

**AGREEMENT UNDER THE UNITED NATIONS CONVENTION
ON THE LAW OF THE SEA ON THE CONSERVATION AND
SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY
OF AREAS BEYOND NATIONAL JURISDICTION**



**UNITED NATIONS
2023**

control when the State has reasonable grounds for believing that such activities may cause substantial pollution of or significant and harmful changes to the marine environment,

Mindful of the obligation set out in the Convention to take all measures necessary to ensure that pollution arising from incidents or activities does not spread beyond the areas where sovereign rights are exercised in accordance with the Convention,

Desiring to act as stewards of the ocean in areas beyond national jurisdiction on behalf of present and future generations by protecting, caring for and ensuring responsible use of the marine environment, maintaining the integrity of ocean ecosystems and conserving the inherent value of biological diversity of areas beyond national jurisdiction,

Acknowledging Mindful of the obligation set out in the Convention to take all measures necessary to ensure that pollution arising from incidents or activities does not spread beyond the areas where sovereign rights are exercised in accordance with the Convention,

maintaining its potential to meet the needs and aspirations of present and future generations.

14. "Utilization of marine genetic resources" means to conduct research and development on the genetic and/or biochemical composition of marine genetic resources, including through the application of biotechnology, as defined in paragraph 3 above.

Article 2
General objective

subregional and sectoral bodies and that promotes coherence and coordination with those instruments, frameworks and bodies.

3. The legal status of non-parties to the Convention or any other related agreements with regard to those instruments is not affected by this Agreement.

Article 6 **Without prejudice**

This Agreement, including any decision or recommendation of the Conference of the Parties or any of its subsidiary bodies, and any acts, measures or activities undertaken on the basis thereof, shall be without prejudice to, and shall not be relied upon as a basis for asserting or denying any claims to, sovereignty, sovereign rights or jurisdiction, including in respect of any disputes relating thereto.

Article 7 **General principles and approaches**

In order to achieve the objectives of this Agreement, Parties shall be guided by the following principles and approaches:

- (a) The polluter-pays principle;
- (b) The principle of the common heritage of humankind which is set out in the Convention;
- (c) The freedom of marine scientific research, together with other freedoms of the high seas;

(k) The respect, promotion and consideration of their respective obligations, as applicable, relating to the rights of Indigenous Peoples or of, as appropriate, local communities when taking action to address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

(l) The non-transfer, directly or indirectly, of damage or hazards from one area

(b) The building and development of the capacity of Parties, particularly developing States Parties, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States, coastal African States, archipelagic States and developing middle-income countries, to carry out activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction;

(c) The generation of knowledge, scientific understanding and technological innovation, including through the development and conduct of marine scientific research, as fundamental contributions to the implementation of this Agreement;

(d) The development and transfer of marine technology in accordance with this Agreement.

Article 10 **Application**

1. The provisions of this Agreement shall apply to activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction collected and generated after the entry into force of this Agreement for the respective Party. The application of the provisions of this Agreement shall extend to the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction collected or generated before entry into force, unless a Party makes an exception in writing under article 70 when signing, ratifying, approving, accepting or acceding to this Agreement.

2. The provisions of this Part shall not apply to:

(a) Fishing regulated under relevant international law and fishing-related activities; or

(b) Fish or other living marine resources known to have been taken in fishing and fishing-related activities from areas beyond national jurisdiction, except where such fish or other living marine resources are regulated as utilization under this Part.

3. The obligations in this Part shall not apply to a Party's military activities, including military activities by government vessels and aircraft engaged in non-commercial service. The obligations in this Part with respect to the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction shall apply to a Party's non-military activities.

Article 11
Activities with respect to marine genetic resources of areas beyond national jurisdiction

1. Activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction may be carried out by all Parties, irrespective of their geographical location, and by natural or juridical persons under the jurisdiction of the Parties. Such activities shall be carried out in accordance with this Agreement.

2. Parties shall promote cooperation in all activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction.

3. Collection in situ of marine genetic resources of areas beyond national jurisdiction shall be carried out with due regard for the rights and legitimate interests of coastal States in areas within their national jurisdiction and with due regard for the interests of other States in areas beyond national jurisdiction, in accordance with the Convention. To this end, Parties shall endeavour to cooperate, as appropriate, including through specific modalities for the operation of the Clearing-House Mechanism determined under article 51, with a view to implementing this Agreement.

4. No State shall claim or exercise sovereignty or sovereign rights over marine genetic resources of areas beyond national jurisdiction.

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Article 12

**Notification on activities with respect to marine genetic resources
and digital sequence information on marine genetic resources of**

(b) Where available, details of the post-collection notification to the Clearing-House Mechanism related to the marine genetic resources that were the subject of utilization;

(c) Where the original sample that is the subject of utilization is held;

(d) The modalities envisaged for access to marine genetic resources and digital sequence information on marine genetic resources being utilized, and a data management plan for the same;

(e) Once marketed, information, if available, on sales of relevant products and any further development.

Article 13

Traditional knowledge of Indigenous Peoples and local communities associated with marine genetic resources in areas beyond national jurisdiction

Parties shall take legislative, administrative or policy measures, where relevant and as appropriate, with the aim of ensuring that traditional knowledge associated with marine genetic resources in areas beyond national jurisdiction that is held by Indigenous Peoples and local communities shall only be accessed with the free, prior and informed consent or approval and involvement of these Indigenous Peoples and local communities. Access to such traditional knowledge may be facilitated by the Clearing-House Mechanism. Access to and use of such traditional knowledge shall be on mutually agreed terms.

