Proactive Release

The following Cabinet paper has been proactively released by the Minister of Foreign Affairs

Title	Reference
Report of the Cabinet External Relations and Security Committee: Period Ended 23 June 2023	CAB-23-MIN-0264
Treaty on the Conservation and Sustainable Use of Marine Biodiversity Beyond National Jurisdiction: Approval for Signature	ERS-23-MIN-0029
Treaty on the Conservation and Sustainable Use of Marine Biodiversity Beyond National Jurisdiction: Approval for Signature	
Annex I – Draft 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	

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redaction codes:

- 9(2)(f)(iv): to protect the confidentiality of advice tendered by Ministers of the Crown and officials; and
- 9(2)(h): to maintain legal professional privilege.

CAB-23-MIN-0264

Cabinet

Minute of Decision

Report of the Cabinet External Relations and Security Committee: Period Ended 23 June 2023

On 26 June 2023, Cabinet made the following decisions on the work of the Cabinet External Relations and Security Committee for the period ended 23 June 2023:

ERS-23-MIN-0029 **Treaty on the Conservation and Sustainable Use of Marine Biodiversity Beyond National Jurisdiction: Approval for Signature** CONFIRMED

Portfolio: Foreign Affairs

Diana Hawker
Acting Secretary of the Cabinet

Cabinet External Relations and Security Committee

Minute of Decision

Treaty on the Conservation and Sustainable Use of Marine Biodiversity Beyond National Jurisdiction: Approval for Signature

Portfolio **Foreign Affairs**

On 21 June 2023, the Cabinet External Relations and Security Committee:

1 **noted** that New Zealand participated in negotiations at the United Nations on a new treaty on the conservation and sustainable use of marine biological diversity beyond national jurisdiction (the Treaty);

2 **noted** that negotiations were concluded on 4 March 2023, and the Treaty will be adopted on 19-20 June 2023 at the United Nations in New York;

3 **noted** that the final text of the Treaty meets New Zealand's negotiating mandate, approved by the Cabinet External Relations and Security Committee on 3 August 2022 [ERS-22-MIN-0035];

4 **approved** the final text of the Treaty, attached as Annex 1 to the paper under ERS-23-SUB-0029;

5 **agreed** that New Zealand sign the Treaty at the earliest appropriate opportunity;

6 **noted** that New Zealand's signature of the Treaty would be consistent with the importance the government places on the United Nations Convention on the Law of the Sea, the collective kaitiakitanga responsibilities for the ocean, the active role New Zealand has played in the negotiations, and support for the Treaty;

7 **noted** that separate Cabinet approval will be sought to submit a National Interest Analysis to the House of Representatives; approval for implementing legislation, and approval for the binding treaty action of ratification.

Janine Harvey
Committee Secretary

Present:
Rt Hon Chris Hipkins (Chair)
Hon Kelvin Davis
Hon David Parker
Hon Nanaia Mahuta
Hon Ginny Andersen

Officials present from:
Office of the Prime Minister
Officials Committee for ERS

[In Confidence]

Office of the Minister of Foreign Affairs

Cabinet External Relations and Security Committee

Treaty on the Conservation and Sustainable Use of Marine Biodiversity beyond National Jurisdiction: Approval for Signature

Proposal

1 It is proposed that Cabinet approve New Zealand's signature of the *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* (the Treaty).

Relation to government priorities

2 Signature of the Treaty gives weight to our international reputation as an environmental leader, and promotes our focus on multilateralism. It is also consistent with Aotearoa New Zealand's ambition to protect our natural environment and biodiversity (Cooperation Agreement between the New Zealand Labour Party and the Green Party of Aotearoa New Zealand).

Executive summary

3 On 4 March 2023, the United Nations Intergovernmental Conference (the Conference) concluded negotiations on the text of a new treaty on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (The Treaty). The Treaty will be formally adopted at a resumed session of the Conference on June 19-20 at the United Nations in New York. The successful conclusion of a new treaty under the United Nations Convention on the Law of the Sea (UNCLOS) framework is a significant win for New Zealand's interests, the multilateral system, and the environment.

4 The Treaty will be an implementing agreement under UNCLOS. UNCLOS is the international law constitution for the world's oceans, and the framework in which all activities in the oceans and seas take place. UNCLOS established the Exclusive Economic Zone and the rules which underpin maritime trade which accounts for 99% of New Zealand's goods exports. This Treaty reinforces the broader UNCLOS framework which is essential for New Zealand's security and prosperity.

5 When UNCLOS was agreed in 1982, the importance of high seas biodiversity, and the tools to manage it, were not well understood. The Treaty aims to fill this gap by providing the tools and systems to manage and protect high seas biodiversity.

6 Once adopted the Treaty will be open for signature. This paper recommends that New Zealand sign the Treaty. This would be consistent with the importance New Zealand places on our collective kaitiakitanga responsibilities for the ocean, its conservation and sustainable use. It would also be consistent with our active role in negotiations.

7 Signing the Treaty would indicate New Zealand's support for the Treaty and its objectives and would also indicate our intention to continue with the steps necessary to become party to the Treaty in the future. However, New Zealand's signature will not legally bind New Zealand. Following signature, New Zealand will likely need to pass legislation to implement the Treaty, after which New Zealand would be in a position to ratify, or become legally bound, by it.

8 Separate Cabinet approval will be sought to ratify the Treaty. This will include approval to table the Treaty and National Interest Analysis in the House of Representatives for parliamentary treaty examination and approval to issue drafting instructions to Parliamentary Counsel Office for any legislation required to implement the Treaty.

Background

9 In December 2017, the United Nations General Assembly (UNGA) launched an intergovernmental conference (the Conference) to negotiate an international legally binding agreement under the United Nations Convention on the Law of Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. Areas beyond national jurisdiction (ABNJ) are, respectively, the high seas and the deep seabed beyond individual countries' exclusive economic zones and continental shelves. These represent over two-thirds of the world's oceans.

10 On 4 March 2023, after six rounds of negotiations over five years, the final text of the Treaty was concluded. Because the Conference ran out of time to adopt the Treaty in March, it will resume on June 19-20 at the United Nations in New York to adopt the Treaty text. It is expected that the Treaty will be adopted by consensus, or by an overwhelming majority, if a vote is called.

11 A copy of the final text of the Treaty is appended to this paper (Annex 1). The Treaty text is organised around four substantive elements:

12.1 Marine genetic resources, including questions of benefit sharing (MGRs);

12.2 Area-based management tools, including marine protected areas (ABMTs);

12.3 Environmental impact assessments (EIAs); and

12.4 Capacity building and the transfer of marine technology (CBTMT).

Analysis

12 The Treaty is an implementing agreement under UNCLOS and will be the most significant upgrade to this framework since the United Nations Fish Stocks Agreement in 1996. As UNCLOS was negotiated over 40 years ago, the importance of high seas biodiversity was not well understood. The Treaty therefore aims to fill these gaps in the UNCLOS framework and improve upon its ability to address the increasing pressure on marine biodiversity due to human activities and environmental stressors such as climate change.

13 The final Treaty text meets all of New Zealand's objectives agreed by Cabinet on 8 August 2022 [CAB-22-MIN-0301 confirming ERS-22-MIN-0035].

14 The Treaty will promote the restoration of marine biodiversity in areas beyond national jurisdiction by providing the tools and systems to manage and protect it, including through the creation of marine protected areas in the high seas, and the setting of clear procedures and requirements for assessing environmental impacts before conducting activities there. It will do this while respecting the roles and responsibilities of existing institutions, frameworks, and bodies that play a role in the conservation and sustainable use of marine biodiversity in ABNJ, including the International Maritime Organisation, and regional fisheries management organisations (RFMOs). Finally, it will facilitate the full and effective participation of developing countries – including Pacific Island States – in the conservation and sustainable use of marine biodiversity in ABNJ and in the sharing of knowledge from marine genetic resources.

15 Below is a summary of how the Treaty achieves New Zealand's objectives across its four substantive chapters and cross-cutting provisions.

Key principles and relationship with other agreements:

16 Consistent with New Zealand's objectives, Article 5 of the Treaty provides that it should not undermine existing relevant legal instruments and frameworks and relevant global, regional, and sectoral organisations, but should promote coherence and coordination with those bodies. This means the Treaty will complement, fill gaps, and encourage the lifting of standards of existing agreements, but will not replace them. This is particularly important for New Zealand in relation to regional fisheries management organisations (RFMOs), and the Antarctic Treaty System, where New Zealand has significant fisheries and conservation interests. Parties must also endeavour to promote the objectives of the Treaty when engaging in other instruments, frameworks, and bodies.

17 The guiding principles in Article 7 of the Treaty, which guide the interpretation of the other provisions of the Treaty, are also consistent with New Zealand's objectives and long standing interests. These include: the "polluter pays" principle, taking an ecosystem approach, using the best available science, the principle of equity, the precautionary approach/principle, and the avoidance of transboundary harm, as well as reference to ecosystem resilience in the context of climate change and the ocean's role in climate.

18 The Treaty also includes positive text acknowledging Indigenous Peoples and traditional knowledge that New Zealand worked closely with Pacific Island countries to achieve. Importantly, this includes a specific reference that ensures that traditional knowledge of Indigenous Peoples in ABNJ, shall only be accessed with the free, prior and informed consent or approval and involvement and on mutually agreed terms. The preamble, which guides the interpretation of the Treaty, affirms that "nothing in the text shall be construed as diminishing or extinguishing the existing rights of Indigenous Peoples, including as set out in the United Nations Declaration on the Rights of Indigenous Peoples". All provisions in the Treaty that reference the use of best available science also refer to the use of traditional knowledge of Indigenous Peoples and local communities.

