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ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION



THE LAW OF THE SEA

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THE LAW OF THE SEA

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I. INTRODUCTION

A. AALCO and The Law of the Sea

1. The Asian-African Legal Consultative Organization (AALCO) has consistently served as a crucial forum for Asian and African States to foster legal cooperation and dialogue on the law of the sea. While the topic was formally introduced to the agenda of AALCO in 1970 at the initiative of the Republic of Indonesia, AALCO's engagement with this critical area began in 1957, during its very first Annual Session. In 1957, AALCO addressed issues concerning the regime of the high seas and the territorial sea, at the initiative of Ceylon (now Sri Lanka) and India.

2. From 1968 to 1982, AALCO facilitated substantial participation from Asian and African countries in the international negotiations advocating for a global legal instrument for ocean governance. Since 1970, the topic has remained a prominent and regular feature of AALCO's Annual Sessions. During these deliberations, AALCO contributed to the development of ground-breaking concepts such as Exclusive Economic Zone (EEZ), the special regime for Archipelagic States, and the Rights of Landlocked States. These were subsequently codified in the United Nations Convention on the Law of the Sea (UNCLOS).

3. Following UNCLOS's adoption in 1982, AALCO's work program shifted to assisting its Member States in becoming parties to the Convention and in effectively implementing its provisions. As of now, 47 AALCO Member States are among the 170 parties that have ratified UNCLOS.¹ AALCO has also diligently monitored developments concerning the institutions established by UNCLOS, including continuously reporting on the work of the International Tribunal for the Law of the Sea (ITLOS), the International Seabed Authority (ISA), the Commission on the Limits of the Continental Shelf (CLCS), and the Meeting of States Parties to UNCLOS.

4. In recent times, AALCO's focus has intensified on contemporary issues, particularly marine biodiversity in areas beyond national jurisdiction (BBNJ). This engagement includes discussions at events like the Universiti Malaysia Terengganu (UMT)-AALCO Legal Expert

¹ The Republic of Türkiye and the Syrian Arab Republic are AALCO Member States who are not party to the UNCLOS.

Meeting on Law of the Sea in August 2015, which specifically addressed “Marine Biodiversity Within and Beyond National Jurisdiction: Legal Issues and Challenges”. In line with mandates from its Annual Sessions, the AALCO Secretariat has also prepared specialized studies, such as “Marine Biodiversity beyond National Jurisdiction: An Asian-African Perspective”.

5. AALCO remains committed to exploring new and emerging dimensions of the law of the sea while keeping Member States updated on conventional aspects. This includes examining the interplay between the law of the sea and other crucial areas like environmental protection and the exploitation of mineral resources as well as maritime safety and security, further solidifying AALCO’s role as a key platform for Asian and African legal cooperation in ocean affairs.

B. Deliberations at the Sixty-Second Annual Session of AALCO

6. The topic was introduced by His Excellency Dr Kamalinne Pinitpuvadol, the Secretary-General of AALCO. In his statement, Dr Pinitpuvadol highlighted the presence of Law of the Sea on AALCO’s agenda since 1970 and its key role in shaping concepts later codified in UNCLOS such as the EEZ, the status of archipelagic States, and the rights of landlocked States. He noted Thailand’s proposal to focus on four sub-themes: the ITLOS Advisory Opinion on climate change, implementation of UNCLOS in marine research and seabed activities, maritime security and safety, and sustainable use of marine resources under the BBNJ Agreement. He encouraged Member States to deliberate on these issues and reaffirmed AALCO’s commitment to ocean governance and marine conservation.

7. **H.E Judge Kriangsak Kittichaisaree, Member, International Tribunal for the Law of the Sea (ITLOS)**² highlighted the ITLOS advisory opinion on climate change as a key development in the law of the sea. The Tribunal had found that anthropogenic greenhouse gas emissions constitute “pollution of the marine environment” under UNCLOS and emphasized States’ binding obligations to prevent, reduce, and control such pollution. He underscored the high due diligence standard required, the importance of the Common but Differentiated Responsibilities- Respective Capabilities (CBDR-RC) principle, and the precautionary approach.

² Pre-recorded Video Presentation.

8. He further explained that States must actively cooperate beyond treaty ratification by participating in rule-making and enforcement. Importantly, he stated that climate finance for developing countries is a legal duty under UNCLOS, not a charitable act, especially in light of the unmet \$100 billion annual pledge by developed nations. This opinion, he noted, may influence future ICJ decisions and litigation based on the polluter-pays principle. Judge Kittichaisaree also addressed ongoing controversies around deep seabed mining and confirmed the Seabed Disputes Chamber's readiness to resolve related disputes. He raised legal concerns regarding irregular migration, the use of unmanned maritime systems, and reminded that ITLOS holds compulsory jurisdiction over fisheries disputes under Article 73(3) of UNCLOS. He concluded by thanking the delegates for their attention.

9. Thereafter, statements were delivered by the representatives of the following Member States: the Kingdom of Thailand, the Republic of South Africa, the United Republic of Tanzania, Malaysia, the Republic of India, the Islamic Republic of Iran, the Republic of Kenya, Japan, the Socialist Republic of Vietnam, the Republic of Korea, the Republic of Indonesia, the People's Republic of China, the People's Republic of Bangladesh, and the Republic of Türkiye.

10. **The Delegate of the Kingdom of Thailand** highlighted the importance of UNCLOS in maintaining order and sustainable use of the oceans. They welcomed the advisory opinion by ITLOS on climate change, emphasizing its role in guiding states to regulate greenhouse gas emissions in line with UNCLOS obligations, particularly supporting vulnerable states. The delegate stressed that marine scientific research must be peaceful and benefit all humanity. Given the dual-use nature of new marine technologies, Thailand called for vigilance and sharing of best practices among AALCO Member States. Regarding the BBNJ Agreement, Thailand affirmed its commitment to the principle of the common heritage of mankind and is currently undergoing procedures to sign the agreement. The delegate urged broader participation and effective implementation, noting the importance of AALCO as a platform to assist in legal and technical understanding. In conclusion, the delegate emphasised the oceans' role in addressing global challenges like food and energy security and advocated for full implementation of UNCLOS and

cooperation among Asian and African nations to achieve the Sustainable Development Goals (SDG)³, in particular SDG 14 (Life Below Water).

11. **The Delegate of the Republic of South Africa** emphasized the urgent need to protect the ocean and its resources, which were under threat from human activities such as overfishing, especially illegal, unreported, and unregulated (IUU) fishing. The delegate stated that issues impact coastal communities and their food security. She stated that South Africa supports deep-sea literacy and calls for addressing the root causes of maritime security threats like piracy and poaching and linked them to broader development goals. The delegate reaffirmed UNCLOS as the key framework for governing maritime affairs and expressed gratitude to Member States for supporting Advocate Thembile Joyini's election to ITLOS in 2023. She further noted that while progress has been made in Exclusive Economic Zones, regulatory gaps persist in the high seas, necessitating a legally binding BBNJ Agreement for marine conservation. The delegate also highlighted the importance of the participation of AALCO Member States in the ISA, emphasizing the need to balance marine environmental protection with sustainable resource exploitation for the common heritage of humankind. This aligns with ISA's voluntary commitments and the pursuit of SDG 14 (Life Below Water).

12. **The Delegate of the United Republic of Tanzania** reaffirmed Tanzania's commitment to UNCLOS which had been ratified by Tanzania in 1985 and implemented through national legislation, including the Territorial Sea and Exclusive Economic Zone Act. The delegate stated that Tanzania has ratified major maritime conventions such as International Convention for the Safety of Life at Sea (SOLAS), Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGs), International Ship and Port Facility Security (ISPS) Code, and the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA), and carries out port state control inspections under the Indian Ocean Memorandum of Understanding (MoU) to enhance maritime safety. It was noted that Tanzania has established a legal framework addressing maritime threats like piracy, illegal fishing, smuggling, and trafficking, and actively engages in regional and international initiatives through International Maritime Organization (IMO), Indian Ocean Rim Association (IORA), and the

³ The Sustainable Development Goals (SDGs) are a set of 17 goals adopted by the United Nations in 2015 to address global challenges and promote sustainable development by 2030.