Article 14

Fair and equitable sharing of benefits

1. The benefits arising from activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction shall be shared in a fair and equitable manner in accordance with this Part and contribute to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

2. Non-monetary benefits shall be shared in accordance with this Agreement in the form of, inter alia:

(a) Access to samples and sample collections in accordance with current international practice;

(b) Access to digital sequence information in accordance with current international practice;

(c) Open access to findable, accessible, interoperable and reusable (FAIR) scientific data in accordance with current international practice and open and responsible data governance;

(d) Information contained in the notifications, along with “BBNJ” standardized batch identifiers, provided in accordance with article 12, in publicly searchable and accessible forms;

(e) Transfer of marine technology in line with relevant modalities provided under Part V of this Agreement;

(f) Capacity-building, including by financing research programmes, and partnership opportunities, particularly directly relevant and substantial ones, for scientists

and opportunities for such access on fair and most favourable terms, including on concessional and preferential terms, may be provided to researchers and research institutions from developing States.

5. Monetary benefits from the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction, including commercialization, shall be shared fairly and equitably, through the financial mechanism established under article 52, for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

6. After the entry into force of this Agreement, developed Parties shall make annual contributions to the special fund referred to in article 52. A Party's rate of contribution shall be 50 per cent of that Party's assessed contribution to the budget adopted by the Conference of the Parties under article 47, paragraph 6 (e). Such payment shall continue until a decision is taken by the Conference of the Parties under paragraph 7 below.

7. The Conference of the Parties shall decide on the modalities for the sharing of monetary benefits from the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction, taking into account the recommendations of the access and benefit-sharing committee established under article 15. If all efforts to reach consensus have been exhausted, a decision shall be adopted by a three-fourths majority of the Parties present and voting. The payments shall be made through the special fund established under article 52. The modalities may include the following:

- (a) Milestone payments;
- (b) Payments or contributions related to the commercialization of products, including payment of a percentage of the revenue from sales of products;
- (c) A tiered fee, paid on a periodic basis, based on a diversified set of indicators measuring the aggregate level of activities by a Party;
- (d) Other forms as decided by the Conference of the Parties, taking into account recommendations of the access and benefit-sharing committee.

8. A Party may make a declaration at the time the Conference of the Parties adopts the modalities stating that those modalities shall not take effect for that Party for a period of up to four years, in order to allow time for necessary implementation. A Party that makes such a declaration shall continue to make the payment set out in paragraph 6 above until the new modalities take effect.

9. In deciding on the modalities for the sharing of monetary benefits from the use of digital sequence information on marine genetic resources of areas beyond national jurisdiction under paragraph 7 above, the Conference of the Parties shall take into account the recommendations of the access and benefit-sharing committee, recognizing that such

modalities should be mutually supportive of and adaptable to other access and benefit-sharing instruments.

10. The Conference of the Parties, taking into account recommendations of the access and benefit-sharing committee established under article 15, shall review and assess, on a biennial basis, the monetary benefits from the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction. The first review shall take place no later than five years after the entry into force of this Agreement. The review shall include consideration of the annual contributions referred to in paragraph 6 above.

11. Parties shall take the necessary legislative, administrative or policy measures, as appropriate, with the aim of ensuring that benefits arising from activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction by natural or juridical persons under their jurisdiction are shared in accordance with this Agreement.

Article 15 **Access and benefit-sharing committee**

1. An access and benefit-sharing committee is hereby established. It shall serve, *inter alia*, as a means for establishing guidelines for benefit-sharing, in accordance with article 14, providing transparency and ensuring a fair and equitable sharing of both monetary and non-monetary benefits.

2. The access and benefit-sharing committee shall be composed of 15 members possessing appropriate qualifications in related fields, so as to ensure the effective exercise of the functions of the committee. The members shall be nominated by Parties and elected by the Conference of the Parties, taking into account gender balance and equitable geographical distribution and providing for representation on the committee from developing States, including from the least developed countries, from small island developing States and from landlocked developing countries. The terms of reference and modalities for the operation of the committee shall be determined by the Conference of the Parties.

3. The committee may make recommendations to the Conference of the Parties on matters relating to this Part, including on the following matters:

(a) Guidelines or a code of conduct for activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction in accordance with this Part;

(b) Measures to implement decisions taken in accordance with this Part;

(c) Rates or mechanisms for the sharing of monetary benefits in accordance with article 14;

(d) Matters relating to this Part in relation to the Clearing-House Mechanism;

jurisdiction, including in respect of any disputes relating thereto. The Conference of the

2. The secretariat shall facilitate consultations and gather input as follows:
 - (a) States, in particular adjacent coastal States, shall be notified and invited to submit, inter alia:
 - (i) Views on the merits and geographic scope of the proposal;
 - (ii) Any other relevant scientific input;
 - (iii) Information regarding any existing measures or activities in adjacent or related areas within national jurisdiction and beyond national jurisdiction;
 - (iv) Views on the potential implications of the proposal for areas within national jurisdiction;
 - (v) Any other relevant information;
 - (b) Bodies of relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies shall be notified and invited to submit, inter alia:
 - (i) Views on the merits of the proposal;
 - (ii) Any other relevant scientific input;
 - (iii) Information regarding any existing measures adopted by that instrument, framework or body for the relevant area or for adjacent areas;
 - (iv) Views regarding any aspects of the measures and other elements for a draft management plan identified in the proposal that fall within the competence of that body;
 - (v) Views regarding any relevant additional measures that fall within the competence of that instrument, framework or body;
 - (vi) Any other relevant information;
 - (c) Indigenous Peoples and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders shall be invited to submit, inter alia:
 - (i) Views on the merits of the proposal;
 - (ii) Any other relevant scientific input;
 - (iii) Any relevant traditional knowledge of Indigenous Peoples and local communities;
 - (iv) Any other relevant information.