Area based management tools (ABMTs)

19 One of the most significant ways in which the Treaty will improve ocean health and protect marine biodiversity is by enabling the establishment of multi-sector area-based management tools including marine protected areas (MPAs) that could protect against the full range of threats to biodiversity in ABNJ. This chapter was a key priority for

New Zealand. The final text empowers the Conference of the Parties (COP) for the Treaty to establish a comprehensive system of ABMTs, with ecologically representative and well-connected networks of MPAs with conservation as their primary objective. Importantly, the Treaty will facilitate cooperation and coordination between states and across regional and sectoral bodies in the establishment of ABMTs, and fill international governance gaps while respecting the competencies of existing instruments, frameworks, and bodies. This will promote greater consistency and coherence across the oceans governance regime.

20 The Treaty also sets out processes for establishing ABMTs; that include criteria for identifying areas for protection, the required contents of a proposal for a new area of protection, the consultation requirements related to this, as well as the decision making procedures, and the implementation, monitoring, and review requirements. The Treaty ensures that ABMTs can be established by a three-quarters majority vote (as opposed to consensus), to avoid the situation where a single party or small group could block their creation. To achieve this it was necessary to agree to an "opt-out" provision, however New Zealand, with others, worked hard to ensure that this is tightly circumscribed in the final text to reduce the risk of it being used to undermine the effectiveness of ABMT decisions.

21 The Treaty also includes a provision, proposed and championed by New Zealand, enabling the establishment of emergency measures where there are serious natural or human-caused threats to marine biodiversity that cannot be managed in a timely manner through the application of other provisions of the Treaty or by other relevant legal instrument, frameworks or bodies.

Environmental impact assessments (EIAs)

22 UNCLOS contains general requirements for states to assess the environmental impacts of activities in the marine environment, but these are not well articulated or implemented. Some existing bodies (e.g. International Seabed Authority, RFMOs) require EIAs but there are no overarching globally-agreed standards or thresholds for EIAs in ABNJ. The Treaty is set to address this by setting out an integrated framework that ensures EIAs are conducted consistently and comprehensively in ABNJ – again, without cutting across states responsibilities and decision making, and consistent with the current regime under UNCLOS.

23 The EIA provisions in the Treaty establish processes, thresholds and other requirements for conducting, monitoring and reporting for EIAs. There is a tiered approach to the EIA process, starting with a requirement for states to conduct a screening process if a proposed activity may have more than a minor or transitory effect on the marine environment. The requirement to conduct a full EIA is then triggered, if, based on the screening, the proposed activity may cause substantial pollution of or significant and harmful changes to the marine environment. After a state conducts an EIA, the decision on whether a proposed activity can go ahead will rest with the state, but this is balanced by elements of "internationalisation" which will increase accountability of states and ensure that EIA processes are transparent and subject to an appropriate level of scrutiny, including by the COP.

Marine Genetic Resources (MGRs) and Capacity Building

24 The potential of marine genetic resources – any material of marine plant, animal, microbial, or other origin containing functional units of heredity of actual or potential value – was essentially unknown when UNCLOS was negotiated. There is no applicable regime for access and use of MGRs in ABNJ and the Treaty will fill this gap. The MGR chapter sets out the rules for access to, and benefit sharing from, MGRs from ABNJ which are key to scientific knowledge and innovation and may prove valuable over time for creating new products. This chapter was vital for developing countries – including those in the Pacific.

25 The Treaty sets up a two-track system for benefit sharing between Parties to the Treaty from MGRs:

25.1 An initial system to operate from entry into force of the Treaty whereby developed countries will pay an upfront annual fee to a fund for capacity building and projects linked to the purposes of the Treaty. This fee will amount to an additional 50 per cent of the annually assessed contribution each Party pays to cover the costs of the institutions of the Treaty. This sort of predictable and guaranteed funding is a ground-breaking result and will make sure the Treaty is sustainably financed right from the start.

25.2 The Treaty also requires the COP to develop an alternative system for monetary benefit sharing that is linked to actual use and commercialisation activities related to MGRs from ABNJ. This alternative system requires a three-quarters vote by the COP to be adopted. Parties to the Treaty would have a four-year window to implement the new approach before it takes effect.

26 Finally, the Treaty creates additional obligations for Parties to ensure capacity building for developing states, and to "cooperate to achieve" the transfer of marine technology to those states which are additional to the commitments with respect to MGRs. s9(2)(h)

s9(2)(f)(iv)

Institutions and dispute settlement

27 The Treaty contains standard "cross-cutting" provisions (for example, the preamble; institutional arrangements; review procedures, implementation and compliance mechanisms and dispute settlement). Of note, the Treaty provides for an independent secretariat, decision making procedures that include voting, and compulsory binding dispute settlement – the negotiations for which were facilitated by New Zealand. There will be a COP and several subsidiary bodies to facilitate the operation of the Treaty, including importantly, a scientific and technical body which is encouraged to cooperate and consult with the scientific bodies of other relevant instruments, frameworks, and bodies, to ensure coherence across the oceans governance framework.

New Zealand's signature of the Treaty

28 Once the Treaty is adopted on 19-20 June, the Treaty will be opened for signature at a date to be decided, but expected to be in September 2023. We expect the Treaty to be open for signature for two years.

29 It is recommended that New Zealand sign the Treaty, and that we seek to ensure that we are amongst the first group of countries to do so. This would be consistent with the importance New Zealand places on UNCLOS and our collective kaitiakitanga (stewardship) responsibilities for the ocean, its conservation and sustainable use. It would also be consistent with our active role in negotiations, and the natural expectations that flow from our participation in the coalition of United Nations Member States that sought an ambitious, effective, inclusive, fair, balanced and future-proofed Treaty to be concluded as soon as possible.

30 There is also a strong level of international interest in the Treaty, and will be some expectation, amongst states and civil society that support the Treaty, that New Zealand will also be among the first to sign and ratify.

Becoming a party to the Treaty – ratification

31 New Zealand's signature of the Treaty does not legally bind New Zealand. However, it would signal our intention to take that step. To become a party New Zealand would need to ratify the Treaty, which will require separate Cabinet approvals. This will include approval to table the Treaty and National Interest Analysis in the House of Representatives for Parliamentary treaty examination and, approval to issue drafting instructions to Parliamentary Counsel Office.

32 Officials do not expect the steps necessary for New Zealand's ratification of the Treaty to be completed until 2024 at the earliest and appreciate that this could take longer depending on the legislative priority to be determined by the Government.

33 Following completion of the steps necessary for ratification, New Zealand would deposit an instrument of ratification with the Secretary-General of the United Nations as Depositary. The Treaty will enter into force 120 days after the 60th instrument of ratification or accession has been deposited. If New Zealand is not one of the first 60 states to ratify the Treaty, it will enter into force for New Zealand, 30 days following the deposit of its instrument of ratification.

34 Consultation with Tokelau as to whether the Treaty should extend to it will take place prior to Cabinet approval being sought for ratification of the Treaty.

Financial implications

35 New Zealand's signature of the Treaty will not have any financial implications. However, there will be costs associated with ratification of the Treaty.

36 New Zealand will pay an annual assessed contribution to fund the administrative functions of the new Secretariat, including servicing meetings of Parties to the Treaty. It is unclear exactly how much this will be based on current available information as it will depend on the size and resource needs of the various institutional bodies of the Treaty. It is however expected to be in line with New Zealand's annual assessed contributions to similar bodies (for example, New Zealand makes an annual contribution of around NZD 41,000 to the International Seabed Authority, NZD 89,000 to the Antarctic Treaty Secretariat, and NZD 82,000 to the Secretariat of the Convention on Biological Diversity).

37 There will also be an additional mandatory annual fee for developed countries, including New Zealand, paid to a fund for capacity building and projects linked to the purposes of the Treaty. This fee will be calculated on the basis of being 50 percent of the annual assessed contribution each party pays to cover the institutions of the Treaty.

38 Annual assessed contributions are charged to the Subscriptions to International Organisations appropriation within Vote Foreign Affairs. This appropriation is currently limited to assessed contributions to other treaties, conventions and subscriptions to international organisations but the Ministry will endeavour to manage the costs of ratification of the Treaty, both the assessed contribution to fund the administrative functions and the mandatory annual fee to fund capacity building, within current baselines of this appropriation.

39 Final decisions on funding will be sought at the same time that Cabinet approval is sought to ratify the Treaty.

Legislative implications

40 Some legislative or regulatory changes will be required to implement the Treaty, for example to ensure New Zealand operators and vessels comply with EIA and ABMT requirements in ABNJ and not covered by existing regimes, and the requirements for accessing MGRs, under the Treaty. Cabinet approval for this will be sought at the same time that approval is sought to ratify the Treaty.

Impact analysis

41 As the proposal relates to an international treaty, the Cabinet Manual 2023 provides for the impact analysis to be provided in the form of an extended National Interest Analysis at the point approval is sought to ratify the treaty (para 7.131). Consistent with previous advice to Cabinet [ERS-22-MIN-0035], MFAT will prepare an extended national interest analysis incorporating all impact analysis requirements and provide this to Cabinet when approval is sought to ratify the Treaty.

42 The Treasury's Regulatory Impact Analysis team has determined that Cabinet's impact analysis requirements apply to the proposal to approve the text of, and sign, the Treaty on the conservation and sustainable use of marine biodiversity beyond national jurisdiction, but there is no accompanying Regulatory Impact Statement. Therefore, Treasury considers it does not meet Cabinet's requirements for regulatory proposals at this stage.