Djibouti Code of Conduct (DCoC). The delegate emphasized the need for capacity building, technology transfer, and knowledge sharing to strengthen the capabilities of developing nations in marine science, maritime safety, and resource management. He called for continued cooperation among coastal and landlocked states, regional organizations, and international bodies to uphold the principles of equity, sustainability, and the rule of law under UNCLOS.

13. **The Delegate of Malaysia** welcomed the ITLOS advisory opinion on climate change and the law of the sea, affirming the binding obligation under UNCLOS Article 194(1) for States to prevent, reduce, and control marine pollution from Greenhouse Gas (GHG) emissions, while noting that implementation may vary based on national capacity. On maritime security, the delegate highlighted Malaysia's legal measures against illegal migration and human trafficking, including Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act (ATIPSOM) and the Immigration Act, and its commitment to international cooperation through instruments like United Nations Convention Against Transnational Organized Crime (UNTOC). The delegate emphasized Malaysia's active role in regional and global initiatives such as IMO and UNODC and expressed full support for the AALCO Secretariat's statement and efforts on the Law of the Sea.

14. **The Delegate of the Republic of India** reaffirmed UNCLOS as the foundational legal framework balancing ocean resource use and environmental protection. The delegate highlighted key challenges such as marine pollution, biodiversity loss, climate change, IUU fishing, and maritime security, and supported global efforts for sustainable fisheries through the Fish Stocks Agreement and the Food and Agriculture Organization's (FAO) role. He emphasized the importance of marine scientific research (MSR) for understanding deep-sea resources, noting that while MSR is a recognized freedom of the high seas, coastal States hold sovereign rights in their EEZ and continental shelves. Accordingly, the delegate emphasized that consent of the coastal State was required for conducting MSR in these areas, and stated that UNCLOS outlines the principles and exceptions governing this consent. He acknowledged challenges to MSR, especially from modern technological developments, and called for in-depth discussion and sharing of best practice. The delegate also reiterated India's commitment to peaceful dispute resolution, respect for sovereignty, and secure, open sea-lanes. He recalled India's 2021 UN Security Council presidency, during which it proposed five guiding principles on international maritime security.

15. **The Delegate of the Islamic Republic of Iran** emphasized the importance of UNCLOS while asserting that it should not be viewed as the sole legal framework governing ocean-related activities. Iran called for a holistic approach that incorporates other relevant legal instruments in the field. The delegate welcomed the adoption of the BBNJ Agreement as a significant achievement in international ocean governance and underscored the role of developing countries in shaping it. He especially commended the inclusion of the “Common Heritage of Mankind” principle. He noted that Iran reaffirms its commitment to marine environmental protection, warned against unilateral actions, and advocated for equitable sharing of marine resources. Highlighting challenges faced by developing countries, the delegate stressed the need for AALCO to facilitate legal cooperation and capacity-building. He stated that Iran is committed to the ratification and implementation of the BBNJ Agreement and pledged to work constructively within AALCO to support these efforts.

16. **The Delegate of the Republic of Kenya** reaffirmed Kenya’s strong commitment to the development of the blue economy and effective ocean governance through institutional and legal frameworks. They stated that Kenya was a member of the High-Level Panel on Sustainable Ocean Economy and supports initiatives like digital traceability to combat illegal fishing and the ratification of the WTO Fisheries Subsidies Agreement 2022. The delegate called on AALCO Member States to eliminate IUU fishing and comply with the Port State Measures Agreement. They welcomed the BBNJ Agreement, particularly its four core elements: marine genetic resources, area-based management tools, environmental impact assessments, and capacity building with marine technology transfer. Emphasizing the need for developing countries to benefit from marine resources, the delegate urged AALCO Member States to collectively establish positions on benefit-sharing and environmental safeguards ahead of the first Conference of Parties. Regionally, the delegate informed that Kenya participates in bodies such as the Indian Ocean Tuna Commission and Indian Ocean Rim Association to strengthen research and fisheries management. Domestically, it was stated that Kenya has implemented the FAO Port State Measures Agreement, acquired patrol vessels, and invested in mangrove rehabilitation, marine research, and sustainable waste management. The delegate asserted that Kenya aimed to protect 30% of its marine area by 2030 and called on AALCO States to cooperate in advancing ocean protection and the blue economy.

17. **The Delegate of Japan** reaffirmed Japan's commitment to the rule of law at sea, highlighting the significance of this agenda for many AALCO Member States. The delegate acknowledged the importance of the ITLOS advisory opinion and ensured that it would monitor its impact, especially regarding environmental issues. Although Japan has no domestic laws regulating MSR in its exclusive economic zone, the delegate ensured that Japan's MSR activities comply with UNCLOS and receive prior consent. The delegate emphasized its active role in the ISA and the urgent need to develop exploitation regulations that balance environmental protection with resource use. On maritime security, the delegate highlighted Japan's efforts to combat piracy, including deploying Self-Defense Force vessels near Somalia, and supported maintaining existing legal norms on piracy under UNCLOS while adapting to technological changes. He ensured that Japan regards IUU fishing as a serious threat to sustainability and security and actively cooperates internationally, providing patrol vessels and capacity-building support. Japan values AALCO's role in addressing maritime security and IUU fishing issues. Regarding the Biodiversity Beyond National Jurisdiction (BBNJ) Agreement, the delegate stressed the need for clear rules after its entry into force.

18. **The Delegate of the Socialist Republic of Vietnam** expressed appreciation for the comprehensive report on the Law of the Sea and reaffirmed Vietnam's strong commitment to UNCLOS and its principles, including respect for States' sovereignty and the peaceful settlement of disputes. The delegate welcomed the ITLOS Advisory Opinion on Climate Change and International Law, which clarifies the link between greenhouse gas emissions and marine pollution and emphasizes States' duty to cooperate in addressing climate change impacts on the marine environment. Highlighting the shared concerns of coastal states in the Indo-Pacific, the delegate called for collective efforts to fulfil cooperation obligations under UNCLOS to ensure sustainable ocean management. The delegate also noted Article 246(2) of UNCLOS, which affirms that marine scientific research activities conducted by one State within the EEZ of another must not interfere with the coastal State's sovereign rights. However, the delegate noted that the lack of a precise definition of marine scientific research creates challenges in distinguishing between freedom of navigation and research activities which complicates the coastal State's ability to oversee such operations. The delegate urged AALCO and its Member States to advocate for further research and clarification on these interpretative issues to promote consistent implementation of UNCLOS and enhance international cooperation in managing marine scientific research.

19. **The Delegate of the Republic of Korea** addressed three key items: the recent ITLOS advisory opinion, the international seabed area, and the BBNJ Agreement. He highlighted the ITLOS opinion recognizing GHG emissions as marine pollution under UNCLOS and emphasized the need for cooperative action to address climate change. The delegate stated that Korea was actively involved in ISA's efforts to develop balanced regulations and hosts annual workshops to enhance scientific knowledge. Regarding the BBNJ Agreement, he emphasized that Korea strongly supports its ratification, urging AALCO Member States to expedite the process to protect marine biodiversity and ensure sustainable use of ocean resources. The Delegate concluded by stressing the vital role of the law of the sea in fostering a sustainable and equitable marine future.

20. **The Delegate of the Republic of Indonesia** expressed Indonesia's active involvement in the proceedings initiated by the Commission of Small Island States, reaffirming its commitment to addressing climate change and its connection to the marine environment under UNCLOS. Regarding the implementation of UNCLOS, particularly on MSR, the delegate emphasized the importance of respecting coastal State sovereignty and highlighted its national procedures for MSR permits. However, he noted the challenges in monitoring unauthorized activities and encouraged AALCO Member States to share best practices in this regard. On the BBNJ Agreement, the delegate stressed its significance for sustainable marine biodiversity beyond national jurisdiction and informed that domestic ratification procedures are underway. The delegate urged AALCO Member States to support its early entry into force. Finally, on maritime security and safety, he called for greater coastal State responsibility in curbing illegal fishing and proposed a regional data-sharing platform among AALCO Member States, with due regard for data confidentiality.