3. Contributions received pursuant to paragraph 2 above shall be made publicly available by the secretariat.
4. In cases where the proposed measure affects areas that are entirely surrounded by the exclusive economic zones of States, proponents shall:
 - (a) Undertake targeted and proactive consultations, including prior notification, with such States;
 - (b) Consider the views and comments of such States on the proposed measure and provide written responses specifically addressing such views and comments and, where appropriate, revise the proposed measure accordingly.
5. The proponent shall consider the contributions received during the consultation period, as well as the views of and information from the Scientific and Technical Body, and, as appropriate, revise the proposal accordingly or respond to substantive contributions not reflected in the proposal.
6. The consultation period shall be time-bound.
7. The revised proposal shall be submitted to the Scientific and Technical Body, which shall assess the proposal and make recommendations to the Conference of the Parties.
8. The modalities for the consultation and assessment process, including duration, shall be further elaborated by the Scientific and Technical Body, as necessary, at its first meeting, for consideration and adoption by the Conference of the Parties, taking into

of relevant measures through such instruments, frameworks and bodies, in accordance with their respective mandates.

coordination with that instrument, framework or body, to maintain, amend or revoke the area-based management tool, including a marine protected area, and related measures, as appropriate.

Article 23 **Decision-making**

1. As a general rule, the decisions and recommendations under this Part shall be taken by consensus.
2. If no consensus is reached, decisions and recommendations under this Part shall be taken by a three-fourths majority of the Parties present and voting, before which the Conference of the Parties shall decide, by a two-thirds majority of the Parties present and voting that all efforts to reach consensus have been exhausted.
3. Decisions taken under this Part shall enter into force 120 days after the meeting of the Conference of the Parties at which they were taken and shall be binding on all Parties.
4. During the period of 120 days provided for in paragraph 3 above, any Party may, by notification in writing to the secretariat, make an objection with respect to a decision adopted under this Part, and that decision shall not be binding on that Party. An objection to a decision may be withdrawn at any time by written notification to the secretariat and, thereupon, the decision shall be binding for that Party 90 days following the date of the notification stating that the objection is withdrawn.
5. A Party making an objection under paragraph 4 above shall provide to the secretariat, in writing, at the time of making its objection, the explanation of the grounds for its objection, which shall be based on one or more of the following grounds:
 - (a) The decision is inconsistent with this Agreement or the rights and duties of the objecting Party in accordance with the Convention;
 - (b) The decision unjustifiably discriminates in form or in fact against the objecting Party;
 - (c) The Party cannot practicably comply with the decision at the time of the objection after making all reasonable efforts to do so.
6. A Party making an objection under paragraph 4 above shall, to the extent practicable, adopt alternative measures or approaches that are equivalent in effect to the decision to which it has objected and shall not adopt measures nor take actions that would undermine the effectiveness of the decision to which it has objected unless such measures or actions are essential for the exercise of rights and duties of the objecting Party in accordance with the Convention.
7. The objecting Party shall report to the next ordinary meeting of the Conference of the Parties following its notification under paragraph 4 above, and periodically thereafter,

Article 26
Monitoring and review

1. Parties shall, individually or collectively, report to the Conference of the Parties on the implementation of area-based management tools, including marine protected areas, established under this Part and related measures. Such reports, as well as the information and the review referred to in paragraphs 2 and 3 below, respectively, shall be made publicly available by the secretariat.
2. The relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies shall be invited to provide information to the Conference of the Parties on the implementation of measures that they have adopted to achieve the objectives of area-based management tools, including marine protected areas, established under this Part.
3. Area-based management tools, including marine protected areas, established under this Part, including related measures, shall be monitored and periodically reviewed by the Scientific and Technical Body, taking into account the reports and information referred to in paragraphs 1 and 2 above, respectively.
4. In the review referred to in paragraph 3 above, the Scientific and Technical Body shall assess the effectiveness of area-based management tools, including marine protected areas, established under this Part, including related measures and the progress made in achieving their objectives, and provide advice and recommendations to the Conference of the Parties.
5. Following the review, the Conference of the Parties shall, as necessary, take decisions or recommendations on the amendment, extension or revocation of area-based management tools, including marine protected areas, and any related measures adopted by the Conference of the Parties, on the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, taking into account the precautionary approach and an ecosystem approach.