43 However, both the Treasury's Regulatory Impact Analysis team and MFAT have agreed that a full impact analysis, likely in the form of an extended NIA, will be provided when approval is sought to ratify the Treaty.

Population implications

44 None.

Human rights

45 This proposal has no expected inconsistencies with the Human Rights Act 1993 or the New Zealand Bill of Rights Act 1990.

Consultation

46 The following agencies were involved in development of this paper: Ministry of Foreign Affairs and Trade, Department of Conservation, Ministry for Primary Industries, the Ministry for the Environment. The following agencies were consulted: Ministry of Transport, Te Puni Kōkiri, Ministry of Business, Innovation and Employment, and Treasury.

Communications

47 Should Ministers agree that New Zealand sign the Treaty, it would be appropriate to publicly highlight New Zealand's intention to do so.

Proactive release

48 This paper will be proactively released with appropriate redactions within 30 days of an announcement of New Zealand's intention to sign the Treaty, or signature, whatever is sooner.

Recommendations

The Minister of Foreign Affairs recommends that Cabinet:

1. **Note** that New Zealand participated in negotiations at the United Nations on the new treaty on the conservation and sustainable use of marine biological diversity beyond national jurisdiction (the Treaty);

2. **Note** that negotiations were concluded on 4 March 2023 and the Treaty will be adopted on 19-20 June 2023 at the United Nations in New York;

3. **Note** that the final text of the Treaty meets New Zealand's negotiating mandate approved by Cabinet on 8 August 2022;

4. **Approve** the final text of the Treaty set out in Annex 1 of this paper;

5. **Agree** that New Zealand should sign the Treaty at the earliest appropriate opportunity;

6. **Note** that New Zealand's signature of the Treaty would be consistent with the importance we place on UNCLOS, our collective kaitiakitanga responsibilities for the ocean, the active role we played in negotiations, and our support for the Treaty;

7. **Note** that separate Cabinet approval will be sought to submit a National Interest Analysis to the House of Representatives; approval for implementing legislation; and approval for the binding treaty action of ratification;

Authorised for lodgement

Hon Nanaia Mahuta

Minister of Foreign Affairs

Annex I

Draft 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

The present document contains the final text of the draft 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 as agreed by the open-ended informal working group, established by the Intergovernmental conference on an international legally binding instrument 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 to ensure the uniformity of terminology throughout the text of the draft agreement and harmonize the versions in the six official languages of the United Nations, at its meeting on 3 May 2023.

PREAMBLE

The Parties to this Agreement,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, including the obligation to protect and preserve the marine environment,

Stressing the need to respect the balance of rights, obligations and interests set out in the Convention,

Recognizing the need to address, in a coherent and cooperative manner, biological diversity loss and degradation of ecosystems of the ocean, due, in particular, to climate change impacts on marine ecosystems, such as warming and ocean deoxygenation, as well as ocean acidification, pollution, including plastic pollution, and unsustainable use,

Conscious of the need for the comprehensive global regime under the Convention to better address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction,

Recognizing the importance of contributing to the realization of a just and equitable international economic order which takes into account the interests and needs of humankind as a whole and, in particular, the special interests and needs of developing States, whether coastal or landlocked,

Recognizing also that support for developing States Parties through capacity-building and the development and transfer of marine technology are essential elements for the attainment of the objectives of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction,

Recalling the United Nations Declaration on the Rights of Indigenous Peoples,

Affirming that nothing in this Agreement shall be construed as diminishing or extinguishing the existing rights of Indigenous Peoples, including as set out in the United Nations Declaration on the Rights of Indigenous Peoples, or of, as appropriate, local communities,

Recognizing the obligation set out in the Convention to assess, as far as practicable, the potential effects on the marine environment of activities under a State's jurisdiction or 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 that the generation of, access to and utilization of digital sequence information on marine genetic resources of areas beyond national jurisdiction, together with the fair and equitable sharing of benefits arising from its

utilization, contribute to research and innovation and to the general objective of this Agreement,

Respecting the sovereignty, territorial integrity and political independence of all States,

Recalling that the legal status of non-parties to the Convention or any other related agreements is governed by the rules of the law of treaties,

Recalling also that, as set out in the Convention, States are responsible for the fulfilment of their international obligations concerning the protection and preservation of the marine environment and may be liable in accordance with international law,

Committed to achieving sustainable development,

Aspiring to achieve universal participation,

Have agreed as follows:

PART I
GENERAL PROVISIONS

Article 1
Use of terms

For the purposes of this Agreement:

1. "Area-based management tool" means a tool, including a marine protected area, for a geographically defined area through which one or several sectors or activities are managed with the aim of achieving particular conservation and sustainable use objectives in accordance with this Agreement.

2. "Areas beyond national jurisdiction" means the high seas and the Area.

3. "Biotechnology" means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use.

4. "Collection in situ", in relation to marine genetic resources, means the collection or sampling of marine genetic resources in areas beyond national jurisdiction.

5. "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982.

6. "Cumulative impacts" means the combined and incremental impacts resulting from different activities, including known past and present and reasonably foreseeable activities, or from the repetition of similar activities over time, and the consequences of climate change, ocean acidification and related impacts.

7. "Environmental impact assessment" means a process to identify and evaluate the potential impacts of an activity to inform decision-making.

8. "Marine genetic resources" means any material of marine plant, animal, microbial or other origin containing functional units of heredity of actual or potential value.

9. "Marine protected area" means a geographically defined marine area that is designated and managed to achieve specific long-term biological diversity conservation objectives and may allow, where appropriate, sustainable use provided it is consistent with the conservation objectives.

10. "Marine technology" includes, inter alia, information and data, provided in a user-friendly format, on marine sciences and related marine operations and services; manuals, guidelines, criteria, standards and reference materials; sampling and methodology equipment; observation facilities and equipment for in situ and laboratory observations, analysis and experimentation; computer and computer software, including models and modelling techniques; related biotechnology; and expertise, knowledge, skills, technical, scientific and legal know-how and analytical methods related to the conservation and sustainable use of marine biological diversity.

11. "Party" means a State or regional economic integration organization that has consented to be bound by this Agreement and for which this Agreement is in force.

12. "Regional economic integration organization" means an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters governed by this Agreement and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, approve, accept or accede to this Agreement.

13. "Sustainable use" means the use of components of biological diversity in a way and at a rate that does not lead to a long-term decline of biological diversity, thereby 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

The objective of this Agreement is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination.

Article 3
Scope of application

This Agreement applies to areas beyond national jurisdiction.

Article 4
Exceptions

This Agreement does not apply to any warship, military aircraft or naval auxiliary. Except for Part II, this Agreement does not apply to other vessels or aircraft owned or operated by a Party and used, for the time being, only on government non-commercial service. However, each Party shall ensure, by the adoption of appropriate measures not impairing the operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Agreement.

Article 5
Relationship between this Agreement and the Convention and relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies

1. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention. Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention, including in respect of the exclusive economic zone and the continental shelf within and beyond 200 nautical miles.

2. This Agreement shall be interpreted and applied in a manner that does not undermine relevant legal instruments and frameworks and relevant global, regional, 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;

(d) The principle of equity and the fair and equitable sharing of benefits;

(e) The precautionary principle or precautionary approach, as appropriate;

(f) An ecosystem approach;

(g) An integrated approach to ocean management;

(h) An approach that builds ecosystem resilience, including to adverse effects of climate change and ocean acidification, and also maintains and restores ecosystem integrity, including the carbon cycling services that underpin the role of the ocean in climate;

(i) The use of the best available science and scientific information;

(j) The use of relevant traditional knowledge of Indigenous Peoples and local communities, where available;

(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 to another and the non-transformation of one type of pollution into another in taking measures to prevent, reduce and control pollution of the marine environment;

(m) Full recognition of the special circumstances of small island developing States and of least developed countries;

(n) Acknowledgement of the special interests and needs of landlocked developing countries.

Article 8
International cooperation

1. Parties shall cooperate under this Agreement for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including through strengthening and enhancing cooperation with and promoting cooperation among relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies in the achievement of the objectives of this Agreement.

2. Parties shall endeavour to promote, as appropriate, the objectives of this Agreement when participating in decision-making under other relevant legal instruments, frameworks, or global, regional, subregional or sectoral bodies.

3. Parties shall promote international cooperation in marine scientific research and in the development and transfer of marine technology consistent with the Convention in support of the objectives of this Agreement.

PART II
MARINE GENETIC RESOURCES, INCLUDING THE FAIR AND EQUITABLE SHARING OF BENEFITS

Article 9
Objectives

The objectives of this Part are:

(a) The fair and equitable sharing of benefits arising from activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

(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. No such claim or exercise of sovereignty or sovereign rights shall be recognized.

5. Collection in situ of marine genetic resources of areas beyond national jurisdiction shall not constitute the legal basis for any claim to any part of the marine environment or its resources.

6. Activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction are in the interests of all States and for the benefit of all humanity, particularly for the benefit of advancing the scientific knowledge of humanity and promoting the conservation and sustainable use of marine biological diversity, taking into particular consideration the interests and needs of developing States.

7. Activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction shall be carried out exclusively for peaceful purposes.

Article 12
Notification on activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction

1. Parties shall take the necessary legislative, administrative or policy measures to ensure that information is notified to the Clearing-House Mechanism in accordance with this Part.