21. **The Delegate of the People's Republic of China** emphasized its active role in ITLOS Case No. 31, marking the first time China participated in oral proceedings before the Tribunal. While acknowledging the Tribunal's work, China expressed disagreement on key legal points. The delegate noted that China specifically challenged the Tribunal's jurisdiction, asserting that the United Nations Framework Convention on Climate Change (UNFCCC) system is *sui generis* and should remain the primary legal regime for addressing climate change, with the UNCLOS playing only a supplementary role. The delegate emphasized that greenhouse gas emissions, while harmful, are distinct from traditional forms of marine pollution and thus should not fall under UNCLOS obligations. The delegate noted that these views stem from China's concern over legal

fragmentation and the need to preserve coherence in international law. He reaffirmed China's commitment to climate action and is pursuing the world's highest carbon intensity reduction. On the BBNJ Agreement, the delegate reiterated China's strong support, having signed it on the first day. He mentioned that the Agreement fills important regulatory gaps left by UNCLOS, particularly on marine genetic resources beyond national jurisdiction. The delegate emphasized that the BBNJ safeguards the sovereignty and maritime rights of all nations and incorporates fundamental principles such as freedom of the high seas and the common heritage of humankind. The delegate also underscored the importance of consensus in decision-making under the Agreement and called for inclusive and cooperative efforts in its implementation. He reiterated China's dedication to working with the international community to enhance ocean governance and protect marine biodiversity.

22. **The Delegate of the People's Republic of Bangladesh** highlighted Bangladesh's proactive engagement in the development and implementation of the Law of the Sea, including its involvement with ITLOS, the ISA, and UNCLOS-related bodies. The delegate stated that Bangladesh supports the ITLOS Advisory Opinion initiated by the Commission of Small Island States, recognizing its importance in addressing the intersection of climate change and the marine environment, and its relevance to SDG 14. Regarding the BBNJ Agreement, the delegate confirmed that Bangladesh has signed the Agreement and is preparing for its ratification and stressed the need for capacity building, technology transfer, and national legislation to implement provisions on marine genetic resources and environmental protection. The delegate also emphasized domestic efforts in ocean science, including marine research institutes and a Marine Protected Area near St. Martin's Island. On maritime security, the delegate outlined Bangladesh's cooperation with international partners to combat piracy, trafficking, and irregular migration. He called attention to the recent rescue of Bangladeshi crew members from Somali pirates to emphasize the urgency of stronger international measures. The delegate urged AALCO to sensitize Member States about appropriate engagements concerning the codification and implementation of international law relating to maritime piracy and armed robbery.

23. **The Delegate of the Republic of Türkiye** expressed appreciation for the BBNJ Agreement under UNCLOS, recognizing it as an important achievement in maritime law. The delegate noted that Türkiye supports the Agreement's principles and participated in its negotiations

despite not being a party to UNCLOS. However, she reiterated its longstanding objections to UNCLOS, rejecting its claim of being a “universal and unified” legal framework for all ocean activities. The delegate emphasized that Türkiye believes that UNCLOS lacks adequate guidelines for specific geographical situations and does not allow reservations to its articles, which prevents Türkiye from joining. Consequently, Türkiye disassociates itself from references to UNCLOS and clarifies that its involvement in related activities does not indicate a change in its legal stance toward UNCLOS.

C. Topics for Focussed Deliberations at the Sixty-Third Annual Session

24. Keeping in mind the deliberations on the topic at the previous Annual Session, for the Sixty-Third Annual Session, the AALCO Secretariat has prepared this brief with a focus on three key aspects of law of the sea. These are as follows:

1. Marine Environmental Protection
2. Maritime Safety and Security
3. Capacity Building for Developing States

II. MARINE ENVIRONMENT PROTECTION

A. Introduction

25. The protection and preservation of the marine environment is today one of the most pressing global concerns facing the international community.⁴ Threats like marine pollution, overexploitation of marine resources, and climate change and biodiversity destruction of marine ecosystems require a coordinated global public policy approaches with strong domestic implementation mechanisms.⁵ Many AALCO Member States face these vulnerabilities on account of being coastal States. Food security, cultural identities and the blue economy as a whole are

⁴ World Economic Forum, Most of the world’s ocean is unprotected. This is why that needs to change <<https://www.weforum.org/stories/2022/05/to-address-the-biodiversity-and-climate-crises-we-must-commit-to-protecting-the-ocean/>> accessed 15 May 2025.

⁵ Pranyoto Pranyoto, “Development of an Integrated Public Policy Model for Combating Marine Pollution” International Journal of Multidisciplinary Research and Analysis, 2023.

deeply integrated with the ecological health and well-being of marine ecosystems. Of all ecosystems, the marine ecosystem is the most biologically diverse bionetwork of flora and fauna.⁶

26. AALCO has consistently addressed the importance of marine environment protection in its engagement with the topic “The law of the Sea”. This has most effectively been articulated in the Secretariat’s research and advisory engagement on the legal framework concerning the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction in recent years. Collective global efforts in this regard resulted in the BBNJ Agreement being adopted in 2023 under the UN framework.⁷

27. The international legal framework regulating the protection of the marine environment can be traced to UNCLOS. Parts XII and XIII of the Convention impose obligations on States to prevent, reduce and control marine pollution in addition to preserving marine biodiversity. Complementary instruments like the International Convention for the Prevention of Pollution from Ships (also known as the MARPOL Convention) and the London Convention and Protocol seek to address the issue of marine environment protection outside the core UNCLOS framework. Collectively, these legal instruments add normative weight to the provisions of the UNCLOS on the issue of marine environment protection.

28. This part of the brief, with its focus on marine environment protection seeks to provide an updated legal overview of five critical clusters concerning the protection of marine environment. These are as follows:

- a. Marine environment protection and the regulation of pollution
- b. Marine environment protection and the regulation of ocean acidification
- c. Marine environmental regulation of deep-sea mining
- d. Marine environmental regulation of offshore renewable energy activities

⁶ Sidharta Chatterjee, An Analysis of Threats to Marine Biodiversity and Aquatic Ecosystems, hal-01519404 2017 <<https://scispace.com/pdf/an-analysis-of-threats-to-marine-biodiversity-and-aquatic-281vowq04r.pdf>> accessed 09 May 2025.

⁷ United Nations, Agreement on Marine Biological Diversity of Areas Beyond National Jurisdiction <<https://www.un.org/bbnjagreement/sites/default/files/2024-08/Text%20of%20the%20Agreement%20in%20English.pdf>> accessed 13 May 2025.

- e. Strengthening the BBNJ legal framework for ensuring marine environment protection

29. By highlighting international legal developments, implementation gaps and underscoring the need and importance of Afro-Asian regional cooperation, this part of the brief aims to inform national deliberations and multilateral engagements on marine environment protection at the global level in consonance with international law in general and SDG 14 pertaining to Life Below Water, in particular.

B. Marine environment protection and the regulation of pollution

30. The marine environment supports a wide range of underwater biodiversity contributing effectively to climate regulation, food security and overall economic progress of nations. However, the challenges posed by different kinds of pollution on marine ecosystem is a major threat to marine environment protection. Threats like oil spills can have devastating and harmful long-term repercussions on marine ecosystems, livelihoods and the social moorings of coastal communities.⁸

31. Marine pollution can take different hazardous forms each posing serious threats to ocean health and underwater life in its own way. It is believed that around 80% of marine pollution originates from land-based sources like agricultural runoff, plastic waste, and industrial discharge, severely impacting coastal ecosystems, marine species, and the livelihoods of coastal communities.⁹ Pollution from ocean-based activities such as oil spills, dumping, and ship emissions compounds the damage. Oil pollution from spills and drilling operations contaminates coastlines and suffocates marine life. Plastic waste, including micro plastics, is ingested by marine species persisting for decades. Chemical pollutants like pesticides and heavy metals enter the ocean through industrial and agricultural runoff poisoning ecosystems. Nutrient pollution mainly from fertilizers leads to algal blooms and oxygen-depletion. Sewage discharge spreads disease and degrades water quality. Less visible but equally damaging is noise pollution that can severely disrupt the behaviour, communication, and navigation of marine species like whales and dolphins

⁸ Mariana de Oliveira Estevo, Priscila F.M. Lopes, José Gilmar Cavalcante de Oliveira Júnior, André Braga Junqueira, Ana Paula de Oliveira Santos, Johnny Antonio da Silva Lima, Ana Claudia Mendes Malhado, Richard J. Ladle, João Vitor Campos-Silva, “Immediate social and economic impacts of a major oil spill on Brazilian coastal fishing communities”, *Marine Pollution Bulletin*, Volume 164, 2021.