PART IV
ENVIRONMENTAL IMPACT ASSESSMENTS

Article 27
Objectives

The objectives of this Part are to:

- (a) Operationalize the provisions of the Convention on environmental impact assessment for areas beyond national jurisdiction by establishing processes, thresholds and other requirements for conducting and reporting assessments by Parties;

(b) Ensure that activities covered by this Part are assessed and conducted to prevent, mitigate and manage significant adverse impacts for the purpose of protecting and preserving the marine environment;

(c) Support the consideration of cumulative impacts and impacts in areas within national jurisdiction;

(d) Provide for strategic environmental assessments;

(e) Achieve a coherent environmental impact assessment framework for activities in areas beyond national jurisdiction;

(f) Build and strengthen the capacity of Parties, particularly developing States Parties, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States, coastal African States, archipelagic States and developing middle-income countries, to prepare, conduct and evaluate environmental impact assessments and strategic environmental assessments in support of the objectives of this Agreement.

Article 28

Obligation to conduct environmental impact assessments

1. Parties shall ensure that the potential impacts on the marine environment of planned activities under their jurisdiction or control that take place in areas beyond national jurisdiction are assessed as set out in this Part before they are authorized.

2. When a Party with jurisdiction or control over a planned activity that is to be conducted in marine areas within national jurisdiction determines that the activity may cause substantial pollution of or significant and harmful changes to the marine environment in areas beyond national jurisdiction, that Party shall ensure that an environmental impact assessment of such activity is conducted in accordance with this Part or that an environmental impact assessment is conducted under the Party's national process. A Party conducting such an assessment under its national process shall:

(a) Make relevant information available through the Clearing-House Mechanism, in a timely manner, during the national process;

(b) Ensure that the activity is monitored in a manner consistent with the requirements of its national process;

(c) Ensure that environmental impact assessment reports and any relevant monitoring reports are made available through the Clearing-House Mechanism as set out in this Agreement.

3. Upon receiving the information referred to in paragraph 2 (a) above, the Scientific and Technical Body may provide comments to the Party with jurisdiction or control over the planned activity.

6. Unless the planned activities that meet the criteria set out in paragraph 4 (b) (i) above are subject to monitoring and review under a relevant legal instrument or framework or relevant global, regional, subregional or sectoral body, Parties shall monitor and review the activities and ensure that the monitoring and review reports are published through the Clearing-House Mechanism.

Article 30
**Thresholds and factors for conducting environmental
impact assessments**

1. When a planned activity may have more than a minor or transitory effect on the marine environment, or the effects of the activity are unknown or poorly understood, the Party with jurisdiction or control of the activity shall conduct a screening of the activity under article 31, using the factors set out in paragraph 2 below, and:

(a) The screening shall be sufficiently detailed for the Party to assess whether it has reasonable grounds for believing that the planned activity may cause substantial pollution of or significant and harmful changes to the marine environment and shall include:

(i) A description of the planned activity, including its purpose, location, duration and intensity; and

(ii) An initial analysis of the potential impacts, including consideration of cumulative impacts and, as appropriate, alternatives to the planned activity;

(b) If it is determined on the basis of the screening that the Party has reasonable grounds for believing that the activity may cause substantial pollution of or significant and harmful changes to the marine environment, an environmental impact assessment shall be conducted in accordance with the provisions of this Part.

2. When determining whether planned activities under their jurisdiction or control meet the threshold set out in paragraph 1 above, Parties shall consider the following non-exhaustive factors:

(a) The type of and technology used for the activity and the manner in which it is to be conducted;

(b) The duration of the activity;

(c) The location of the activity;

(d) The characteristics and ecosystem of the location (including areas of particular ecological or biological significance or vulnerability);

(e) The potential impacts of the activity, including the potential cumulative impacts and the potential impacts in areas within national jurisdiction;

(f) The extent to which the effects of the activity are unknown or poorly understood;

(g) Other relevant ecological or biological criteria.

Article 31

Process for environmental impact assessments

1. Parties shall ensure that the process for conducting an environmental impact assessment pursuant to this Part includes the following steps:

(a) *Screening.* Parties shall undertake screening, in a timely manner, to determine whether an environmental impact assessment is required in respect of a planned activity under its jurisdiction or control, in accordance with article 30, and make its determination publicly available:

(i) If a Party determines that an environmental impact assessment is not required for a planned activity under its jurisdiction or control, it shall make relevant

(vi) The registration of views and the recommendations of the Scientific and Technical Body shall be made publicly available, including through the Clearing-House Mechanism;

(b) *Scoping*. Parties shall ensure that key environmental and any associated impacts, such as economic, social, cultural and human health impacts, including potential cumulative impacts and impacts in areas within national jurisdiction, as well as alternatives to the planned activity, if any, to be included in the environmental impact assessments that

Article 32
Public notification and consultation

1. Parties shall ensure timely public notification of a planned activity, including by publication through the Clearing-House Mechanism and through the secretariat, and planned and effective time-bound opportunities, as far as practicable, for participation by

6. Where a planned activity affects areas of the high seas that are entirely surrounded by the exclusive economic zones of States, Parties shall:

(a) Undertake targeted and proactive consultations, including prior notification, with such surrounding States;

(b) Consider the views and comments of those surrounding States on the planned activity and provide written responses specifically addressing such views and comments and, as appropriate, revise the planned activity accordingly.

7. Parties shall ensure access to information related to the environmental impact assessment process under this Agreement. Notwithstanding this, Parties shall not be required to disclose confidential or proprietary information. The fact that confidential or proprietary information has been redacted shall be indicated in public documents.

Article 33 **Environmental impact assessment reports**

1. Parties shall ensure the preparation of an environmental impact assessment report for any such assessment undertaken pursuant to this Part.