2. The following information shall be notified to the Clearing-House Mechanism six months or as early as possible prior to the collection in situ of marine genetic resources of areas beyond national jurisdiction:

(a) The nature and objectives under which the collection is carried out, including, as appropriate, any programme(s) of which it forms part;

(b) The subject matter of the research or, if known, the marine genetic resources to be targeted or collected, and the purposes for which such resources will be collected;

(c) The geographical areas in which the collection is to be undertaken;

(d) A summary of the method and means to be used for collection, including the name, tonnage, type and class of vessels, scientific equipment and/or study methods employed;

(e) Information concerning any other contributions to proposed major programmes;

(f) The expected date of first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as appropriate;

(g) The name(s) of the sponsoring institution(s) and the person in charge of the project;

(h) Opportunities for scientists of all States, in particular scientists from developing States, to be involved in or associated with the project;

(i) The extent to which it is considered that States that may need and request technical assistance, in particular developing States, should be able to participate or to be represented in the project;

(j) A data management plan prepared according to open and responsible data governance, taking into account current international practice.

3. Upon notification referred to in paragraph 2 above, the Clearing-House Mechanism shall automatically generate a "BBNJ" standardized batch identifier.

4. Where there is a material change to the information provided to the Clearing-House Mechanism prior to the planned collection, updated information shall be notified to the Clearing-House Mechanism within a reasonable period of time and not later than the start of collection in situ, when practicable.

5. Parties shall ensure that the following information, along with the "BBNJ" standardized batch identifier, is notified to the Clearing-House Mechanism as soon as it becomes available, but no later than one year from the collection in situ of marine genetic resources of areas beyond national jurisdiction:

(a) The repository or database where digital sequence information on marine genetic resources is or will be deposited;

(b) Where all marine genetic resources collected in situ are or will be deposited or held;

(c) A report detailing the geographical area from which marine genetic resources were collected, including information on the latitude, longitude and depth of collection, and, to the extent available, the findings from the activity undertaken;

(d) Any necessary updates to the data management plan provided under paragraph (2) (j) above.

6. Parties shall ensure that samples of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction that are in repositories or databases under their jurisdiction can be identified as originating from areas beyond national jurisdiction, in accordance with current international practice and to the extent practicable.

7. Parties shall ensure that repositories, to the extent practicable, and databases under their jurisdiction prepare, on a biennial basis, an aggregate report on access to marine genetic resources and digital sequence information linked to their "BBNJ" standardized batch identifier, and make the report available to the access and benefit-sharing committee established under article 15.

8. Where marine genetic resources of areas beyond national jurisdiction, and where practicable, the digital sequence information on such resources are subject to utilization, including commercialization, by natural or juridical persons under their jurisdiction, Parties shall ensure that the following information, including the "BBNJ" standardized batch identifier, if available, be notified to the Clearing-House Mechanism as soon as such information becomes available:

(a) Where the results of the utilization, such as publications, patents granted, if available and to the extent possible, and products developed, can be found;

(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 researchers in research projects, as well as dedicated initiatives, in particular for developing States, taking into account the special circumstances of small island developing States and of least developed countries;

(g) Increased technical and scientific cooperation, in particular with scientists from and scientific institutions in developing States;

(h) Other forms of benefits as determined by the Conference of the Parties, taking into account recommendations of the access and benefit-sharing committee established under article 15.

3. Parties shall take the necessary legislative, administrative or policy measures to ensure that marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction, together with their "BBNJ" standardized batch identifiers, subject to utilization by natural or juridical persons under their jurisdiction are deposited in publicly accessible repositories and databases, maintained either nationally or internationally, no later than three years from the start of such utilization, or as soon as they become available, taking into account current international practice.

4. Access to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction in the repositories and databases under a Party's jurisdiction may be subject to reasonable conditions, as follows:

(a) The need to preserve the physical integrity of marine genetic resources;

(b) The reasonable costs associated with maintaining the relevant gene bank, biorepository or database in which the sample, data or information is held;

(c) The reasonable costs associated with providing access to the marine genetic resource, data or information;

(d) Other reasonable conditions in line with the objectives of this Agreement; 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;

(e) Matters relating to this Part in relation to the financial mechanism established under article 52;

(f) Any other matters relating to this Part that the Conference of the Parties may request the access and benefit-sharing committee to address.

4. Each Party shall make available to the access and benefit-sharing committee, through the Clearing-House Mechanism, the information required under this Agreement, which shall include:

(a) Legislative, administrative and policy measures on access and benefit-sharing;

(b) Contact details and other relevant information on national focal points;

(c) Other information required pursuant to the decisions taken by the Conference of the Parties.

5. The access and benefit-sharing committee may consult and facilitate the exchange of information with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies on activities under its mandate, including benefit-sharing, the use of digital sequence information on marine genetic resources, best practices, tools and methodologies, data governance and lessons learned.

6. The access and benefit-sharing committee may make recommendations to the Conference of the Parties in relation to information obtained under paragraph 5 above.

Article 16
Monitoring and transparency

1. Monitoring and transparency of activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction shall be achieved through notification to the Clearing-House Mechanism, through the use of "BBNJ" standardized batch identifiers in accordance with this Part and according to procedures adopted by the Conference of the Parties as recommended by the access and benefit-sharing committee.

2. Parties shall periodically submit reports to the access and benefit-sharing committee on their implementation of the provisions in this Part on activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction and the sharing of benefits therefrom, in accordance with this Part.

3. The access and benefit-sharing committee shall prepare a report based on the information received through the Clearing-House Mechanism and make it available to Parties, which may submit comments. The access and benefit-sharing committee shall submit the report, including comments received, for the consideration of the Conference of the Parties. The Conference of the Parties, taking into account the recommendation of the access and benefit-sharing committee, may determine appropriate guidelines for the implementation of this article, which shall take into account the national capabilities and circumstances of Parties.

PART III
MEASURES SUCH AS AREA-BASED MANAGEMENT TOOLS, INCLUDING MARINE PROTECTED AREAS

Article 17
Objectives

The objectives of this Part are to:

(a) Conserve and sustainably use areas requiring protection, including through the establishment of a comprehensive system of area-based management tools, with ecologically representative and well-connected networks of marine protected areas;

(b) Strengthen cooperation and coordination in the use of area-based management tools, including marine protected areas, among States, relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies;

(c) Protect, preserve, restore and maintain biological diversity and ecosystems, including with a view to enhancing their productivity and health, and strengthen resilience to stressors, including those related to climate change, ocean acidification and marine pollution;

(d) Support food security and other socioeconomic objectives, including the protection of cultural values;

(e) Support 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, taking into account the special circumstances of small island developing States, through capacity-building and the development and transfer of marine technology in developing, implementing, monitoring, managing and enforcing area-based management tools, including marine protected areas.

Article 18
Area of application

The establishment of area-based management tools, including marine protected areas, shall not include any areas within national jurisdiction 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. The Conference of the Parties shall not consider for decision proposals for the establishment of such area-based management tools, including marine protected areas, and in no case shall such proposals be interpreted as recognition or non-recognition of any claims to sovereignty, sovereign rights or jurisdiction.

Article 19
Proposals

1. Proposals regarding the establishment of area-based management tools, including marine protected areas, under this Part shall be submitted by Parties, individually or collectively, to the secretariat.

2. Parties shall collaborate and consult, as appropriate, with relevant stakeholders, including States and global, regional, subregional and sectoral bodies, as well as civil

society, the scientific community, the private sector, Indigenous Peoples and local communities, for the development of proposals, as set out in this Part.

3. Proposals shall be formulated 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.

4. Proposals with regard to identified areas shall include the following key elements:

(a) A geographic or spatial description of the area that is the subject of the proposal by reference to the indicative criteria specified in Annex I;

(b) Information on any of the criteria specified in Annex I, as well as any criteria that may be further developed and revised in accordance with paragraph 5 below applied in identifying the area;

(c) Human activities in the area, including uses by Indigenous Peoples and local communities, and their possible impact, if any;

(d) A description of the state of the marine environment and biological diversity in the identified area;

(e) A description of the conservation and, where appropriate, sustainable use objectives that are to be applied to the area;

(f) A draft management plan encompassing the proposed measures and outlining proposed monitoring, research and review activities to achieve the specified objectives;

(g) The duration of the proposed area and measures, if any;

(h) Information on any consultations undertaken with States, including adjacent coastal States and/or relevant global, regional, subregional and sectoral bodies, if any;

(i) Information on area-based management tools, including marine protected areas, implemented under relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies;

(j) Relevant scientific input and, where available, traditional knowledge of Indigenous Peoples and local communities.

5. Indicative criteria for the identification of such areas shall include, as relevant, those specified in Annex I and may be further developed and revised as necessary by the Scientific and Technical Body for consideration and adoption by the Conference of the Parties.

6. Further requirements regarding the contents of proposals, including the modalities for the application of indicative criteria as specified in paragraph 5 above, and guidance on proposals specified in paragraph 4 (b) above shall be elaborated by the Scientific and Technical Body, as necessary, for consideration and adoption by the Conference of the Parties.

Article 20
Publicity and preliminary review of proposals

Upon receipt of a proposal in writing, the secretariat shall make the proposal publicly available and transmit it to the Scientific and Technical Body for a preliminary review. The purpose of the review is to ascertain that the proposal

contains the information required under article 19, including indicative criteria described in this Part and in Annex I. The outcome of that review shall be made publicly available and shall be conveyed to the proponent by the secretariat. The proponent shall retransmit the proposal to the secretariat, having taken into account the preliminary review by the Scientific and Technical Body. The secretariat shall notify the Parties and make that retransmitted proposal publicly available and facilitate consultations pursuant to article 21.