⁹ UNEP, *Marine and Land Based Pollution* <<https://www.unep.org/topics/ocean-seas-and-coasts/regional-seas-programme/marine-and-land-based-pollution>> accessed 14 May 2025.

that rely on echolocation. Chronic exposure to anthropogenic noise can lead to stress, habitat displacement, hearing loss and strandings for marine living creatures.

32. UNCLOS obligates States to prevent, reduce, and control marine pollution from all sources, including land-based, vessel-based, and atmospheric inputs.¹⁰ The Convention also requires States to cooperate regionally and globally, conduct environmental assessments, and adopt national laws to give effect to its provisions, making it central to international marine environmental governance. Despite being a strong normative framework for the regulation of pollution, UNCLOS faces significant challenges as regards the effective regulation of pollution. Enforcement of its provisions particularly in areas beyond national jurisdiction, where monitoring is limited is a major challenge. UNCLOS also lacks a strong compliance mechanism and relies heavily on state cooperation. In this backdrop, AALCO Member States are encouraged to strengthen domestic legal frameworks to effectively implement UNCLOS obligations on pollution control and share common positions and share best practices on this issue.

33. The MARPOL Convention adopted in 1973 is the main global treaty addressing marine pollution from ships. Adopted under the International Maritime Organization (IMO), MARPOL regulates discharges of oil, noxious liquids, harmful substances, sewage, garbage, and air pollutants from ships through six technical annexes. It mandates ship design standards, operational procedures, and port reception facilities to minimize pollution. MARPOL is legally binding and applies to all ships flagged under signatory states. While effective in reducing ship-based pollution, enforcement depends on national implementation and flag state control, with ongoing concerns about compliance and illegal discharges in sensitive marine areas. Additionally, emerging pollutants, such as underwater noise are not fully addressed by MARPOL requiring further improvements to tackle evolving marine pollution threats effectively in light of contemporary challenges.

34. The London Convention (1972) and its 1996 Protocol are key international agreements aimed at preventing marine pollution from dumping of wastes and other matter at sea. They

¹⁰ Articles 192-212. Article 194 of UNCLOS obliges states to take all necessary measures to prevent, reduce, and control pollution of the marine environment from *any source* (emphasis added). It also requires them to ensure that pollution resulting from activities under their jurisdiction or control does not extend beyond areas where they exercise sovereign rights.

establish a permitting system and promote the use of safer alternatives, contributing significantly to the global legal framework for protecting the marine environment. The Protocol, which modernizes and strengthens the Convention, adopts a precautionary approach, banning the dumping of harmful substances unless specifically permitted. It also promotes pollution prevention at source, encouraging cleaner production and waste reduction. Together, these instruments support international cooperation and help countries implement consistent, science-based standards for ocean dumping activities.

35. Despite progress made on marine environment protection through conventions like MARPOL, UNCLOS and the London Convention, significant gaps remain in enforcement, capacity building and regional cooperation. By coming together, Asian and African States can enhance regional cooperation, share best practices and advocate for stronger international regulations. Collaborative efforts are essential to strengthen implementation, support technological advancements and ensure that marine pollution is significantly reduced and, thereby, realising the commitment under SDG 14 to protect and sustainably use marine resources for future generations.

36. In this backdrop, the AALCO Secretariat notes the signing of the agreement between ASEAN and the United Nations Office for Project Services (UNOPS) to jointly implement the World Bank's US\$20 million grant project to support South-East Asian ASEAN Member States combat marine plastic pollution in September 2022.¹¹ This collaboration marks a positive step toward addressing the critical environmental challenge marine plastic pollution in the ASEAN region. Similar efforts across Asian-African countries to strengthen legal and institutional responses in line with regional and international marine environmental protection obligations may be considered by AALCO Member States.

C. Marine environment protection and the regulation of ocean acidification

37. Ocean acidification is one of the most critical and urgent issues facing the marine environment. It is a chemical process where the ocean becomes more acidic due to the absorption of excess carbon dioxide from the atmosphere. When carbon dioxide is released into the air mainly from human activities like burning fossil fuels, it dissolves in seawater, forming carbonic acid.

¹¹ ASEAN, Joint Media Release: ASEAN and UNOPS sign Agreement to Combat Marine Plastic Pollution in Southeast Asia, <<https://asean.org/joint-media-release-asean-and-unops-sign-agreement-to-combat-marine-plastic-pollution-in-southeast-asia/>>, accessed 14 May 2025.

This acid dissociates into hydrogen ions, which increase the acidity of the water. As a result, the pH of ocean water drops making it more acidic.¹² This change in ocean chemistry can have devastating effects on marine life particularly organisms that rely on calcium carbonate to form shells and skeletons such as corals, shellfish, and plankton. These organisms are essential to marine food webs and ecosystem functions. If the acidity of the ocean continues to rise, it can threaten the entire marine ecosystem including species that humans rely on for food and livelihoods. Thus, it is imperative for international law to effectively regulate this issue in the larger interest of marine sustainability.

38. While UNCLOS requires States to protect and preserve the marine environment (Article 192) and to take measures to prevent and reduce marine pollution (Articles 194-212), it does not directly address ocean acidification as an independent marine environment issue leaving a considerable legal void for the Afro-Asian community to ponder upon. The Paris Agreement under the UN Framework Convention on Climate Change (UNFCCC) on their parts acknowledges the role of ocean health in the broader climate change agenda. However, these frameworks do not explicitly address the issue of ocean acidification either.¹³ The global community's commitment to SDG 14, which aims to “conserve and sustainably use the oceans, seas, and marine resources,” is central to addressing ocean acidification. Target 14.3 seeks the “minimization and remediation of the impacts of ocean acidification” but translating this into effective action requires robust international legal frameworks and a concerted effort to reduce carbon dioxide emissions globally.

39. For Asian and African States, which are home to critical marine ecosystems, taking collective action on the issue of ocean acidification is essential. Strengthening international legal frameworks, improving monitoring and data collection on ocean acidity and collaborating on research to mitigate acidification will be vital in protecting marine life and supporting the achievement of SDG 14. In this regard, the AALCO Secretariat highly appreciates the efforts of the GOA-ON (Global Ocean Acidification Observation Network)¹⁴, especially its African and West Pacific Hubs and requests Member States to consider engaging with GOA-ON to develop

¹² National Oceanic and Atmospheric Administration, Ocean Acidification <https://www.noaa.gov/education/resource-collections/ocean-coasts/ocean-acidification>, accessed 07 May 2025.

¹³ Ellycia R. Harrould-Kolieb “(Re)Framing ocean acidification in the context of the United Nations Framework Convention on climate change (UNFCCC) and Paris Agreement”, Climate Policy, 2019.

¹⁴ Global Ocean Acidification Observing Network (GOA-ON) <<https://www.goa-on.org/>> accessed 08 May 2025.

science-based strategies for addressing ocean acidification. Global cooperation, strengthened by legal frameworks with targeted measures are needed to protect marine ecosystems from the ongoing threat of acidification, ensuring the sustainability of oceans for future generations.

