AALCO/64/NEW DELHI (HQ)/2026/SD/S2
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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, since its inception, provided an important forum for Asian and African States to exchange views and develop common approaches on issues relating to the law of the sea. Although the topic was formally placed on AALCO's agenda in 1970 at the initiative of the Republic of Indonesia, the Organization's engagement with the subject dates back to its First Annual Session in 1957, when issues concerning the regimes of the high seas and the territorial sea were considered at the initiative of Ceylon (now Sri Lanka) and India.

2. Between 1968 and 1982, AALCO provided a platform for sustained participation by Asian and African States in the negotiations that culminated in the adoption of a comprehensive legal framework governing the oceans. Since 1970, the law of the sea has remained a regular and significant item on the agenda of AALCO Annual Sessions. The Organization's deliberations during this period contributed to the articulation and development of several important concepts, including the Exclusive Economic Zone (EEZ), the special regime applicable to Archipelagic States, and the rights of landlocked States, which were subsequently reflected in the United Nations Convention on the Law of the Sea (UNCLOS).

3. Following the adoption of UNCLOS in 1982, AALCO's engagement evolved towards supporting its Member States in becoming parties to the Convention and in promoting the effective implementation of its provisions. At present, 47 AALCO Member States are among the 170 States Parties to UNCLOS. The Organization has also continued to follow developments within the institutional framework established by UNCLOS, including 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 the context of emerging developments in the law of the sea, AALCO has increasingly addressed issues concerning the conservation and sustainable use of marine resources and the protection of the marine environment. In particular, the Organization has engaged with legal questions relating to marine biodiversity in areas beyond national jurisdiction (BBNJ). This engagement has included the UMT-AALCO Legal Expert Meeting on Law of the Sea, held in August 2015, which examined "Marine Biodiversity Within and Beyond National Jurisdiction: Legal Issues and Challenges". Pursuant to mandates arising from its Annual Sessions, the AALCO Secretariat has also undertaken substantive work on the subject, including the preparation of the study entitled Marine Biodiversity beyond National Jurisdiction: An Asian-African Perspective.

5. The consideration of contemporary developments in the law of the sea continued at the Sixty-Third Annual Session of AALCO, held in Kampala, Uganda, in 2025. The deliberations reflected the diverse and evolving interests of Asian and African States in ocean affairs, with interventions addressing, inter alia, the implementation of the BBNJ Agreement, the conservation and sustainable use of marine resources, protection of the marine environment, capacity-building and transfer of marine technology, offshore renewable energy, and maritime safety and security. Particular emphasis was placed on the need for enhanced international cooperation, equitable

benefit-sharing, capacity-building and access to technology, as well as the effective participation of developing States in emerging ocean governance frameworks.

6. Against this background, the Sixty-Fourth Annual Session will provide an opportunity to consider recent developments and emerging legal and policy issues in the law of the sea, with particular attention to matters of practical relevance to Asian and African States. The focussed deliberations will address the implementation of the BBNJ Agreement, including developments concerning its institutional framework and the preparations for its first Conference of the Parties; the regulation of offshore renewable energy activities in the marine environment; and capacity-building and the transfer of marine technology in ocean governance. These areas reflect the continuing importance of strengthening the capacity of developing States to participate effectively in, and benefit equitably from, evolving international regimes governing the oceans.

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

7. The Deputy Secretary-General, Mr. Yong Zhu, introduced the topic by highlighting three main themes: marine environmental protection, maritime safety and security, and capacity building for developing States. He also referred to issues relating to piracy, marine pollution, deep seabed mining, the BBNJ Agreement, and technology transfer for developing countries.

8. The following Member States delivered statements on the agenda item: the **United Republic of Tanzania**, the **Socialist Republic of Viet Nam**, the **Islamic Republic of Iran**, the **Republic of India**, the **Republic of Türkiye**, the **Kingdom of Bahrain**, the **Kingdom of Thailand**, **Malaysia**, **Japan**, the **Syrian Arab Republic**, the **Republic of the Sudan**, the **Republic of South Africa**, the **Republic of Kenya**, the **Republic of the Philippines**, the **Republic of Uganda**, the **Republic of Korea**, and the **People's Republic of China**.