2. The environmental impact assessment report shall include, at a minimum, the following information: a description of the planned activity, including its location; a description of the results of the scoping exercise; a baseline assessment of the marine environment likely to be affected; a description of potential impacts, including potential cumulative impacts and any impacts in areas within national jurisdiction; a description of potential prevention, mitigation and management measures; a description of uncertainties and gaps in knowledge; information on the public consultation process; a description of the consideration of reasonable alternatives to the planned activity; a description of follow-up actions, including an environmental management plan; and a non-technical summary.

3. The Party shall make the draft environmental impact assessment report available through the Clearing-House Mechanism during the public consultation process, to provide an opportunity for the Scientific and Technical Body to consider and evaluate the report.

Article 36
Reporting on impacts of authorized activities

(b) The assessment of cumulative impacts in areas beyond national jurisdiction and how those impacts should be taken into account in the environmental impact assessment process;

(c) The assessment of impacts, in areas within national jurisdiction, of planned activities in areas beyond national jurisdiction and how those impacts should be taken into account in the environmental impact assessment process;

(d) The public notification and consultation process under article 32, including the determination of what constitutes confidential or proprietary information;

(e) The required content of environmental impact assessment reports and

3. When undertaking environmental impact assessments pursuant to this Part, Parties shall take into account the results of relevant strategic environmental assessments carried out under paragraphs 1 and 2 above, where available.
4. The Conference of the Parties shall develop guidance on the conduct of each

Article 41
**Cooperation in capacity-building and the transfer of
marine technology**

1. Parties shall cooperate, directly or through relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, to assist Parties, in particular developing States Parties, in achieving the objectives of this Agreement through capacity-building and the development and transfer of marine science and marine technology.

2. In providing capacity-building and the transfer of marine technology under this Agreement, Parties shall cooperate at all levels and in all forms, including through partnerships with and involving all relevant stakeholders, such as, where appropriate, the private sector, civil society, and Indigenous Peoples and local communities as holders of traditional knowledge, as well as through strengthening cooperation and coordination between relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

3. In giving effect to this Part, Parties shall give full recognition to the special requirements of developing States Parties, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States, coastal African States, archipelagic States and developing middle-income countries. Parties shall ensure that the provision of capacity-building and the transfer of marine technology is not conditional on onerous reporting requirements.

Article 42
**Modalities for capacity-building and for the transfer of
marine technology**

Parties shall cooperate to achieve the marine technology, in particular-9.1(1er)-TJT*2129 Tw(do teveloping-9

regional, subregional and sectoral bodies. Insofar as possible, it shall take into account these activities with a view to maximizing efficiency and results.

4. Capacity-building and the transfer of marine technology shall be based on and be responsive to the needs and priorities of developing States Parties, taking into account the special circumstances of small island developing States and of least developed countries, identified through needs assessments on an individual case-by-case, subregional or regional basis. Such needs and priorities may be self-assessed or facilitated through the capacity-building and transfer of marine technology committee and the Clearing-House Mechanism.

Article 43

Additional modalities for the transfer of marine technology

1. Parties share a long-term vision of the importance of fully realizing technology development and transfer for inclusive, equitable and effective cooperation and participation in the activities undertaken under this Agreement and in order to fully achieve its objectives.

2. The transfer of marine technology undertaken under this Agreement shall take place on fair and most favourable terms, including on concessional and preferential terms, and in accordance with mutually agreed terms and conditions as well as the objectives of this Agreement.

3. Parties shall promote and encourage economic and legal conditions for the transfer of marine technology to developing States Parties, taking into account the special circumstances of small island developing States and of least developed countries, which may include providing incentives to enterprises and institutions.

4. The transfer of marine technology shall take into account all rights over such technologies and be carried out with due regard for all legitimate interests, including, inter alia, the rights and duties of holders, suppliers and recipients of marine technology and taking into particular consideration the interests and needs of developing States for the attainment of the objectives of this Agreement.

5. Marine technology transferred pursuant to this Part shall be appropriate, relevant and, to the extent possible, reliable, affordable, up to date, environmentally sound and available in an accessible form for developing States Parties, taking into account the special circumstances of small island developing States and of least developed countries.

Article 44
Types of capacity-building and of the transfer of
marine technology

1. In support of the objectives set out in article 40, the types of capacity-building and of the transfer of marine technology may include, but are not limited to, support for the creation or enhancement of the human, financial management, scientific, technological, organizational, institutional and other resource capabilities of Parties, such as:

(a) The sharing and use of relevant data, information, knowledge and research results;

(b) Information dissemination and awareness-raising, including with respect to relevant traditional knowledge of Indigenous Peoples and local communities, in line with the free, prior and informed consent of these Indigenous Peoples and, as appropriate, local communities;

(c) The development and strengthening of relevant infrastructure, including equipment and capacity of personnel for its use and maintenance;

(d) The development and strengthening of institutional capacity and national regulatory frameworks or mechanisms;

(e) The development and strengthening of human and financial management resource capabilities and of technical expertise through exchanges, research collaboration, technical support, education and training and the transfer of marine technology;

(f) The development and sharing of manuals, guidelines and standards;

(g) The development of technical, scientific and research and development programmes;

(h) The development and strengthening of capacities and technological tools for effective monitoring, control and surveillance of activities within the scope of this Agreement.

2. Further details concerning the types of capacity-building and of the transfer of marine technology identified in this article are elaborated in Annex II.