D. Marine environment regulation of deep-sea mining

40. Deep-sea mining is the process of extracting valuable minerals such as cobalt, nickel, copper, and rare earth elements from the ocean floor.¹⁵ These minerals are increasingly in demand for use in batteries, electronics, and clean energy technologies. However, the deep sea is one of the least understood ecosystems on Earth. It hosts unique life forms that have evolved over millions of years and plays a vital role in regulating the planet's carbon cycle and supporting marine biodiversity. Disturbing the ocean floor through mining activities can cause long-term, possibly irreversible damage. Mining operations may destroy habitats, release toxic sediments into the water, and generate noise pollution, all of which threaten fragile marine ecosystems.¹⁶ The possible loss of biodiversity raises serious ethical and ecological concerns for the international community. Deep-sea mining without strong environmental safeguards can potentially threaten the achievement of SDG 14. Specifically, Target 14.2 aims to sustainably manage and protect marine ecosystems, while Target 14.A stresses the importance of increasing scientific knowledge to improve ocean health. Continued efforts to understand the interplay between the science and technology of deep-sea mining and its corresponding link with marine environment conservation is essential to achieve this target.

41. The regulation of deep-sea mining falls under the international legal framework established by the UNCLOS. Under UNCLOS, mineral resources found in the “Area” i.e. the seabed and ocean floor beyond national jurisdiction are considered the “common heritage of mankind.” This means they must be managed for the benefit of all humanity, especially developing countries, and not just exploited by a few powerful actors. To oversee this, UNCLOS established the ISA, which is responsible for regulating mineral exploration and exploitation in the Area. The ISA is tasked

¹⁵ UNEP, Issues Paper, Deep-Sea Mining (6 May 2024), <<https://www.unep.org/resources/publication/deep-sea-mining>> accessed 08 May 2025.

¹⁶ Pradeep Singh and Aline Jaekel “Undermining by Mining? Deep Seabed Mining in Light of International Marine Environmental Law”, [2024], AJIL Unbound 2024.

with ensuring that activities are carried out for the benefit of humankind while protecting the marine environment from harmful effects.

42. While UNCLOS obliges States and the ISA to protect the marine environment,¹⁷ the lack of scientific knowledge about deep-sea ecosystems makes it difficult to assess or mitigate the impacts of mining. Under Article 145 of UNCLOS, the ISA is responsible for ensuring the marine environment is protected from any harm caused by activities in the “Area”. To carry out this duty, the ISA’s Council and Assembly receive expert advice from the Legal and Technical Commission (LTC). As stated in Article 165, the LTC reviews how proposed activities might affect the environment and gives recommendations to the Council on how to prevent or reduce harm, based on input from recognized experts.

43. Currently, the ISA has issued exploration contracts to companies and governments but has not yet adopted a comprehensive Mining Code to govern commercial exploitation. A Mining Code is essential for regulating deep-sea mining under international law, as it will provide a clear, legally binding framework for the commercial exploitation of mineral resources in the Area, which is considered the common heritage of mankind under UNCLOS. Without a code, mining of deep-sea minerals could proceed without adequate environmental safeguards, monitoring mechanisms, or liability provisions, risking irreversible harm to fragile marine ecosystems. Thus, it is imperative to strictly apply the precautionary principle to all deep-sea mining activities until a code is developed on this issue. A well-developed Mining Code can ensure that deep-sea mining is conducted responsibly, transparently, and equitably, balancing the economic interests of States and corporations with the duty to protect the marine environment for present and future generations. It is important that such a framework should be developed equitably involving the participation of all States, especially from the Afro-Asian region and factoring in the diversity of opinions expressed in such an exercise.

E. Marine environment regulation of offshore renewable energy activities

44. Offshore renewable energy such as wind, wave, tidal, and ocean thermal energy has gained prominence as the world shifts toward cleaner energy sources. These technologies are seen as vital tools in addressing climate change, reducing reliance on fossil fuels, and advancing energy

¹⁷ Articles 145 and 192.

security.¹⁸ Offshore wind farms, in particular, are expanding rapidly in many regions. However, while offshore renewable energy presents clear environmental benefits on land, its impact on the marine environment is a growing concern. The installation and operation of large-scale offshore energy infrastructure can disturb seabed habitats, generate underwater noise, alter sediment flows, and affect marine life migration patterns. If poorly regulated, these activities may pose risks to marine ecosystems, biodiversity while hurting local communities dependent on fisheries and coastal resources both economically and culturally. The expansion of offshore renewable energy must be balanced with the obligation to protect the marine environment. As these activities grow in number and scale, States must ensure that development is guided by principles of sustainability, precaution, and ecosystem-based management. This is particularly important because many offshore energy projects are located in ecologically sensitive or legally complex maritime zones, such as EEZs.

45. Like other marine activities, the primary legal framework governing offshore renewable energy activities is the UNCLOS. While Article 56 of UNCLOS permits Coastal States to explore, exploit, conserve, and manage natural resources, including renewable energy sources, within their EEZs, it also imposes an obligation to protect and preserve the marine environment under Article 192 and requiring States to take measures to prevent, reduce, and control pollution from installations and devices (Article 194). Likewise, installations are required to be properly marked, maintained, and removed when no longer in use (Articles 60 and 80).

46. The development of offshore renewable energy must support and not undermine the objectives of SDG 14. As highlighted in the case of deep-sea mining, Targets 14.2 and Target 14.A have specific application in the development and conduct of offshore energy development activities as well. This is to ensure that the transition to clean energy does not come at the cost of ocean biodiversity and marine health. As offshore renewable energy expands, there is an urgent need to strengthen international and regional legal frameworks in the Afro-Asian region to ensure that environmental impacts are properly assessed, mitigated, and monitored in the broader interests of sustainability.

¹⁸ Joseph Appiott, Amardeep Dhanju and Biliiana Cicin-Sain, 'Encouraging renewable energy in the offshore environment' [2014] 90 Ocean & Coastal Management.

47. AALCO Member States may consider adopting Environmental Impact Assessments (EIAs) and marine spatial planning as essential tools for regulating offshore renewable energy activities. These practices help ensure that the development of clean energy projects does not compromise marine biodiversity or ecosystem health. Integrating EIAs and spatial planning into national legal frameworks promotes sustainable ocean use, aligns with UNCLOS obligations, and supports the achievement of SDG 14 on life below water. Asian and African States must come together to develop clear legal standards and institutional capacities to regulate offshore renewable energy activities in a manner consistent with UNCLOS and the larger vision of SDG 14 harmonising their energy interests and imperatives of economic development with marine environment sustainability.

F. Strengthening the BBNJ legal framework for ensuring marine environment protection

48. The ocean covers more than 70% of the Earth’s surface, and nearly two-thirds of it lies beyond national jurisdiction in areas commonly referred to as the “high seas.” These regions are rich in biodiversity and home to unique ecosystems, including deep-sea coral reefs, migratory species, and marine genetic resources. However, these areas are increasingly under threat from overfishing, pollution, climate change, deep-sea mining, and unregulated bioprospecting.

49. On 19 June 2023, after nearly two decades of negotiations, UN Member States adopted UNCLOS on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction commonly called the BBNJ Agreement unanimously.¹⁹ This Agreement also referred to as the “High Seas Treaty” is a historical treaty as it builds upon the general obligations under UNCLOS (notably Articles 192 and 194) to protect and preserve the marine environment and fills a critical legal gap by providing specific tools and mechanisms to protect biodiversity in the high seas. It is the third implementing agreement of UNCLOS.

50. The BBNJ Agreement includes several key elements aimed at ensuring effective marine environmental protection such as the establishment of Marine Protected Areas (MPAs), conduct

¹⁹ United Nations, Agreement on Marine Biological Diversity of Areas Beyond National Jurisdiction <<https://www.un.org/bbnjagreement/sites/default/files/2024-08/Text%20of%20the%20Agreement%20in%20English.pdf>> accessed 13 May 2025.

of Environmental Impact Assessments (EIAs), Capacity-building and Technology Transfer and Scientific Cooperation and Data Sharing.

51. While the BBNJ Agreement is a strong step forward, its effectiveness depends on timely implementation and institutional support from nations. As of now, the Agreement requires at least 60 ratifications to enter into force. Many Asian and African States played a constructive role in shaping the final text, and their continued leadership is essential for the Agreement's success. The AALCO Member States may consider adopting the BBNJ Agreement and strengthen its institutional processes in the times ahead. Strengthening the legal framework for marine environmental protection in areas beyond national jurisdiction is essential for safeguarding ocean health, marine biodiversity, and the long-term sustainability of marine resources. This aligns closely with SDG 14, which calls for the conservation and sustainable use of oceans, seas, and marine resources for sustainable development.