9. The **Delegate of the United Republic of Tanzania** emphasized the importance of implementing UNCLOS and highlighted challenges relating to maritime security, including piracy, human trafficking, illegal fishing, smuggling, and maritime terrorism. They noted that these activities threaten maritime navigation, international trade, and the safety of coastal communities. They referred to Tanzania's participation in international and regional maritime frameworks and highlighted measures taken to address maritime crimes and strengthen maritime security. They also stressed the importance of capacity building, technology transfer, technical assistance, and financial support for developing countries in the fields of marine science, maritime safety, and resource management. The delegate reaffirmed their commitment to effective implementation of UNCLOS and called for greater international cooperation to promote maritime security, sustainable development, and protection of ocean resources.

10. The **Delegate of the Socialist Republic of Viet Nam** noted that oceans are facing several challenges, including climate change, maritime disputes, and unequal access to marine technology. They reaffirmed that UNCLOS remains the main legal framework governing activities in the oceans and seas and stressed the importance of peaceful settlement of maritime disputes. They highlighted their commitment to protecting the marine environment and achieving Sustainable Development Goal 14 relating to life below water. They also emphasized the need for financial assistance, capacity building, and technology transfer to support developing countries, Small

Island Developing States, and countries vulnerable to climate change. The delegate welcomed the BBNJ Agreement and supported greater international cooperation to ensure the sustainable and equitable use of oceans and marine resources for present and future generations.

11. The **Delegate of the Islamic Republic of Iran** emphasized the importance of UNCLOS in regulating activities relating to oceans and seas but maintained that it should not be regarded as the only legal framework governing maritime affairs. They welcomed the BBNJ Agreement and highlighted the principle of the common heritage of mankind as an important basis for equitable sharing of benefits from marine genetic resources. They stressed the need for international cooperation, capacity building, technology transfer, and technical assistance for developing countries. They also expressed concern about illegal fishing, depletion of marine resources, climate change, sea-level rise, and biodiversity loss, and called for stronger regional and international cooperation to address these challenges. The delegate further stated that unilateral coercive measures hinder international cooperation, trade, environmental protection, and access to technology needed to address ocean-related issues.

12. The **Delegate of the Republic of India** emphasized the importance of oceans in addressing climate change, economic development, international trade, and maritime security. They reaffirmed the role of UNCLOS in ensuring peaceful cooperation and sustainable use of marine resources and reiterated their commitment to SDG 14 and the sustainable development of the blue economy. They highlighted efforts relating to sustainable fisheries, marine pollution, renewable energy, climate resilience, and protection of the marine environment. The delegate also referred to its support for the BBNJ Agreement and ongoing efforts towards its implementation. They expressed concern about illegal fishing, piracy, and other maritime security threats and highlighted measures taken to strengthen maritime security, including anti-piracy initiatives and international cooperation in combating piracy.

13. The **Delegate of the Republic of Türkiye** stated that although it supports the general objectives of UNCLOS and many of its provisions, it is not a party to the Convention due to concerns regarding maritime delimitation, particularly in enclosed and semi-enclosed seas such as the Aegean Sea. They clarified that their position does not mean opposition to all aspects of UNCLOS and reaffirmed their support for the conservation and sustainable use of marine resources. They maintained that UNCLOS should not be viewed as the only legal framework governing oceans and seas and stressed the importance of considering other relevant rules of international law. They also emphasized regional cooperation and referred to maritime boundary agreements concluded through bilateral negotiations.

14. The **Delegate of the Kingdom of Bahrain** reaffirmed its commitment to UNCLOS and highlighted challenges such as piracy, maritime crime, illegal fishing, marine pollution, and threats to biodiversity. They stressed the need for stronger international cooperation, protection of maritime workers, and the use of technology to combat illegal fishing. They also emphasized freedom of navigation, peaceful settlement of maritime disputes, environmental protection, and sustainable use of marine resources.

15. The **Delegate of the Kingdom of Thailand** focused on marine environmental protection, maritime safety and security, and capacity building. They welcomed the BBNJ Agreement and

stressed the importance of technology transfer, capacity building, and support for developing countries. They also highlighted concerns relating to climate change, illegal fishing, piracy, and other maritime crimes, and emphasized regional cooperation and effective implementation of UNCLOS for the sustainable use of marine resources.