3. The Conference of the Parties, taking account of the recommendations of the capacity-building and transfer of marine technology committee, shall periodically, as necessary, review, assess and further develop and provide guidance on the indicative and non-exhaustive list of types of capacity-building and of transfer of marine technology elaborated in Annex II, to reflect technological progress and innovation and to respond and adapt to the evolving needs of States, subregions and regions.

Article 45
Monitoring and review

1. Capacity-building and the transfer of marine technology undertaken in accordance with the provisions of this Part shall be monitored and reviewed periodically.

2. The monitoring and review referred to in paragraph 1 above shall be carried out by the capacity-building and transfer of marine technology committee under the authority of the Conference of the Parties and shall be aimed at:

(a) Assessing and reviewing the needs and priorities of developing States Parties in terms of capacity-building and the transfer of marine technology, paying particular attention to the special requirements of developing States Parties and to the special circumstances of small island developing States and of least developed countries, in accordance with article 42, paragraph 4;

(b) Reviewing the support required, provided and mobilized, as well as gaps in meeting the assessed needs of developing States Parties in relation to this Agreement;

(c) Identifying and mobilizing funds under the financial mechanism established under article 52 to develop and implement capacity-building and the transfer of marine technology, including for the conduct of needs assessments;

(d) Measuring performance on the basis of agreed indicators and reviewing results-based analyses, including on the output, outcomes, progress and effectiveness of capacity-building and transfer of marine technology under this Agreement, as well as successes and challenges;

(e) Making recommendations for follow-up activities, including on how capacity-building and the transfer of marine technology could be further enhanced to allow developing States Parties, taking into account the special circumstances of small island

Article 46

Capacity-building and transfer of marine technology committee

1. A capacity-building and transfer of marine technology committee is hereby established.
2. The committee shall consist of members possessing appropriate qualifications and expertise, to serve objectively in the best interest of the Agreement, nominated by Parties and elected by the Conference of the Parties, taking into account gender balance and equitable geographical distribution and providing for representation on the committee from the least developed countries, from the small island developing States and from the landlocked developing countries. The terms of reference and modalities for the operation of the committee shall be decided by the Conference of the Parties at its first meeting.
3. The committee shall submit reports and recommendations that the Conference of the Parties shall consider and take action on as appropriate.

PART VI INSTITUTIONAL ARRANGEMENTS

Article 47

efforts to reach consensus have been exhausted, decisions and recommendations of the Conference of the Parties on questions of substance shall be adopted by a two-thirds majority of the Parties present and voting, and decisions on questions of procedure shall be adopted by a majority of the Parties present and voting.

6. The Conference of the Parties shall keep under review and evaluation the implementation of this Agreement and, for this purpose, shall:

(a) Adopt decisions and recommendations related to the implementation of this Agreement;

(b) Review and facilitate the exchange of information among Parties relevant to the implementation of this Agreement;

(c) Promote, including by establishing appropriate processes, cooperation and coordination with and among relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, with a view to promoting coherence among efforts towards the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

(d) Establish such subsidiary bodies as deemed necessary to support the implementation of this Agreement;

(e) Adopt a budget by a three-fourths majority of the Parties present and voting if all efforts to reach consensus have been exhausted, at such frequency and for such a financial period as it may determine;

(f) Undertake other functions identified in this Agreement or as may be required for its implementation.

7. The Conference of the Parties may decide to request the International Tribunal for the Law of the Sea to give an advisory opinion on a legal question on the conformity with this Agreement of a proposal before the Conference of the Parties on any matter within its competence. A request for an advisory opinion shall not be sought on a matter within the competences of other global, regional, subregional or sectoral bodies, or on a matter that necessarily involves the concurrent consideration of any dispute concerning sovereignty or other rights over continental or insular land territory or a claim thereto, or the legal status of an area as within national jurisdiction. The request shall indicate the scope of the legal question on which the advisory opinion is sought. The Conference of the Parties may request that such opinion be given as a matter of urgency.

8. The Conference of the Parties shall, within five years of the entry into force of this Agreement and thereafter at intervals to be determined by it, assess and review the adequacy and effectiveness of the provisions of this Agreement and, if necessary, propose means of strengthening the implementation of those provisions in order to better address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

Article 48
Transparency

1. The Conference of the Parties shall promote transparency in decision-making processes and other activities carried out under this Agreement.
2. All meetings of the Conference of the Parties and its subsidiary bodies shall be open to observers participating in accordance with the rules of procedure unless otherwise decided by the Conference of the Parties. The Conference of the Parties shall publish and maintain a public record of its decisions.
3. The Conference of the Parties shall promote transparency in the implementation of

4. Under the authority and guidance of the Conference of the Parties, and taking into account the multidisciplinary expertise referenced in paragraph 2 above, the Scientific and Technical Body shall provide scientific and technical advice to the Conference of the Parties, perform the functions assigned to it under this Agreement and such other functions as may be determined by the Conference of the Parties and provide reports to the Conference of the Parties on its work.

Article 50 **Secretariat**

1. A secretariat is hereby established. The Conference of the Parties, at its first meeting, shall make arrangements for the functioning of the secretariat, including deciding on its seat.

2. Until such time as the secretariat commences its functions, the Secretary-General of the United Nations, through the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat, shall perform the secretariat functions under this Agreement.

3. The secretariat and the host State may conclude a headquarters agreement. The secretariat shall enjoy legal capacity in the territory of the host State and be granted such privileges and immunities by the host State as are necessary for the exercise of its functions.