III. MARITIME SAFETY AND SECURITY

A. Piracy and Armed Robbery

52. Maritime piracy and armed robbery at sea continue to pose significant threats to global shipping, trade, and the safety of seafarers. While the overall landscape of these threats evolves, certain regions remain hotspots, demanding sustained international cooperation and capacity-building efforts. The Gulf of Guinea has, for several years, been identified as a critical area for maritime insecurity, accounting for a disproportionately high percentage of global maritime kidnappings.²⁰

53. While recent data indicates a notable decrease in reported incidents of piracy and armed robbery in this region in 2023, the threat, particularly related to kidnapping for ransom, has persisted and required robust security measures. The decrease is attributed to increased efforts by coastal states and coordinated international responses.

54. Beyond West Africa, incidents of armed robbery at sea, particularly against vessels at anchor or berth, remain a persistent concern in Southeast Asia and the Indian Ocean. Although

²⁰IMO, *Piracy and armed robbery against ships in the Gulf of Guinea*, <https://www.imo.org/en/OurWork/Security/Pages/Piracy-in-the-Gulf-of-Guinea.aspx>, accessed 23 May 2025.

full-scale hijackings for cargo theft have become less common, opportunistic attacks aimed at stealing ship stores and equipment, and sometimes, involving violence against crews, continue to be reported.

(i) The work of the International Law Commission on Piracy and Armed Robbery at Sea

55. The topic “Prevention and repression of piracy and armed robbery at sea” was added to the programme of the International Law Commission (ILC) at its Seventy-third session in 2022.²¹ At the Seventy-fifth session of the ILC, the Commission reviewed the Special Rapporteur’s second report. This report detailed and analysed how international organizations, regional bodies, and individual states through bilateral agreements, combat piracy and armed robbery at sea. The Rapporteur concluded that the existing state practice lacked the generality, consistency, and uniformity needed for codification.²²

56. Additionally, the Commission considered a Secretariat memorandum that explored the historical evolution of piracy’s definition in international law and relevant writings on the definitions of both piracy and armed robbery at sea. Following discussions, the Commission referred draft articles 4, 5, 6, and 7 from the Special Rapporteur’s report to the Drafting Committee. The Committee was instructed to first engage in a general discussion about the topic’s overall direction. The Commission also received an interim report, for informational purposes, on draft article 4, which the Drafting Committee had provisionally adopted.

57. Mr. Louis Savadago was appointed the Special Rapporteur of this topic after Mr. Yacouba Cisse had resigned as the Special Rapporteur for the topic.

58. So far, the former Special Rapporteur had submitted seven draft articles on piracy for consideration by the ILC, aiming to refine and codify international norms and practices related to combating piracy and armed robbery at sea. The Second Report also underscores the importance

²¹At its 3582nd meeting, on 17 May 2022 (Official Records of the General Assembly, Seventy-seventh Session, Supplement No. 10 (A/77/10), para. 239). The topic had been included in the long-term programme of work of the Commission during its seventy-first session (2019), on the basis of the proposal contained in annex C to the report of the Commission (Official Records of the General Assembly, Seventy-fourth Session, Supplement No. 10 (A/74/10), para. 290 (b)).

²² ILC Second Report on prevention and repression of piracy and armed robbery at sea, A/CN.4/770.

of a collaborative international approach and the need for continuous updates to legal frameworks to adapt to new challenges.

59. During the Seventy-Sixth Session of the ILC, Mr Savadago submitted a note for perusal of the Commission wherein they noted their first report would be submitted in 2026 as currently there is no agreement on what type of research remains to be done in the topic.²³ However, the Rapporteur provided a proposed schedule of work, which indicated the work to be done until 2031, will include continuation of the search for reference materials and analysing legal instruments on cooperation and relevant domestic laws, legal issues relating to the use of armed security personnel on board merchant ships, and the prosecution of persons arrested for these offences.

(ii) Regional and International Cooperation on Maritime Piracy

60. Despite the positive trends in certain regions, the fluidity of maritime threats necessitates continuous vigilance, adaptive strategies, and sustained international collaboration to ensure the safety and security of global maritime commerce.

61. Addressing maritime security effectively requires strong regional cooperation. Various regional initiatives have emerged to enhance maritime security, often with a focus on countering illicit activities that intersect with migration, such as human trafficking and smuggling.²⁴ These initiatives often involve:

- **Information Sharing:** Establishing mechanisms for real-time exchange of intelligence and data on suspicious vessels and activities.
- **Joint Patrols and Operations:** Coordinated efforts between naval and coast guard forces of neighbouring states to patrol maritime borders and respond to incidents.
- **Capacity Building:** Training and equipping maritime law enforcement agencies in affected regions.

²³ ILC, Note by Mr. Louis Savadago, Special Rapporteur, Prevention and repression of piracy and armed robbery at Sea, A/CN.4/786.

²⁴ United Nations Press, <https://press.un.org/en/2025/sgsm22657.doc.htm>, accessed on 27 May 2025.

- **Regional Strategies and Action Plans:** Developing comprehensive frameworks to address maritime threats, including irregular migration. Examples include efforts in the Mediterranean (e.g., EUNAVFOR MED IRINI which addressed migrant smuggling through focused on arms embargoes), the Gulf of Guinea (counter-piracy initiatives that also impact smuggling routes), and the Western Indian Ocean, where multiple overlapping initiatives aim to combat various maritime crimes, including human trafficking.

62. The **International Maritime Organization (IMO)** plays a central role in addressing maritime security threats. Through its Maritime Safety Committee²⁵ (MSC) and various initiatives, the IMO promotes international cooperation, develops guidance, and supports capacity-building efforts for coastal states.

63. A key example of this proactive approach is the Code of Conduct concerning the repression of piracy, armed robbery against ships, and illicit maritime activity in West and Central Africa, often referred to as the **Yaoundé Code of Conduct (YCoC)**. This regional framework aims to enhance maritime domain awareness, facilitate information sharing, and coordinate law enforcement responses among signatory states.²⁶ The YCoC, adopted in 2013 by countries in West and Central Africa, provides a crucial framework for enhanced maritime security and governance in the Gulf of Guinea, a region historically plagued by piracy, armed robbery at sea, and other illicit activities.²⁷ The YCoC has been signed by 7 African AALCO Member States.²⁸ The YCoC established the **Yaoundé Architecture**, an intricate operational structure designed to improve maritime domain awareness and facilitate coordinated responses. This architecture includes Regional Maritime Security Coordination Centers (CRESMAC and CRESMAO), Multinational Maritime Coordination Centers (MMCCs) at the zonal level, and national Maritime Operations Centers (MOCs). The YCoC's primary objective is to significantly reduce the adverse effects of piracy, armed robbery, and other illicit maritime activities like illegal, unreported, and unregulated (IUU) fishing. It emphasizes information sharing, harmonised operational procedures, and

²⁵ IMO, Maritime Safety Committee, <https://www.imo.org/en/MediaCentre/MeetingSummaries/Pages/MSC-Default.aspx>, accessed on 28 May 2025.

²⁶ IMO, *Piracy and armed robbery against ships in the Gulf of Guinea*, <https://www.imo.org/en/OurWork/Security/Pages/Piracy-in-the-Gulf-of-Guinea.aspx>, accessed 23 May 2025.

²⁷ IMO, <https://www.imo.org/en/OurWork/Security/Pages/West-and-Central-Africa.aspx>, accessed 23 May 2025.

²⁸ Cameroon, Ghana, Nigeria, Senegal, Sierra Leone, Gambia, Burkina Faso.

strengthened cooperation among navies and maritime law enforcement agencies to tackle transnational threats that no single state can effectively address alone.