Article 21
Consultations on and assessment of proposals

1. Consultations on proposals submitted under article 19 shall be inclusive, transparent and open to all relevant stakeholders, including States and global, regional, subregional and sectoral bodies, as well as civil society, the scientific community, Indigenous Peoples and local communities.

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 account the special circumstances of small island developing States.

Article 22
Establishment of area-based management tools, including marine protected areas

1. The Conference of the Parties, on the basis of the final proposal and the draft management plan, taking into account the contributions and scientific input received during the consultation process established under this Part, and the scientific advice and recommendations of the Scientific and Technical Body:

(a) Shall take decisions on the establishment of area-based management tools, including marine protected areas, and related measures;

(b) May take decisions on measures compatible with those adopted by relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, in cooperation and coordination with those instruments, frameworks and bodies;

(c) May, where proposed measures are within the competences of other global, regional, subregional or sectoral bodies, make recommendations to Parties to this Agreement and to global, regional, subregional and sectoral bodies to promote the adoption of relevant measures through such instruments, frameworks and bodies, in accordance with their respective mandates.

2. In taking decisions under this article, the Conference of the Parties shall respect the competences of, and not undermine, relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

3. The Conference of the Parties shall make arrangements for regular consultations to enhance cooperation and coordination with and among relevant legal instruments

and frameworks and relevant global, regional, subregional and sectoral bodies with regard to area-based management tools, including marine protected areas, as well as coordination with regard to related measures adopted under such instruments and frameworks and by such bodies.

4. Where the achievement of the objectives and the implementation of this Part so requires, to further international cooperation and coordination with respect to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, the Conference of the Parties may consider and, subject to paragraphs 1 and 2 above, may decide, as appropriate, to develop a mechanism regarding existing area-based management tools, including marine protected areas, adopted by relevant legal instruments and frameworks or relevant global, regional, subregional or sectoral bodies.

5. Decisions and recommendations adopted by the Conference of the Parties in accordance with this Part shall not undermine the effectiveness of measures adopted in respect of areas within national jurisdiction and shall be made with due regard for the rights and duties of all States, in accordance with the Convention. In cases where measures proposed under this Part would affect or could reasonably be expected to affect the superjacent water above the seabed and subsoil of submarine areas over which a coastal State exercises sovereign rights in accordance with the Convention, such measures shall have due regard to the sovereign rights of such coastal States. Consultations shall be undertaken to that end, in accordance with the provisions of this Part.

6. In cases where an area-based management tool, including a marine protected area, established under this Part subsequently falls, either wholly or in part, within the national jurisdiction of a coastal State, the part within national jurisdiction shall immediately cease to be in force. The part remaining in areas beyond national jurisdiction shall remain in force until the Conference of the Parties, at its following meeting, reviews and decides whether to amend or revoke the area-based management tool, including a marine protected area, as necessary.

7. Upon the establishment of, or amendment to the competence of, a relevant legal instrument or framework or a relevant global, regional, subregional or sectoral body, any area-based management tool, including a marine protected area, or related measures adopted by the Conference of the Parties under this Part that subsequently falls within the competence of such instrument, framework or body, either wholly or in part, shall remain in force until the Conference of the Parties reviews and decides, in close cooperation and 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, on its implementation of paragraph 6 above, to inform the monitoring and review under article 26.

8. An objection to a decision made in accordance with paragraph 4 above may only be renewed if the objecting Party considers it still necessary, every three years after the entry into force of the decision, by written notification to the secretariat. Such written notification shall include an explanation of the grounds of its initial objection.

9. If no notification of renewal pursuant to paragraph 8 above is received, the objection shall be considered automatically withdrawn and, thereupon, the decision shall be binding for that Party 120 days after that objection is automatically withdrawn. The secretariat shall notify the Party 60 days prior to the date on which the objection will be automatically withdrawn.

10. Decisions of the Conference of the Parties adopted under this Part, and objections to those decisions, shall be made publicly available by the secretariat and shall be transmitted to all States and relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

Article 24
Emergency measures

1. The Conference of the Parties shall take decisions to adopt measures in areas beyond national jurisdiction, to be applied on an emergency basis, if necessary, when a natural phenomenon or human-caused disaster has caused, or is likely to cause, serious or irreversible harm to marine biological diversity of areas beyond national jurisdiction, to ensure that the serious or irreversible harm is not exacerbated.

2. Measures adopted under this article shall be considered necessary only if, following consultation with relevant legal instruments or frameworks or relevant

global, regional, subregional or sectoral bodies, the serious or irreversible harm cannot be managed in a timely manner through the application of the other articles of this Agreement or by a relevant legal instrument or framework or a relevant global, regional, subregional or sectoral body.

3. Measures adopted on an emergency basis shall be based on the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities and shall take into account the precautionary approach. Such measures may be proposed by Parties or recommended by the Scientific and Technical Body and may be adopted intersessionally. The measures shall be temporary and must be reconsidered for decision at the next meeting of the Conference of the Parties following their adoption.

4. The measures shall terminate two years following their entry into force or shall be terminated earlier by the Conference of the Parties upon being replaced by area-based management tools, including marine protected areas, and related measures established in accordance with this Part, or by measures adopted by a relevant legal instrument or framework or relevant global, regional, subregional or sectoral body, or by a decision of the Conference of the Parties when the circumstances that necessitated the measure cease to exist.

5. Procedures and guidance for the establishment of emergency measures, including consultation procedures, shall be elaborated by the Scientific and Technical Body, as necessary, for consideration and adoption by the Conference of the Parties at its earliest opportunity. Such procedures shall be inclusive and transparent.

Article 25
Implementation

1. Parties shall ensure that activities under their jurisdiction or control that take place in areas beyond national jurisdiction are conducted consistently with the decisions adopted under this Part.

2. Nothing in this Agreement shall prevent a Party from adopting more stringent measures with respect to its nationals and vessels or with regard to activities under its jurisdiction or control in addition to those adopted under this Part, in accordance with international law and in support of the objectives of the Agreement.

3. The implementation of the measures adopted under this Part should not impose a disproportionate burden on Parties that are small island developing States or least developed countries, directly or indirectly.

4. Parties shall promote, as appropriate, the adoption of measures within relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies of which they are members, to support the implementation of the decisions and recommendations made by the Conference of the Parties under this Part.

5. Parties shall encourage those States that are entitled to become Parties to this Agreement, in particular those whose activities, vessels or nationals operate in an area that is the subject of an established area-based management tool, including a marine protected area, to adopt measures supporting the decisions and recommendations of the Conference of the Parties on area-based management tools, including marine protected areas, established under this Part.

6. A Party that is not a party to or a participant in a relevant legal instrument or framework, or a member of a relevant global, regional, subregional or sectoral body, and that does not otherwise agree to apply the measures established under such instruments and frameworks and by such bodies shall not be discharged from the

obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

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.

Article 29
Relationship between this Agreement and environmental impact assessment processes under relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies

1. Parties shall promote the use of environmental impact assessments and the adoption and implementation of the standards and/or guidelines developed under article 38 in relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies of which they are members.

2. The Conference of the Parties shall develop mechanisms under this Part for the Scientific and Technical Body to collaborate with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies that regulate activities in areas beyond national jurisdiction or protect the marine environment.

3. When developing or updating standards or guidelines for the conduct of environmental impact assessments of activities in areas beyond national jurisdiction by Parties to this Agreement under article 38, the Scientific and Technical Body shall, as appropriate, collaborate with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

4. It is not necessary to conduct a screening or an environmental impact assessment of a planned activity in areas beyond national jurisdiction, provided that the Party with jurisdiction or control over the planned activity determines:

(a) That the potential impacts of the planned activity or category of activity have been assessed in accordance with the requirements of other relevant legal instruments or frameworks or by relevant global, regional, subregional or sectoral bodies;

(b) That:

(i) the assessment already undertaken for the planned activity is equivalent to the one required under this Part, and the results of the assessment are taken into account; or

(ii) the regulations or standards of the relevant legal instruments or frameworks or relevant global, regional, subregional or sectoral bodies arising from the assessment were designed to prevent, mitigate or manage potential impacts below the threshold for environmental impact assessments under this Part, and they have been complied with.

5. When an environmental impact assessment for a planned activity in areas beyond national jurisdiction has been conducted under a relevant legal instrument or framework or a relevant global, regional, subregional or sectoral body, the Party concerned shall ensure that the environmental impact assessment report is published through the Clearing-House Mechanism.

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 information, including under article 30, paragraph 1 (a), publicly available through the Clearing-House Mechanism under this Agreement;

(ii) On the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, a Party may register its views on the potential impacts of a planned activity on which a determination has been made in accordance with subparagraph (a) (i) above with the Party that made the determination and the Scientific and Technical Body, within 40 days of the publication thereof;

(iii) If the Party that registered its views expressed concerns on the potential impacts of a planned activity on which the determination was made, the Party that made that determination shall give consideration to such concerns and may review its determination;

(iv) Upon consideration of the concerns registered by a Party under subparagraph (a) (ii) above, the Scientific and Technical Body shall consider and may evaluate the potential impacts of the planned activity on the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities and, as appropriate, may make recommendations to the Party that made the determination after giving that Party an opportunity to respond to the concerns registered and taking into account such response;

(v) The Party that made the determination under subparagraph (a) (i) above shall give consideration to any recommendations of the Scientific and Technical Body;

(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 shall be conducted under this Part, are identified. The scope shall be defined by using the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities;

(c) *Impact assessment and evaluation*. Parties shall ensure that the impacts of planned activities, including cumulative impacts and impacts in areas within national jurisdiction, are assessed and evaluated using the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities;

(d) *Prevention, mitigation and management of potential adverse effects*. Parties shall ensure that:

(i) Measures to prevent, mitigate and manage potential adverse effects of the planned activities under their jurisdiction or control are identified and analysed to avoid significant adverse impacts. Such measures may include the consideration of alternatives to the planned activity under their jurisdiction or control;

(ii) Where appropriate, these measures are incorporated into an environmental management plan;

(e) Parties shall ensure public notification and consultation in accordance with article 32;

(f) Parties shall ensure the preparation and publication of an environmental impact assessment report in accordance with article 33.