4. The secretariat shall:

(a) Provide administrative and logistical support to the Conference of the Parties and its subsidiary bodies for the purposes of the implementation of this Agreement;

(b) Arrange and service the meetings of the Conference of the Parties and of any other bodies as may be established under this Agreement or by the Conference of the Parties;

(c) Circulate information relating to the implementation of this Agreement in a timely manner, including making decisions of the Conference of the Parties publicly available and transmitting them to all Parties, as well as to relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies;

(d) Facilitate cooperation and coordination, as appropriate, with the secretariats of other relevant international bodies and, in particular, enter into such administrative and contractual arrangements as may be required for that purpose and for the effective discharge of its functions, subject to approval by the Conference of the Parties;

(e) Prepare reports on the execution of its functions under this Agreement and submit them to the Conference of the Parties;

(f) Provide assistance with the implementation of this Agreement and perform such other functions as may be determined by the Conference of the Parties or assigned to it under this Agreement.

Article 51 **Clearing-House Mechanism**

1. A Clearing-House Mechanism is hereby established.
2. The Clearing-House Mechanism shall consist primarily of an open-access platform. The specific modalities for the operation of the Clearing-House Mechanism shall be determined by the Conference of the Parties.
3. The Clearing-House Mechanism shall:
 - (a) Serve as a centralized platform to enable Parties to access, provide and disseminate information with respect to activities taking place pursuant to the provisions of this Agreement, including information relating to:
 - (i) Marine genetic resources of areas beyond national jurisdiction, as set out in Part II of this Agreement;
 - (ii) The establishment and implementation of area-based management tools, including marine protected areas;
 - (iii) Environmental impact assessments;
 - (iv) Requests for capacity-building and the transfer of marine technology and opportunities with respect thereto, including research collaboration and training opportunities, information on sources and availability of technological information and data for the transfer of marine technology, opportunities for facilitated access to marine technology and the availability of funding;
 - (b) Facilitate the matching of capacity-building needs with the support available and with providers for the transfer of marine technology, including governmental, non-governmental or private entities interested in participating as donors in the transfer of marine technology, and facilitate access to related know-how and expertise;

(e) Foster enhanced transparency, including by facilitating the sharing of environmental baseline data and information relating to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction between Parties and other relevant stakeholders;

(f) Facilitate international cooperation and collaboration, including scientific and technical cooperation and collaboration;

(g) Perform such other functions as may be determined by the Conference of the Parties or assigned to it under this Agreement.

4. The Clearing-House Mechanism shall be managed by the secretariat, without prejudice to possible cooperation with other relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies as determined by the Conference of the Parties, including the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization, the International Seabed Authority, the International Maritime Organization and the Food and Agriculture Organization of the United Nations.

5. In the management of the Clearing-House Mechanism, full recognition shall be given to the special requirements of developing States Parties, as well as the special circumstances of small island developing States Parties, and their access to the mechanism shall be facilitated to enable those States to utilize it without undue obstacles or administrative burdens. Information shall be included on activities to promote information-sharing, awareness-raising and dissemination in and with those States, as well as to provide specific programmes for those States.

6. The confidentiality of information provided under this Agreement and rights thereto shall be respected. Nothing under this Agreement shall be interpreted as requiring the sharing of information that is protected from disclosure under the domestic law of a Party or other applicable law.

PART VII FINANCIAL RESOURCES AND MECHANISM

Article 52 Funding

1. Each Party shall provide, within its capabilities, resources in respect of those activities that are intended to achieve the objectives of this Agreement, taking into account its national policies, priorities, plans and programmes.

2. The institutions established under this Agreement shall be funded through assessed contributions of the Parties.

3. A mechanism for the provision of adequate, accessible, new and additional and predictable financial resources under this Agreement is hereby established. The mechanism shall assist developing States Parties in implementing this Agreement, including through funding in support of capacity-building and the transfer of marine technology, and perform other functions as set out in this article for the conservation and sustainable use of marine biological diversity.

4. The mechanism shall include:

(a) A voluntary trust fund established by the Conference of the Parties to facilitate the participation of representatives of developing States Parties, in particular least developed countries, landlocked developing countries and small island developing States, in the meetings of the bodies established under this Agreement;

(b) A special fund that shall be funded through the following sources:

(i) Annual contributions in accordance with article 14, paragraph 6;

(ii) Payments in accordance with article 14, paragraph 7;

(iii) Additional contributions from Parties and private entities wishing to provide financial resources to support the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

(c) The Global Environment Facility trust fund.

5. The Conference of the Parties may consider the possibility of establishing additional funds, as part of the financial mechanism, to support the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, to finance rehabilitation and ecological restoration of marine biological diversity of areas beyond national jurisdiction.

6. The special fund and the Global Environment Facility trust fund shall be utilized in order to:

(a) Fund capacity-building projects under this Agreement, including effective projects on the conservation and sustainable use of marine biological diversity and activities and programmes, including training related to the transfer of marine technology;

(b) Assist developing States Parties in implementing this Agreement;

(c) Support conservation and sustainable use programmes by Indigenous Peoples and local communities as holders of traditional knowledge;

(d) Support public consultations at the national, subregional and regional levels;

(e) Fund the undertaking of any other activities as decided by the Conference of the Parties.

of their specialized services for the purposes of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

14. The Conference of the Parties shall establish a finance committee on financial

Article 54
Monitoring of implementation

Article 61
Provisional arrangements

Pending the settlement of a dispute in accordance with this Part, the parties to the dispute shall make every effort to enter into provisional arrangements of a practical nature.