64. The IMO also works on implementing the **Djibouti Code of Conduct (DCoC)**, which was extended to include illicit maritime activity beyond piracy and armed robbery in the Western Indian Ocean and Gulf of Aden. This revised agreement, known as the Jeddah Amendment to the DCoC, aims to counter a broader range of maritime crimes, including illegal fishing, human trafficking, and crude oil smuggling, further strengthening regional maritime security architecture.²⁹

65. In the **Indian Ocean**, maritime security is a multifaceted challenge due to its vastness, strategic importance for global trade, and vulnerability to various illicit activities, including piracy, drug trafficking, and human smuggling. To counter these threats, a range of collaborations have emerged:

- **Indian Ocean Rim Association (IORA):** Established in 1997, IORA comprises 23 Member States and focuses on regional cooperation and sustainable development.³⁰ Maritime Safety and Security is one of the priority areas of IORA. The Working Group on Maritime Safety and Security (WGMSS) works on the four thematic areas of search and rescue, maritime crime, information sharing and maritime partnerships.³¹
- **Indian Ocean Naval Symposium (IONS):** Conceived by the Indian Navy in 2008, IONS is a forum for naval cooperation among the littoral states of the Indian Ocean Region.³² It seeks to enhance maritime security, promote peaceful relations, and facilitate information sharing and interoperability through exercises and discussions. It has 25 Members and 9 Observer States.
- **Colombo Security Conclave (CSC):** This is a grouping, currently comprising India, Sri Lanka, the Maldives, and Mauritius, with Bangladesh and Seychelles as observers and was established on 30 August 2024. The conclave focuses on five pillars of cooperation:

²⁹ IMO, Djibouti Code of Conduct, <https://www.imo.org/en/OurWork/Security/Pages/DjiboutiCodeofConduct.aspx>, accessed on 27 May 2025.

³⁰ Indian Ocean Rim Association (IORA), <https://www.iora.int/indian-ocean-rim-association>, accessed 28 May 2025

³¹ IORA, <https://www.iora.int/maritime-safety-security>, accessed on 28 May 2025.

³² Indian Ocean Naval Symposium (IONS), <https://www.ions.global/ions-working-groups>, accessed on 28 May 2025.

maritime safety and security, counter-terrorism and radicalisation, combating trafficking and transnational organized crime, cybersecurity, and humanitarian assistance and disaster relief.³³ The CSC aims to build collective maritime security capacities and respond to emerging threats.

- **Bilateral and Trilateral Initiatives:** Countries are actively engaging in bilateral and trilateral exercises and partnerships across the Indian Ocean. India's "SAGAR" (Security and Growth for All in the Region) vision underlines its role as a net security provider and aims to enhance the maritime security capacities of friendly nations. Recent initiatives like Mutual and Holistic Advancement for Security and Growth Across Regions (MAHASAGAR) and exercises like Africa India Key Maritime Engagement (AIKEYME)³⁴ with African States, along with trilateral workshops involving Australia and Indonesia, demonstrate a growing commitment to collaborative maritime security in the region.

66. Despite these efforts, challenges remain, including fragmented governance structures, a patchwork of sometimes competing projects, lack of consistent national maritime strategies, and difficulties in sharing sensitive information across agencies and borders.

B. Maritime Migration and Displacement Patterns

67. Unsafe mixed migration at sea poses security challenges, particularly in regions affected by conflict and poverty. The Mediterranean Sea, for example, has seen a rise in dangerous crossings, leading to humanitarian crises and increased scrutiny of maritime borders. This situation also raises legal and ethical issues for coastal States regarding the treatment of migrants and the prevention of human trafficking.

68. International legal frameworks such as the **United Nations Convention against Transnational Organized Crime (UNTOC)** and its **Protocol against the Smuggling of Migrants by Land, Sea and Air** and **International Convention on Maritime Search and**

³³ Ministry of External Affairs, India, Joint Press Statement on Colombo Security Conclave, <https://www.mea.gov.in/press-releases.htm?dtl/38242/Joint+Press+Statement+on+Colombo+Security+Conclave>, accessed on 28 May 2025.

³⁴ Press Information Bureau of India, <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2121521>, accessed on 28 May 2025.

Rescue (SAR Convention) are pivotal to manage the complex issues around maritime migration and displacement.³⁵ While primarily targeting transnational organized crime, these instruments are highly relevant to maritime migration and even to combating piracy. The Protocol explicitly mandates that migrants are not to be criminalised for their irregular entry or stay, emphasizing humane treatment and ensuring vessel safety is not jeopardized during interdictions.

69. The UNTOC offers a robust approach to tackling transnational organized crime, making it highly relevant to maritime security. It identifies such crime by three characteristics: activities that cross national borders, the involvement of an organized criminal group, and the pursuit of profit. This definition means that even some maritime piracy groups can be classified under UNTOC if their operations extend internationally. A key benefit of UNTOC, compared to the general call for cooperation against piracy in UNCLOS Article 100, is its provision of concrete mechanisms like judicial cooperation, extradition, and mutual legal assistance. These tools significantly enhance international collaboration, making investigations and prosecutions against maritime illicit activities, including migrant smuggling and piracy, more effective.

70. The **International Convention on Maritime Search and Rescue (SAR Convention)**, adopted in 1979 is a cornerstone of the legal framework governing rescue at sea. Its primary aim is to establish a global search and rescue plan, ensuring that no matter where an accident occurs, persons in distress at sea receive coordinated rescue services. Some key aspects of the SAR Convention include³⁶:

- **Responsibility of Governments:** Parties are obligated to establish and maintain adequate SAR services in their coastal waters, individually or in cooperation with other states.
- **Regional Approach and Coordination:** The Convention emphasizes a regional approach, dividing the world's oceans into 13 SAR areas,³⁷ with concerned countries delimiting

³⁵ United Nations, UN Convention against Transnational Organized Crime and the Protocols thereto, <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html#:~:text=their%20human%20rights,-,The%20Protocol%20against%20the%20Smuggling%20of%20Migrants%20by%20Land%2C%20Sea,force%20on%203%20July%202005>, accessed on 28 May 2025.

³⁶ IMO, [https://www.imo.org/en/about/Conventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-\(SAR\).aspx](https://www.imo.org/en/about/Conventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-(SAR).aspx), accessed on 23 May 2025.

³⁷ IMO, International Convention on Maritime Search and Rescue (SAR), [https://www.imo.org/en/about/Conventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-\(SAR\).aspx](https://www.imo.org/en/about/Conventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-(SAR).aspx), accessed on 28 May 2025.

specific search and rescue regions (SRRs). It also promotes coordination between maritime and aeronautical SAR operations.

- **Expedited Entry for Rescue Units:** Parties should take measures to expedite the entry of rescue units from other parties into their territorial waters for SAR purposes.³⁸
- **Establishment of Rescue Coordination Centres (RCCs):** RCCs and sub-RCCS must be established and operated 24/7 with trained staff and should have up-to-date information on SAR facilities and communication.³⁹
- The crucial principle that rescuers are obligated to keep searching for survivors until all reasonable hope is gone has also been established in the SAR Convention. It emphasises on the obligation to persist in rescue efforts.⁴⁰

71. **UNCLOS** establishes the legal framework for all activities in the oceans and seas, including the duty to render assistance to persons in distress at sea under Article 98.

72. The **International Convention for the Safety of Life at Sea (SOLAS)** mandates safety standards for ships, including requirements for distress alerting and communication,⁴¹ which are crucial for SAR operations.

73. Maritime migration and displacement have emerged as critical global challenges, driven by a complex interplay of factors including conflict, persecution, economic hardship, and increasingly, climate change. Millions of people embark on perilous sea journeys annually, often in unseaworthy vessels, seeking safety, better lives, or simply survival.⁴² This phenomenon creates immense humanitarian and security concerns, necessitating a coordinated international response that balances border control with the imperative to protect human rights.

³⁸ Chapter 3, International Convention on Maritime Search and Rescue.

³⁹ IMO, International Convention on Maritime Search and Rescue (SAR), [https://www.imo.org/en/about/Conventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-\(SAR\).aspx](https://www.imo.org/en/about/Conventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-(SAR).aspx), accessed on 28 May 2025.

⁴⁰ Chapter 4, International Convention on Maritime Search and Rescue.