2. Parties may conduct joint environmental impact assessments, in particular for planned activities under the jurisdiction or control of small island developing States.

3. A roster of experts shall be created under the Scientific and Technical Body. Parties with capacity constraints may request advice and assistance from those experts to conduct and evaluate screenings and environmental impact assessments for a planned activity under their jurisdiction or control. The experts cannot be appointed to another part of the environmental impact assessment process of the same activity. The Party that requested the advice and assistance shall ensure that such

environmental impact assessments are submitted to it for review and decision-making.

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 all States, in particular adjacent coastal States and any other States adjacent to the activity when they are potentially most affected States, and stakeholders in the environmental impact assessment process. Notification and opportunities for participation, including through the submission of comments, shall take place throughout the environmental impact assessment process, as appropriate, including when identifying the scope of an environmental impact assessment under article 31, paragraph 1 (b), and when a draft environmental impact assessment report has been prepared under article 33, before a decision is made as to whether to authorize the activity.

2. Potentially most affected States shall be determined by taking into account the nature and potential effects on the marine environment of the planned activity and shall include:

(a) Coastal States whose exercise of sovereign rights for the purpose of exploring, exploiting, conserving or managing natural resources may reasonably be believed to be affected by the activity;

(b) States that carry out, in the area of the planned activity, human activities, including economic activities, that may reasonably be believed to be affected.

3. Stakeholders in this process include Indigenous Peoples and local communities with relevant traditional knowledge, relevant global, regional, subregional and sectoral bodies, civil society, the scientific community and the public.

4. Public notification and consultation shall, in accordance with article 48, paragraph 3, be inclusive and transparent, be conducted in a timely manner and be targeted and proactive when involving small island developing States.

5. Substantive comments received during the consultation process, including from adjacent coastal States and any other States adjacent to the planned activity when they are potentially most affected States, shall be considered and responded to or addressed by Parties. Parties shall give particular regard to comments concerning potential impacts in areas within national jurisdiction and provide written responses, as appropriate, specifically addressing such comments, including regarding any additional measures meant to address those potential impacts. Parties shall make public the comments received and the responses or descriptions of the manner in which they were addressed.

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.

4. The Scientific and Technical Body, as appropriate and in a timely manner, may make comments to the Party on the draft environmental impact assessment report. The Party shall give consideration to any comments made by the Scientific and Technical Body.

5. Parties shall publish the reports of the environmental impact assessments, including through the Clearing-House Mechanism. The secretariat shall ensure that all Parties are notified in a timely manner when reports are published through the Clearing-House Mechanism.

6. Final environmental impact assessment reports shall be considered by the Scientific and Technical Body, on the basis of relevant practices, procedures and knowledge under this Agreement, for the purpose of developing guidelines, including the identification of best practices.

7. A selection of the published information used in the screening process to make decisions on whether to conduct an environmental impact assessment, in accordance with articles 30 and 31, shall be considered and reviewed by the Scientific and Technical Body, on the basis of relevant practices, procedures and knowledge under this Agreement, for the purpose of developing guidelines, including the identification of best practices.

Article 34
Decision-making

1. A Party under whose jurisdiction or control a planned activity falls shall be responsible for determining if it may proceed.

2. When determining whether the planned activity may proceed under this Part, full account shall be taken of an environmental impact assessment conducted in

accordance with this Part. A decision to authorize the planned activity under the jurisdiction or control of a Party shall only be made when, taking into account mitigation or management measures, the Party has determined that it has made all reasonable efforts to ensure that the activity can be conducted in a manner consistent with the prevention of significant adverse impacts on the marine environment.

3. Decision documents shall clearly outline any conditions of approval related to mitigation measures and follow-up requirements. Decision documents shall be made public, including through the Clearing-House Mechanism.

4. At the request of a Party, the Conference of the Parties may provide advice and assistance to that Party when determining whether a planned activity under its jurisdiction or control may proceed.

Article 35
Monitoring of impacts of authorized activities

Parties shall, by using the best available science and scientific information and, where available, the relevant traditional knowledge of Indigenous Peoples and local communities, keep under surveillance the impacts of any activities in areas beyond national jurisdiction that they permit or in which they engage in order to determine whether these activities are likely to pollute or have adverse impacts on the marine environment. In particular, each Party shall monitor the environmental and any associated impacts, such as economic, social, cultural and human health impacts, of an authorized activity under their jurisdiction or control in accordance with the conditions set out in the approval of the activity.

Article 36
Reporting on impacts of authorized activities

1. Parties, whether acting individually or collectively, shall periodically report on the impacts of the authorized activity and the results of the monitoring required under article 35.

2. Monitoring reports shall be made public, including through the Clearing-House Mechanism, and the Scientific and Technical Body may consider and evaluate the monitoring reports.

3. Monitoring reports shall be considered by the Scientific and Technical Body, on the basis of relevant practices, procedures and knowledge under this Agreement, for the purpose of developing guidelines on the monitoring of impacts of authorized activities, including the identification of best practices.

Article 37
Review of authorized activities and their impacts

1. Parties shall ensure that the impacts of the authorized activity monitored pursuant to article 35 are reviewed.

2. Should the Party with jurisdiction or control over the activity identify significant adverse impacts that either were not foreseen in the environmental impact assessment, in nature or severity, or that arise from a breach of any of the conditions set out in the approval of the activity, the Party shall review its decision authorizing the activity, notify the Conference of the Parties, other Parties and the public, including through the Clearing-House Mechanism, and:

(a) Require that measures be proposed and implemented to prevent, mitigate and/or manage those impacts or take any other necessary action and/or halt the activity, as appropriate; and

(b) Evaluate, in a timely manner, any measures implemented or actions taken under subparagraph (a) above.

3. On the basis of the reports received under article 36, the Scientific and Technical Body may notify the Party that authorized the activity if it considers that the activity may have significant adverse impacts that were either not foreseen in the environmental impact assessment or that arise from a breach of any conditions of approval of the authorized activity and, as appropriate, may make recommendations to the Party.

4. (a) On the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, a Party may register its concerns, with the Party that authorized the activity and with the Scientific and Technical Body, that the authorized activity may have significant adverse impacts that were either not foreseen in the environmental impact assessment, in nature or severity, or that arise from a breach of any conditions of approval of the authorized activity;

(b) The Party that authorized the activity shall give consideration to such concerns;

(c) Upon consideration of the concerns registered by a Party, the Scientific and Technical Body shall consider and may evaluate the matter based on the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities and may notify the Party that authorized the activity, if it considers that such activity may have significant adverse impacts that were either not foreseen in the environmental impact assessment or that arise from a breach of any conditions of approval of the authorized activity and, after giving that Party an opportunity to respond to the concerns registered and taking into account such response and as appropriate, may make recommendations to the Party that authorized the activity;

(d) The registration of concerns, any notifications issued and any recommendations made by the Scientific and Technical Body shall be made publicly available, including through the Clearing-House Mechanism;

(e) The Party that authorized the activity shall give consideration to any notifications issued and any recommendations made by the Scientific and Technical Body.

5. All States, in particular adjacent coastal States and any other States adjacent to the activity when they are potentially most affected States, and stakeholders shall be kept informed through the Clearing-House Mechanism and may be consulted in the monitoring, reporting and review processes in respect of an activity authorized under this Agreement.

6. Parties shall publish, including through the Clearing-House Mechanism:

(a) Reports on the review of the impacts of the authorized activity;

(b) Decision documents, including a record of the reasons for the decision by the Party, when a Party has changed its decision authorizing the activity.

Article 38
Standards and/or guidelines to be developed by the Scientific and Technical Body related to environmental impact assessments

1. The Scientific and Technical Body shall develop standards or guidelines for consideration and adoption by the Conference of the Parties on:

(a) The determination of whether the thresholds for the conduct of a screening or an environmental impact assessment under article 30 have been met or exceeded for planned activities, including on the basis of the non-exhaustive factors set out in paragraph 2 of that article;

(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 published information used in the screening process pursuant to article 33, including best practices;

(f) The monitoring of and reporting on the impacts of authorized activities as set out in articles 35 and 36, including the identification of best practices;

(g) The conduct of strategic environmental assessments.

2. The Scientific and Technical Body may also develop standards and guidelines for consideration and adoption by the Conference of the Parties, including on:

(a) An indicative non-exhaustive list of activities that require or do not require an environmental impact assessment, as well as any criteria related to those activities, which shall be periodically updated;

(b) The conduct of environmental impact assessments by Parties to this Agreement in areas identified as requiring protection or special attention.

3. Any standard shall be set out in an annex to this Agreement, in accordance with article 74.

Article 39
Strategic environmental assessments

1. Parties shall, individually or in cooperation with other Parties, consider conducting strategic environmental assessments for plans and programmes relating to activities under their jurisdiction or control, to be conducted in areas beyond national jurisdiction, in order to assess the potential effects of such plans or programmes, as well as of alternatives, on the marine environment.

2. The Conference of the Parties may conduct a strategic environmental assessment of an area or region to collate and synthesize the best available information about the area or region, assess current and potential future impacts and identify data gaps and research priorities.