16. The **Delegate of Malaysia** focused on marine environmental protection and maritime security. They highlighted concerns relating to marine pollution and stressed the importance of environmental impact assessments, sustainable development, and protection of marine biodiversity. They welcomed the BBNJ Agreement and referred to efforts being taken towards its implementation. They also supported regional and international cooperation in combating piracy, armed robbery at sea, and other maritime crimes, while emphasizing the need to address emerging maritime challenges.

17. The **Delegate of Japan** emphasized that exploration and exploitation of seabed resources should be carried out under the framework of UNCLOS and the International Seabed Authority (ISA), while ensuring protection of the marine environment. They also highlighted the importance of offshore renewable energy development in accordance with international law. They welcomed the BBNJ Agreement and encouraged wider participation in its implementation. The delegate further stressed the importance of maritime security, anti-piracy efforts, capacity building, technology transfer, and international cooperation to promote sustainable ocean governance and address illegal fishing.

18. The **Delegate of the Syrian Arab Republic** emphasized the importance of the Law of the Sea in protecting marine resources and reaffirmed the role of UNCLOS as an important framework for maritime affairs and environmental protection. They highlighted efforts to strengthen maritime security and combat piracy through national laws. They expressed concern about overfishing, irregular maritime migration, and the need to protect migrants' rights and safety at sea. The delegate also stressed the importance of international cooperation, capacity building, and sustainable use of marine resources for the benefit of present and future generations.

19. The **Delegate of the Republic of the Sudan** highlighted the importance of the Red Sea as a major route for international trade, fisheries, energy, and maritime security. They stressed the need to protect the marine environment to preserve biodiversity, support economic activities, and ensure safe navigation. They expressed concern about climate change, rising temperatures, marine pollution, degradation of marine ecosystems, and limited resources for environmental protection. The delegate called for stronger regional and international cooperation, investment in research and training, marine protected areas, and measures to combat piracy and marine pollution to ensure sustainable use of marine resources.

20. The **Delegate of the Republic of South Africa** reaffirmed its commitment to UNCLOS and highlighted the importance of protecting the marine environment and ensuring sustainable use of marine resources. They welcomed the BBNJ Agreement and encouraged its early ratification by Member States. They stressed the need for environmental safeguards in deep seabed mining and highlighted the role of the International Seabed Authority in regulating such activities. The delegate also emphasized stronger regional and international cooperation to combat piracy, illegal fishing, and other maritime crimes while promoting fair and sustainable ocean governance.

21. The **Delegate of the Republic of Kenya** reaffirmed its support for UNCLOS as the main legal framework governing oceans and seas. They focused on marine environmental protection, maritime security, and capacity building, while expressing concern about piracy, armed robbery at sea, and illicit trafficking. They welcomed the BBNJ Agreement and supported fair sharing of benefits from marine genetic resources, particularly for developing countries. The delegate also highlighted concerns relating to sea-level rise, challenges faced by developing States, and stressed the importance of international cooperation, technology transfer, and capacity building for sustainable ocean governance.

22. The **Delegate of the Republic of the Philippines** reaffirmed UNCLOS as the main legal framework governing oceans and seas and stressed the importance of respecting the rights and obligations of States under the Convention. They also emphasized the importance of peaceful settlement of disputes and compliance with decisions made under UNCLOS mechanisms. They highlighted efforts to protect the marine environment, address marine pollution, and respond to climate-related challenges. The delegate welcomed the BBNJ Agreement and emphasized the importance of capacity building, technology transfer, and international cooperation. They also expressed concern about piracy, illegal fishing, maritime security, and the situation in the South China Sea, while stressing the need to protect the rights and welfare of seafarers and promote sustainable ocean governance.

23. The **Delegate of the Republic of Uganda** reaffirmed that UNCLOS remains the main legal framework governing oceans and seas and highlighted the importance of ensuring peaceful and sustainable use of marine resources. As a landlocked State, they stressed the importance of access to the sea and freedom of transit for trade and economic development. They highlighted opportunities relating to deep seabed mining while emphasizing the need to balance economic benefits with environmental protection. The delegate also welcomed the BBNJ Agreement and reaffirmed its commitment to international cooperation and sustainable management of marine resources.

