debate over “not undermining” relevant frameworks and bodies was a recurring theme throughout the negotiation process. The provision on “not undermining” is included in Article 5 of the new Agreement, but many delegates point to the need for it to be further clarified, and for a common definition to be agreed upon as implementation begins. Synergies, common objectives, and a common vision between the new Agreement and Regional Fisheries Management Organizations and other regional bodies are essential for effective implementation. As a delegate noted, “The sooner we clarify this notorious ‘not-undermining provision,’ the better for the Ocean and for all of us.”

Last but by no means least, implementation will require financial resources. The only delegation vocally critical of the Agreement's adoption—the Russian Federation—noted, among other concerns, that “astronomical amounts of money” will be required if the provisions of the new Agreement are to be implemented. While any amount of money can only be subjectively characterized as astronomical, it would not be a conceptual leap to admit that significant financial resources will be required. For example, an estimate by the Blue Nature Alliance notes that robust protection, management, and monitoring of MPAs covering 30% of the high seas could cost the global community up to about USD 7 billion in establishment costs and slightly more than USD 1 billion in annual

operating costs. Such estimates represent a significant increase compared to resources currently devoted to ocean governance. As a participant noted, “In addition to innovative financial instruments, the world’s governments, particularly the more affluent countries, will need to put their money where their mouth is.”

Celebratory Contemplation, but Not for Too Long

The new BBNJ Agreement is much more than merely a third implementing agreement under UNCLOS. It has the potential to set new rules for the high seas and be a game changer for the Ocean. While many obstacles to effective implementation exist and there are no guarantees about the future, the Agreement’s adoption by consensus is a leap ahead for the international environmental community and a much-needed win for multilateralism, coming at a moment of great upheaval and increasing geopolitical complexities.

When IGC President Rena Lee gavelled the IGC to a close for the final time, many participants who had accompanied the whole lengthy process, or even large parts of it, could not conceal their emotions. However, many of the key figures during the years of negotiations were notably absent during this last session and many delegates and IGC President Lee repeatedly underscored their important contributions.

The *Earth Negotiations Bulletin* has reported on and tracked the BBNJ process since the first meeting of the BBNJ Working Group in [February 2006](#). Looking back, during this celebratory period while writing the final words of the last analysis of the process, the concept of time takes central stage. Some of us were young when this started and are now middle-aged. More importantly, 17 years is a long time and the challenges the Ocean faces are pressing. There is a time for everything, and now is the time for celebration. But, as one seasoned observer commented as leaving UN Headquarters in New York for the last time, “the real work now lies before us,” in operationalizing this newly minted Agreement.

Upcoming Meetings

HLPF 2023: The 2023 meeting of the HLPF, under the auspices of ECOSOC, will convene under the theme “Accelerating the recovery from the coronavirus disease (COVID-19) and the full implementation of the 2030 Agenda for Sustainable Development at all levels.” The 2023 meeting will hold in-depth reviews of five SDGs: 6 (clean water and sanitation), 7 (affordable and clean energy), 9 (industry, innovation and infrastructure), 11 (sustainable cities and communities), and 17 (partnerships for the Goals). It will also support the midterm review of the implementation of the SDGs and preparations for the 2023 SDG Summit. **dates:** 10-19 July 2023 **location:** UN Headquarters, New York **www:** hlpf.un.org/2023

Fourth Global Climate and Sustainable Development Goal (SDG) Synergy Conference: This event will take place under the theme, “Delivering a Just Transition through Climate and SDG Synergies.” **date:** 16 July 2023 **location:** UN Headquarters, New York **www:** sdgs.un.org/events/fourth-global-conference-strengthening-synergies-between-paris-agreement-and-2030-agenda

ISA Assembly: The Assembly of the International Seabed Authority is the organization through which parties to UNCLOS organize and control activities in the seabed, ocean floor, and subsoil beyond the limits of national jurisdiction. At this session discussions may address the commencement of the exploitation of

the deep seabed. The Assembly will be preceded by a meeting of the ISA Council from 10-21 July. **dates:** 24-28 July 2023 **location:** Kingston, Jamaica **www:** isa.org.jm/sessions/28th-session-2023

IPBES-10: The 10th Session of the Plenary of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services will be held under its mandate to assesses the state of biodiversity and the ecosystem services it provides to society, in response to requests from decisionmakers. **dates:** 28 August – 2 September 2023 **location:** Bonn, Germany **www:** ipbes.net/events/ipbes-10-plenary

African Climate Week (ACW 2023): The Regional Climate Weeks provide a platform for policymakers, practitioners, businesses, and civil society to exchange on climate solutions, barriers, and opportunities. **dates:** 4-8 September 2023 **location:** Nairobi, Kenya **www:** unfccc.int/climate-action/regional-climate-weeks/africa-climate-week-2022

SDG Summit: The Summit is the quadrennial meeting of the HLPF under the auspices of the UNGA. The 2023 Summit will be the second since the adoption of the SDGs and will take place at the midpoint of implementation of the 2030 Agenda. **dates:** 18-19 September 2023 **location:** UN Headquarters, New York **www:** hlpf.un.org/sdg-summit

BBNJ Agreement Signing Ceremony: The BBNJ Agreement will open for signature on 20 September 2023, at the seat of the interim Secretariat at UN Headquarters in New York. It will enter into force after the deposit of the 60th instrument of ratification. Details will be announced. **date:** 20 September 2023 **location:** UN Headquarters, New York **www:** www.un.org/bbnj/

For additional upcoming events, see sdg.iisd.org

Glossary

ABMTs	Area-based management tools
ABNJ	Areas beyond national jurisdiction
BBNJ	Biodiversity of areas beyond national jurisdiction
CB&TT	Capacity building and transfer of marine technology
CBD	Convention on Biological Diversity
COP	Conference of the Parties
DOALOS	UN Division for Ocean Affairs and the Law of the Sea
EIA	Environmental impact assessment
GBF	Global Biodiversity Framework
IGC	Intergovernmental Conference
IMO	International Maritime Organization
IPLCs	Indigenous Peoples and local communities
IUU	Illegal, unreported, and unregulated (fishing)
LLDCs	Land-locked developing countries
MGRs	Marine genetic resources
MPAs	Marine protected areas
MSR	Marine scientific research
SDGs	Sustainable Development Goals
SIDS	Small island developing states
UNCLOS	UN Convention on the Law of the Sea