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 category of strategic environmental assessment described in this article.

PART V
CAPACITY-BUILDING AND THE TRANSFER OF MARINE TECHNOLOGY

Article 40
Objectives

The objectives of this Part are to:

(a) Assist Parties, in particular developing States Parties, in implementing the provisions of this Agreement, to achieve its objectives;

(b) Enable inclusive, equitable and effective cooperation and participation in the activities undertaken under this Agreement;

(c) Develop the marine scientific and technological capacity, including with respect to research, of Parties, in particular developing States Parties, with regard to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including through access to marine technology by, and the transfer of marine technology to, developing States Parties;

(d) Increase, disseminate and share knowledge on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

(e) More specifically, support 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, through capacity-building and the development and transfer of marine technology under this Agreement, in achieving the objectives relating to:

(i) Marine genetic resources, including the sharing of benefits, as reflected in article 9;

(ii) Measures such as area-based management tools, including marine protected areas, as reflected in article 17;

(iii) Environmental impact assessments, as reflected in article 27.

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

1. Parties, within their capabilities, shall ensure capacity-building for developing States Parties and shall cooperate to achieve the transfer of marine technology, in particular to developing States Parties that need and request it, taking into account the special circumstances of small island developing States and of least developed countries, in accordance with the provisions of this Agreement.

2. Parties shall provide, within their capabilities, resources to support such capacity-building and the development and transfer of marine technology and to facilitate access to other sources of support, taking into account their national policies, priorities, plans and programmes.

3. Capacity-building and the transfer of marine technology should be a country-driven, transparent, effective and iterative process that is participatory, cross-cutting and gender-responsive. It shall build upon, as appropriate, and not duplicate existing programmes and be guided by lessons learned, including those from capacity-building and transfer of marine technology activities under relevant legal instruments and frameworks and relevant global, 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 developing States and of least developed countries, to strengthen their implementation of the Agreement in order to achieve its objectives.

3. In supporting the monitoring and review of capacity-building and the transfer of marine technology, Parties shall submit reports to the capacity-building and transfer of marine technology committee. Those reports should be in a format and at intervals to be determined by the Conference of the Parties, taking into account the recommendations of the capacity-building and transfer of marine technology committee. In submitting their reports, Parties shall take into account, where applicable, input from regional and subregional bodies on capacity-building and the transfer of marine technology. The reports submitted by Parties, as well as any input from regional and subregional bodies on capacity-building and the transfer of marine technology, should be made publicly available. The Conference of the Parties shall ensure that reporting requirements should be streamlined and not onerous, in particular for developing States Parties, including in terms of costs and time requirements.

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
Conference of the Parties

1. A Conference of the Parties is hereby established.

2. The first meeting of the Conference of the Parties shall be convened by the Secretary-General of the United Nations no later than one year after the entry into force of this Agreement. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference of the Parties. Extraordinary meetings of the Conference of the Parties may be held at other times, in accordance with the rules of procedure.

3. The Conference of the Parties shall ordinarily meet at the seat of the secretariat or at United Nations Headquarters.

4. The Conference of the Parties shall by consensus adopt, at its first meeting, rules of procedure for itself and its subsidiary bodies, financial rules governing its funding and the funding of the secretariat and any subsidiary bodies and, thereafter, rules of procedure and financial rules for any further subsidiary body that it may establish. Until such time as the rules of procedure have been adopted, the rules of procedure of the intergovernmental conference on an international legally binding instrument 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 shall apply.

5. The Conference of the Parties shall make every effort to adopt decisions and recommendations by consensus. Except as otherwise provided in this Agreement, if all 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 this Agreement, including through the public dissemination of information and the facilitation of the participation of, and consultation with, relevant global, regional, subregional and sectoral bodies, Indigenous Peoples and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders, as appropriate and in accordance with the provisions of this Agreement.

4. Representatives of States not party to this Agreement, relevant global, regional, subregional and sectoral bodies, Indigenous Peoples and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders with an interest in matters pertaining to the Conference of the Parties may request to participate as observers in the meetings of the Conference of the Parties and of its subsidiary bodies. The rules of procedure of the Conference of the Parties shall provide for modalities for such participation and shall not be unduly restrictive in this respect. The rules of procedure shall also provide for such representatives to have timely access to all relevant information.

Article 49
Scientific and Technical Body

1. A Scientific and Technical Body is hereby established.

2. The Scientific and Technical Body shall be composed of members serving in their expert capacity and in the best interest of the Agreement, nominated by Parties and elected by the Conference of the Parties, with suitable qualifications, taking into account the need for multidisciplinary expertise, including relevant scientific and technical expertise and expertise in relevant traditional knowledge of Indigenous Peoples and local communities, gender balance and equitable geographical representation. The terms of reference and modalities for the operation of the Scientific and Technical Body, including its selection process and the terms of members' mandates, shall be determined by the Conference of the Parties at its first meeting.

3. The Scientific and Technical Body may draw on appropriate advice emanating from relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, as well as from other scientists and experts, as may be required.

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;

(c) Provide links to relevant global, regional, subregional, national and sectoral clearing-house mechanisms and other gene banks, repositories and databases, including those pertaining to relevant traditional knowledge of Indigenous Peoples and local communities, and promote, where possible, links with publicly available private and non-governmental platforms for the exchange of information;

(d) Build on global, regional and subregional clearing-house institutions, where applicable, when establishing regional and subregional mechanisms under the global mechanism;

(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.

7. The financial mechanism should seek to ensure that duplication is avoided, and complementarity and coherence promoted, among the utilization of the funds within the mechanism.

8. Financial resources mobilized in support of the implementation of this Agreement may include funding provided through public and private sources, both national and international, including, but not limited to, contributions from States, international financial institutions, existing funding mechanisms under global and regional instruments, donor agencies, intergovernmental organizations, non-governmental organizations and natural and juridical persons, and through public-private partnerships.

9. For the purposes of this Agreement, the mechanism shall function under the authority, where appropriate, and guidance of the Conference of the Parties and shall be accountable thereto. The Conference of the Parties shall provide guidance on

overall strategies, policies, programme priorities and eligibility for access to and utilization of financial resources.

10. The Conference of the Parties and the Global Environment Facility shall agree upon arrangements to give effect to the above paragraphs at the first meeting of the Conference of the Parties.

11. In recognition of the urgency to address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, the Conference of the Parties shall determine an initial resource mobilization goal through 2030 for the special fund from all sources, taking into account, inter alia, the institutional modalities of the special fund and the information provided through the capacity-building and transfer of marine technology committee.

12. Eligibility for access to funding under this Agreement shall be open to developing States Parties on the basis of need. Funding under the special fund shall be distributed according to equitable sharing criteria, taking into account the needs for assistance of Parties with special requirements, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States and coastal African States, archipelagic States and developing middle-income countries, and taking into account the special circumstances of small island developing States and of least developed countries. The special fund shall be aimed at ensuring efficient access to funding through simplified application and approval procedures and enhanced readiness of support for such developing States Parties.

13. In the light of capacity constraints, Parties shall encourage international organizations to grant preferential treatment to, and consider the specific needs and special requirements of developing States Parties, in particular the least developed countries, landlocked developing countries and small island developing States, and taking into account the special circumstances of small island developing States and of least developed countries, in the allocation of appropriate funds and technical assistance and the utilization 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 resources. It shall be composed of members possessing appropriate qualifications and expertise, taking into account gender balance and equitable geographical distribution. The terms of reference and modalities for the operation of the committee shall be decided by the Conference of the Parties. The committee shall periodically report and make recommendations on the identification and mobilization of funds under the mechanism. It shall also collect information and report on funding under other mechanisms and instruments contributing directly or indirectly to the achievement of the objectives of this Agreement. In addition to the considerations provided in this article, the committee shall consider, inter alia:

(a) The assessment of the needs of the Parties, in particular developing States Parties;

(b) The availability and timely disbursement of funds;

(c) The transparency of decision-making and management processes concerning fundraising and allocations;

(d) The accountability of the recipient developing States Parties with respect to the agreed use of funds.

15. The Conference of the Parties shall consider the reports and recommendations of the finance committee and take appropriate action.

16. The Conference of the Parties shall, in addition, undertake a periodic review of the financial mechanism to assess the adequacy, effectiveness and accessibility of financial resources, including for the delivery of capacity-building and the transfer of marine technology, in particular for developing States Parties.

PART VIII
IMPLEMENTATION AND COMPLIANCE

Article 53
Implementation

Parties shall take the necessary legislative, administrative or policy measures, as appropriate, to ensure the implementation of this Agreement.

Article 54
Monitoring of implementation

Each Party shall monitor the implementation of its obligations under this Agreement and shall, in a format and at intervals to be determined by the Conference of the Parties, report to the Conference on measures that it has taken to implement this Agreement.

Article 55
Implementation and Compliance Committee

1. An Implementation and Compliance Committee to facilitate and consider the implementation of and promote compliance with the provisions of this Agreement is hereby established. The Implementation and Compliance Committee shall be facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive.

2. The Implementation and Compliance Committee shall consist of members possessing appropriate qualifications and experience nominated by Parties and elected by the Conference of the Parties, with due consideration given to gender balance and equitable geographical representation.

3. The Implementation and Compliance Committee shall operate under the modalities and rules of procedure adopted by the Conference of the Parties at its first meeting. The Implementation and Compliance Committee shall consider issues of implementation and compliance at the individual and systemic levels, inter alia, and report periodically and make recommendations, as appropriate while cognizant of respective national circumstances, to the Conference of the Parties.