⁴¹ Chapter IV of International Convention for the Safety of Life at Sea.

⁴² UNHCR, <https://www.unhcr.org/desperatejourneys/> accessed on 25 May 2025.

IV. CAPACITY BUILDING FOR DEVELOPING STATES

74. Capacity building for developing states in ocean science and governance is not merely an aspiration but an absolute imperative for achieving sustainable development and unlocking the full potential of shared ocean resources. The Asian and African regions encompass vast coastlines, rich marine biodiversity, and significant maritime economies. They are uniquely positioned to both benefit from and contribute to a healthier, more productive ocean. However, to fully realise this potential, critical gaps in access to funding, training, and applied technologies must be systematically addressed.

A. United Nations Decade of Ocean Science for Sustainable Development (2021-2030)

75. The United Nations Decade of Ocean Science for Sustainable Development (2021–2030), or “Ocean Decade,” represents an unprecedented global framework to catalyse transformative ocean science solutions for sustainable development. UNESCO’s Intergovernmental Oceanographic Commission (IOC) is the lead agency for the Ocean Decade. It leverages a global network of experts, scientists, and partners to generate ocean knowledge and foster international cooperation in ocean science for sustainable development.⁴³ For Asian and African States, the Decade is a crucial opportunity to foster inclusive capacity development and promote effective sharing of ocean science knowledge and resources.

76. The Decade’s objectives, including those aimed at increasing community resilience to ocean and coastal risks, sustainably expanding the Global Ocean Observing System, and fostering skills, knowledge, and technology for all, directly align with our national and regional priorities.⁴⁴ The Secretariat notes with appreciation the efforts to build connections between experts globally, with a special emphasis on stimulating engagement and strengthening support to developing states

77. The Capacity Development Facility, within the auspices of the Ocean Decade, supports the capacity development needs of individuals and institutions, small island developing states, least developed countries and early career ocean professionals, and those involved in the Ocean

⁴³ UNESCO, <https://www.unesco.org/en/decades/ocean-decade>, accessed on 28 May 2025.

⁴⁴ UNESCO, *Vision & Mission - Ocean Decade*, <https://oceandecade.org/vision-mission/>, accessed on 28 May 2025.

Decade.⁴⁵ The Facility identifies capacity building needs, delivers initiatives to meet these needs and supports facilitation of capacity building.

78. The Capacity Development Facility also integrates specific activities to mobilize resources and establish partnerships with philanthropic partners, governments and industry to secure financial and in-kind contributions to operational costs and thus ensure its sustainability throughout the Ocean Decade and beyond.⁴⁶

B. Addressing Gaps in Access to Funding, Training, and Applied Technologies

79. Despite the recognized importance of ocean governance, significant and systemic disparities persist in access to essential resources across developing states in Asia and Africa.⁴⁷ Developing states often face substantial challenges in mobilizing sufficient financial resources for ocean science research, infrastructure development, and sustained observation programs. National budgets are frequently constrained, and access to international funding mechanisms can be complex and competitive.⁴⁸

80. There also exists a critical shortage of trained ocean scientists, technicians, and policymakers that often limits developing states' ability to collect, analyse, and interpret ocean data, develop evidence-based policies, and manage marine resources sustainably.⁴⁹ While training initiatives exist, their scale, scope, and accessibility often fall short of meeting the immense demand.

81. Thus, capacity-building initiatives become essential to address these gaps and challenges.

⁴⁵ Ocean Decade, <https://oceandecade.org/capacity-development-facility/>, accessed on 28 May 2025.

⁴⁶ Ibid.

⁴⁷ United Nations, Increasing ocean-related scientific cooperation, knowledge, capacity-building, marine technology and education to strengthen the science-policy interface for ocean health, (A/CONF.230/2025/5), <https://docs.un.org/en/A/CONF.230/2025/5>. Accessed on 28 May 2025.

⁴⁸ United Nations, *Increasing ocean-related scientific cooperation, knowledge, capacity-building, marine technology and education to strengthen the science-policy interface for ocean health (A/CONF.230/2025/5)*, <https://docs.un.org/en/A/CONF.230/2025/5>, accessed on 28 May 2025.

⁴⁹ See Note 45.

V. COMMENTS AND OBSERVATIONS OF THE AALCO SECRETARIAT

Marine Environment Protection

82. Given the increasing threats posed by marine pollution, the AALCO Secretariat urges Member States to review and strengthen their domestic legal frameworks to synchronise them with obligations under UNCLOS, MARPOL, and other relevant conventions. The Secretariat calls for enhanced regional cooperation to address transboundary marine pollution, especially through harmonized enforcement measures and coordinated emergency response mechanisms.

83. The AALCO Secretariat encourages Member States to incorporate ocean acidification monitoring and response strategies into their national action plans on climate change and marine protection. Engagement with global scientific networks like GOA-ON and support for capacity building and data sharing in this field are essential for informed legal, policy and science-based responses.

84. Deep-sea mining in the Area presents irreversible risks to fragile marine ecosystems. The AALCO Secretariat recommends that Member States support the finalization of a legally robust, transparent, and precautionary Mining Code under the ISA. Until such a framework is adopted and adequately tested, a precautionary pause on commercial exploitation should be considered, consistent with legal obligations under UNCLOS.

85. As offshore renewable energy expands across Asian and African coasts, there is an urgent need for comprehensive legal frameworks that ensure environmental protection throughout project lifecycles. The Secretariat urges Member States to establish Environmental Impact Assessments (EIAs) and marine spatial planning practices while promoting regional dialogue to balance clean energy goals with marine conservation obligations.

86. The Secretariat strongly encourages all Member States to actively engage in the implementation of the BBNJ Agreement, which offers a transformative opportunity to safeguard marine biodiversity in areas beyond national jurisdiction. Strengthening the Agreement's institutional framework will allow Asian and African States to shape global ocean governance access capacity-building resources and contribute to the equitable and sustainable management of the high seas.

87. Maritime migration and displacement have emerged as critical global challenges, driven by a complex interplay of factors including conflict, persecution, economic hardship, and increasingly, climate change. Millions of people embark on perilous sea journeys annually, often in unseaworthy vessels, seeking safety, better lives, or simply survival.⁵⁰ This phenomenon creates immense humanitarian and security concerns, necessitating a coordinated international response that balances border control with the imperative to protect human rights.

Maritime Security and Safety

88. For Asian and African States, addressing piracy and armed robbery at sea is a matter of paramount importance as it directly affects national security, economic prosperity, and regional stability. Many Asian and African states are also impacted by migration flows, whether as countries of origin, transit, or destination. There is a shared understanding that these are not isolated incidents but rather manifestations of broader geopolitical and socio-economic challenges.

89. Member States are encouraged to collaborate within and strengthen existing regional bodies and maximise their participations to establish or strengthen maritime security and integrated maritime surveillance systems, share real-time distress information, conduct regular joint SAR exercises and leverage the capabilities of regional information-sharing centers to effectively combat piracy.

90. It is essential to review and, where necessary, update national legislation to incorporate the provisions of UNTOC and ensure comprehensive criminalization of piracy and armed robbery, along with clear jurisdictional rules for prosecution. It is also advisable that national laws are aligned with related laws which will facilitate seamless cross-border investigations and prosecutions of criminal networks.

91. Concurrently, it is essential to enhance legal aid and protective measures for individuals who are victims of human trafficking and smuggling, thereby upholding their fundamental rights and facilitating their recovery.

⁵⁰ See Note 42.

92. It is also encouraged to implement comprehensive national and regional development strategies that address the underlying socio-economic drivers of maritime insecurity. This includes fostering sustainable economic opportunities in coastal communities, promoting good governance, strengthening the rule of law ashore

Capacity building for developing states

93. It is highly recommended to utilise the Ocean Decade Capacity Development Facility as part of the Ocean Decade initiative for their capacity building requirements in relation to ocean governance.

94. Whenever feasible, AALCO Member States are requested to facilitate equitable and affordable access to applied marine technologies through technology transfer programs, intellectual property sharing, and the establishment of regional technology hubs.