24. The **Delegate of the Republic of Korea** focused on marine environmental protection and capacity building. They emphasized that challenges such as climate change require international cooperation and highlighted the importance of implementing obligations under the Law of the Sea. They welcomed the BBNJ Agreement and encouraged wider participation in it. They also stressed the importance of technology transfer, training, and capacity building for developing countries to promote sustainable and equitable ocean governance.

25. The **Delegate of the People's Republic of China** emphasized the importance of the International Seabed Authority (ISA) in regulating exploration and exploitation of seabed resources and stressed that resource development and marine environmental protection should be balanced. They also called for the early adoption of exploitation regulations under UNCLOS and opposed activities carried out outside the ISA framework. They welcomed the BBNJ Agreement and highlighted its importance for marine biodiversity conservation and global ocean governance. The delegate also stressed the need to combat piracy and armed robbery at sea, strengthen international cooperation, and promote the sustainable use of marine resources.

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

26. Keeping in mind the deliberations on the topic at the previous Annual Session, as well as the contemporary developments and emerging issues of relevance within the field of the law of the sea, for the Sixty-Fourth Annual Session, the AALCO Secretariat has prepared this brief with a focus on three key aspects of the law of the sea. These are as follows:

a. Recent Institutional Developments in the law of the sea
b. Implementation of the BBNJ Agreement
c. Regulation of Offshore Renewable Energy Activities in the Marine Environment
d. Capacity Building and Transfer of Marine Technology for Developing States

II. Recent Institutional Developments in the Law of the Sea

27. Since the Sixty-Third Annual Session of AALCO in September 2025, a number of significant institutional developments have taken place within the international legal framework governing the law of the sea. Notably, 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 (BBNJ Agreement) entered into force on 17 January 2026, marking the commencement of a new phase in the international legal framework for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.[1] In view of its significance for Asian and African States,[2] the implementation of the BBNJ Agreement, including developments concerning its institutional framework and preparations for the first meeting of the Conference of the Parties, is considered in greater detail in a subsequent section of this brief.

28. Other notable developments concern the International Tribunal for the Law of the Sea (ITLOS), the International Seabed Authority (ISA), and the Commission on the Limits of the Continental Shelf (CLCS).

A. Developments in the ITLOS

a) Election of Members of the Tribunal

29. The Thirty-Sixth Meeting of States Parties to UNCLOS was held at the United Nations Headquarters in New York from 15 to 19 June 2026. An important item on its agenda was the

[1] 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 (adopted 19 June 2023, entered into force 17 January 2026) art 68 ('BBNJ Agreement'); Preparatory Commission for the Entry into Force 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 and the Convening of the First Meeting of the Conference of the Parties, 'Report of the Preparatory Commission' (4 May 2026) UN Doc A/AC.296/2026/9, para 14 n 2.

[2] 20 AALCO Member States that are Parties to the BBNJ Agreement as of 13 August 2026. They are the People's Republic of Bangladesh, the Republic of Cyprus, the Republic of Djibouti, Republic of The Gambia, the Republic of Ghana, the Republic of Indonesia, Japan, the Hashemite Kingdom of Jordan, the Republic of Kenya, the Republic of Mauritius, the State of Palestine, the People's Republic of China, the Republic of the Philippines, the State of Qatar, the Republic of Korea, the Republic of Sierra Leone, the Republic of Singapore, the Democratic Socialist Republic of Sri Lanka, the Republic of Türkiye, and the Socialist Republic of Vietnam.

election of seven Members of ITLOS for a term of nine years commencing on 1 October 2026.[3] The election was conducted in accordance with the Statute of the Tribunal, which provides that its Members are elected from among persons enjoying the highest reputation for fairness and integrity and of recognised competence in the field of the law of the sea. The composition of the Tribunal is also required to assure the representation of the principal legal systems of the world and equitable geographical distribution.[4]

30. Of particular significance to AALCO, three candidates from its Member States were elected to the Tribunal, namely Prof. Bimal N. Patel of the Republic of India, Assoc. Prof. Lan-Anh Thi Nguyen of the Socialist Republic of Viet Nam, and Dr. Sylvia Ama Adusu of the Republic of Ghana.[5] Their election reflects the continuing contribution of Asian and African States to the interpretation and application of the international law of the sea and strengthens the presence of legal expertise from the two regions within the judicial institutions established under UNCLOS.