PART X
NON-PARTIES TO THIS AGREEMENT

Article 62
Non-parties to this Agreement

Parties shall encourage non-parties to this Agreement to become Parties thereto and to adopt laws and regulations consistent with its provisions.

PART XI
GOOD FAITH AND ABUSE OF RIGHTS

Article 63
Good faith and abuse of rights

Parties shall fulfil in good faith the obligations assumed under this Agreement and exercise the rights recognized therein in a manner that would not constitute an abuse of right.

PART XII
FINAL PROVISIONS

Article 64
Right to vote

1. Each Party to this Agreement shall have one vote, except as provided for in paragraph 2 below.
2. A regional economic integration organization Party to this Agreement, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to this Agreement. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

Article 65
Signature

This Agreement shall be open for signature by all States and regional economic integration organizations from 20 September 2023 and shall remain open for signature at United Nations Headquarters in New York until 20 September 2025.

Article 66
Ratification, approval, acceptance and accession

This Agreement shall be subject to ratification, approval or acceptance by States and regional economic integration organizations. It shall be open for accession by States and regional economic integration organizations from the day after the date on which the Agreement is closed for signature. Instruments of ratification, approval, acceptance and accession shall be deposited with the Secretary-General of the United Nations.

Article 67
**Division of the competence of regional economic integration
organizations and their member States in respect of the matters
governed by this Agreement**

1. Any regional economic integration organization that becomes a Party to this Agreement without any of its member States being a Party shall be bound by all the obligations under this Agreement. In the case of such organizations, one or more of whose member States is a Party to this Agreement, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Agreement. In such cases, the organization and the member States shall not be entitled to exercise rights under this Agreement concurrently.
2. In its instrument of ratification, approval, acceptance or accession, a regional economic integration organization shall declare the extent of its competence in respect of the matters governed by this Agreement. Any such organization shall also inform the depositary, who shall in turn inform the Parties, of any relevant modification of the extent of its competence.

Article 68
Entry into force

1. This Agreement shall enter into force 120 days after the date of deposit of the sixtieth instrument of ratification, approval, acceptance or accession.
2. For each State or regional economic integration organization that ratifies, approves or accepts this Agreement or accedes thereto after the deposit of the sixtieth instrument of ratification, approval, acceptance or accession, this Agreement shall enter into force on the

Parties. If, within six months from the date of the circulation of the communication, not less than one half of the Parties reply favourably to the request, the proposed amendment shall be considered at the following meeting of the Conference of the Parties.

2. An amendment to this Agreement adopted in accordance with article 47 shall be communicated by the depositary to all Parties for ratification, approval or acceptance.

3. Amendments to this Agreement shall enter into force for the Parties ratifying, approving or accepting them on the thirtieth day following the deposit of instruments of ratification, approval or acceptance by two thirds of the number of Parties to this Agreement as at the time of adoption of the amendment. Thereafter, for each Party depositing its instrument of ratification, approval or acceptance of an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification, approval or acceptance.

4. An amendment may provide, at the time of its adoption, that a smaller or larger number of ratifications, approvals or acceptances shall be required for its entry into force than required under this article.

5. For the purposes of paragraphs 3 and 4 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by the member States of that organization.

6. A State or regional economic integration organization that becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 3 above shall, failing an expression of a different intention by that State or regional economic integration organization:

(a) Be considered as a Party to this Agreement as so amended;

(b) Be considered as a Party to the unamended Agreement in relation to any Party not bound by the amendment.

Article 73

Denunciation

1. A Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Agreement and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 74
Annexes

1. The annexes form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement or to one of its parts includes a reference to the

ANNEX I

Indicative criteria for identification of areas

- (a) Uniqueness;
- (b) Rarity;
- (c) Special importance for the life history stages of species;
- (d) Special importance of the species found therein;
- (e) The importance for threatened, endangered or declining species or habitats;

ANNEX II

Types of capacity-building and of the transfer of marine technology

Under this Agreement, capacity-building and transfer of marine technology initiatives may include but are not limited to:

- (a) The sharing of relevant data, information, knowledge and research, in user-friendly formats, including:
 - (i) The sharing of marine scientific and technological knowledge;
 - (ii) The exchange of information on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;
 - (iii) The sharing of research and development results;
- (b) Information dissemination and awareness-raising, including with regard to:
 - (i) Marine scientific research, marine sciences and related marine operations and services;
 - (ii) Environmental and biological information collected through research conducted in areas beyond national jurisdiction;
 - (iii) Relevant traditional knowledge in line with the free, prior and informed consent of the holders of such knowledge;
 - (iv) Stressors on the ocean that affect marine biological diversity of areas beyond national jurisdiction, including the adverse effects of climate change, such as warming and ocean deoxygenation, as well as ocean acidification;
 - (v) Measures such as area-based management tools, including marine protected areas;
 - (vi) Environmental impact assessments;
- (c) The development and strengthening of relevant infrastructure, including equipment, such as:
 - (i) The development and establishment of necessary infrastructure;
 - (ii) The provision of technology, including sampling and methodology equipment (e.g., for water, geological, biological or chemical samples);