4. In the course of its work, the Implementation and Compliance Committee may draw on appropriate information from bodies established under this Agreement, as well as relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, as may be required.

PART IX
SETTLEMENT OF DISPUTES

Article 56
Prevention of disputes

Parties shall cooperate in order to prevent disputes.

Article 57
Obligation to settle disputes by peaceful means

Parties have the obligation to settle their disputes concerning the interpretation or application of this Agreement by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 58
Settlement of disputes by any peaceful means chosen by the Parties

Nothing in this Part impairs the right of any Party to this Agreement to agree at any time to settle a dispute between them concerning the interpretation or application of this Agreement by any peaceful means of their own choice.

Article 59
Disputes of a technical nature

Where a dispute concerns a matter of a technical nature, the Parties concerned may refer the dispute to an ad hoc expert panel established by them. The panel shall confer with the Parties concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes under article 60 of this Agreement.

Article 60
Procedures for the settlement of disputes

1. Disputes concerning the interpretation or application of this Agreement shall be settled in accordance with the provisions for the settlement of disputes provided for in Part XV of the Convention.

2. The provisions of Part XV of and Annexes V, VI, VII and VIII to the Convention shall be deemed to be replicated for the purpose of the settlement of disputes involving a Party to this Agreement that is not a Party to the Convention.

3. Any procedure accepted by a Party to this Agreement that is also a Party to the Convention pursuant to article 287 of the Convention shall apply to the settlement of disputes under this Part, unless that Party, when signing, ratifying, approving, accepting or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to article 287 of the Convention for the settlement of disputes under this Part.

4. Any declaration made by a Party to this Agreement that is also a Party to the Convention pursuant to article 298 of the Convention shall apply to the settlement of

disputes under this Part, unless that Party, when signing, ratifying, approving, accepting or acceding to this Agreement, or at any time thereafter, has made a different declaration pursuant to article 298 of the Convention for the settlement of disputes under this Part.

5. Pursuant to paragraph 2 above, a Party to this Agreement that is not a Party to the Convention, when signing, ratifying, approving, accepting or acceding to this Agreement, or at any time thereafter, shall be free to choose, by means of a written declaration, submitted to the depositary, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Agreement:

(a) The International Tribunal for the Law of the Sea;

(b) The International Court of Justice;

(c) An Annex VII arbitral tribunal;

(d) An Annex VIII special arbitral tribunal for one or more of the categories of disputes specified in said Annex.

6. A Party to this Agreement that is not a Party to the Convention that has not issued a declaration shall be deemed to have accepted the option in paragraph 5 (c) above. If the parties to a dispute have accepted the same procedure for the settlement of the dispute, it may be submitted only to that procedure, unless the parties otherwise agree. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration under Annex VII to the Convention, unless the parties otherwise agree. Article 287, paragraphs 6 to 8, of the Convention shall apply to declarations made under paragraph 5 above.

7. A Party to this Agreement that is not a Party to the Convention may, when signing, ratifying, approving, accepting or acceding to this Agreement, or at any time thereafter, without prejudice to the obligations arising under this Part, declare in writing that it does not accept any of more of the procedures provided for in Part XV, section 2, of the Convention with respect to one or more of the categories of disputes set out in article 298 of the Convention for the settlement of disputes under this Part. Article 298 of the Convention shall apply to such a declaration.

8. The provisions of this article shall be without prejudice to the procedures on the settlement of disputes to which Parties have agreed as participants in a relevant legal instrument or framework, or as members of a relevant global, regional, subregional or sectoral body concerning the interpretation or application of such instruments and frameworks.

9. Nothing in this Agreement shall be interpreted as conferring jurisdiction upon a court or tribunal over any dispute that concerns or necessarily involves the concurrent consideration of the legal status of an area as within national jurisdiction, nor over any dispute concerning sovereignty or other rights over continental or insular land territory or a claim thereto of a Party to this Agreement, provided that nothing in this paragraph shall be interpreted as limiting the jurisdiction of a court or tribunal under Part XV, section 2, of the Convention.

10. For the avoidance of doubt, nothing in this Agreement shall be relied upon as a basis for asserting or denying any claims to sovereignty, sovereign rights or jurisdiction over land or maritime areas, including in respect to any disputes relating thereto.

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 [insert date] and shall remain open for signature at United Nations Headquarters in New York until [insert date].

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 thirtieth day following the deposit of its instrument of ratification, approval, acceptance or accession, subject to paragraph 1 above.

3. For the purposes of paragraphs 1 and 2 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.

Article 69
Provisional application

1. This Agreement may be applied provisionally by a State or regional economic integration organization that consents to its provisional application by so notifying the depositary in writing at the time of signature or deposit of its instrument of ratification, approval, acceptance or accession. Such provisional application shall become effective from the date of receipt of the notification by the depositary.

2. Provisional application by a State or regional economic integration organization shall terminate upon the entry into force of this Agreement for that State or regional economic integration organization or upon notification by that State or regional economic integration organization to the depositary in writing of its intention to terminate its provisional application.

Article 70
Reservations and exceptions

No reservations or exceptions may be made to this Agreement, unless expressly permitted by other articles of this Agreement.

Article 71
Declarations and statements

Article 70 does not preclude a State or regional economic integration organization, when signing, ratifying, approving, accepting or acceding to this Agreement, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or regional economic integration organization.

Article 72
Amendment

1. A Party may, by written communication addressed to the secretariat, propose amendments to this Agreement. The secretariat shall circulate such a communication to all 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 annexes relating thereto.

2. The provisions of article 72 relating to the amendment of this Agreement shall also apply to the proposal, adoption and entry into force of a new annex to the Agreement.

3. Any Party may propose an amendment to any annex to this Agreement for consideration at the next meeting of the Conference of the Parties. The annexes may be amended by the Conference of the Parties. Notwithstanding the provisions of article 72, the following provisions shall apply in relation to amendments to annexes to this Agreement:

(a) The text of the proposed amendment shall be communicated to the secretariat at least 150 days before the meeting. The secretariat shall, upon receiving the text of the proposed amendment, communicate it to the Parties. The secretariat shall consult relevant subsidiary bodies, as required, and shall communicate any response to all Parties not later than 30 days before the meeting;

(b) Amendments adopted at a meeting shall enter into force 180 days after the close of that meeting for all Parties, except those that make an objection in accordance with paragraph 4 below.

4. During the period of 180 days provided for in paragraph 3 (b) above, any Party may, by notification in writing to the depositary, make an objection with respect to the amendment. Such objection may be withdrawn at any time by written notification to the depositary and, thereupon, the amendment to the annex shall enter into force for that Party on the thirtieth day after the date of withdrawal of the objection.

Article 75
Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments or revisions thereto.

Article 76
Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

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;

(f) Vulnerability, including to climate change and ocean acidification;

(g) Fragility;

(h) Sensitivity;

(i) Biological diversity and productivity;

(j) Representativeness;

(k) Dependency;

(l) Naturalness;

(m) Ecological connectivity;

(n) Important ecological processes occurring therein;

(o) Economic and social factors;

(p) Cultural factors;

(q) Cumulative and transboundary impacts;

(r) Slow recovery and resilience;

(s) Adequacy and viability;

(t) Replication;

(u) Sustainability of reproduction;

(v) Existence of conservation and management measures.

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);

(iii) The acquisition of the equipment necessary to support and further develop research and development capabilities, including in data management, in the context of activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction, measures such as area-based management tools, including marine protected areas, and the conduct of environmental impact assessments;

(d) The development and strengthening of institutional capacity and national regulatory frameworks or mechanisms, including:

(i) Governance, policy and legal frameworks and mechanisms;

(ii) Assistance in the development, implementation and enforcement of national legislative, administrative or policy measures, including associated regulatory, scientific and technical requirements at the national, subregional or regional level;

(iii) Technical support for the implementation of the provisions of this Agreement, including for data monitoring and reporting;

(iv) Capacity to translate information and data into effective and efficient policies, including by facilitating access to and the acquisition of knowledge necessary to inform decision makers in developing States Parties;

(v) The establishment or strengthening of the institutional capacities of relevant national and regional organizations and institutions;

(vi) The establishment of national and regional scientific centres, including as data repositories;

(vii) The development of regional centres of excellence;

(viii) The development of regional centres for skills development;

(ix) Increasing cooperative links between regional institutions, for example, North-South and South-South collaboration and collaboration among regional seas organizations and regional fisheries management organizations;

(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, such as:

(i) Collaboration and cooperation in marine science, including through data collection, technical exchange, scientific research projects and programmes, and the development of joint scientific research projects in cooperation with institutions in developing States;

(ii) Education and training in:

a. The natural and social sciences, both basic and applied, to develop scientific and research capacity;

b. Technology, and the application of marine science and technology, to develop scientific and research capacities;

c. Policy and governance;

d. The relevance and application of traditional knowledge;

(iii) The exchange of experts, including experts on traditional knowledge;

(iv) The provision of funding for the development of human resources and technical expertise, including through:

a. The provision of scholarships or other grants for representatives of small island developing States Parties in workshops, training programmes or other relevant programmes to develop their specific capacities;

b. The provision of financial and technical expertise and resources, in particular for small island developing States, concerning environmental impact assessments;

(v) The establishment of a networking mechanism among trained human resources;

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

(i) Criteria and reference materials;

(ii) Technology standards and rules;

(iii) A repository for manuals and relevant information to share knowledge and capacity on how to conduct environmental impact assessments, lessons learned and best practices;

(g) The development of technical, scientific and research and development programmes, including biotechnological research activities.