b) Cases of note before the Tribunal

- *Nauru Ocean Resources Inc. v. International Seabed Authority*

31. *Case concerning an inquiry by the International Seabed Authority (Nauru Ocean Resources Inc. v. International Seabed Authority)* (Case No. 34) was instituted before the Seabed Disputes Chamber of the ITLOS. Nauru Ocean Resources Inc. (NORI), a contractor for the exploration of polymetallic nodules in the Clarion-Clipperton Zone, instituted proceedings against the International Seabed Authority on 5 June 2026 in connection with an inquiry by the Authority concerning possible non-compliance with its exploration contract. NORI also requested the prescription of provisional measures under Article 290(1) of UNCLOS.[6]

32. The Seabed Disputes Chamber held public hearings on NORI's request jointly with those in the proceedings instituted by Tonga Offshore Mining Ltd. on 2 and 3 July 2026. By Order of 18 July 2026, the Chamber found, inter alia, that it had prima facie jurisdiction under Article 187(c) of UNCLOS and that the right to due process and fair treatment asserted by NORI was plausible for the purposes of the provisional-measures proceedings. Finding a real and imminent risk of irreparable prejudice, the Chamber prescribed provisional measures requiring the ISA, inter alia, to act in accordance with the applicable legal framework, including rules of due process, and to provide NORI with sufficient information concerning the relevant procedure and questions to

[3] United Nations Division for Ocean Affairs and the Law of the Sea, 'Thirty-Sixth Meeting of States Parties to the United Nations Convention on the Law of the Sea' (15-19 June 2026) Thirty-Sixth Meeting of States Parties accessed 18 August 2026.
[4] United Nations Convention on the Law of the Sea (opened for signature 10 December 1982, entered into force 16 November 1994) 1833 UNTS 397 ('UNCLOS') annex VI, arts 2-3.
[5] International Tribunal for the Law of the Sea, 'Election of Seven Members of the International Tribunal for the Law of the Sea' < https://www.itlos.org/fileadmin/itlos/documents/press_releases_english/PR_389_en.pdf> (Press Release, ITLOS/Press 389, 19 June 2026) ITLOS Press Release 389 accessed 18 August 2026.
[6] ITLOS, 'Nauru Ocean Resources Inc. Institutes Proceedings against the International Seabed Authority. Nauru Ocean Resources Inc. also Requests the Prescription of Provisional Measures' (Press Release ITLOS/Press 383, 5 June 2026); UNCLOS art 290(1).

enable it to respond within a reasonable period. The Chamber also directed the parties to cooperate and to refrain from taking any action that might aggravate or extend the dispute.[7]

33. The case constitutes, together with Case No. 35, the first contentious proceedings before the Seabed Disputes Chamber under Part XI of UNCLOS.[8] The Order on provisional measures did not prejudge the Chamber's jurisdiction on the merits or the merits of the dispute. The proceedings remain pending, and the time limit for the submission of the ISA's Defence is 30 March 2027.[9]

- *Tonga Offshore Mining Ltd. v. International Seabed Authority*

34. In the closely related Case concerning an inquiry by the *International Seabed Authority (Tonga Offshore Mining Ltd. v. International Seabed Authority)* (Case No. 35), Tonga Offshore Mining Ltd. (TOML), also a contractor for the exploration of polymetallic nodules in the Clarion-Clipperton Zone, instituted proceedings against the ISA on 5 June 2026 concerning an inquiry into possible non-compliance with its exploration contract. TOML similarly requested the prescription of provisional measures under Article 290(1) of UNCLOS.[10]

35. Following the joint hearings on 2 and 3 July 2026, the Seabed Disputes Chamber delivered a separate Order on 18 July 2026. The Chamber found, inter alia, that it had prima facie jurisdiction under Article 187(c) of UNCLOS and that the right to due process asserted by TOML was plausible for the purposes of the provisional-measures proceedings. Having found a real and imminent risk of irreparable prejudice, the Chamber prescribed provisional measures requiring the ISA, inter alia, to act in accordance with the applicable legal framework, including rules of due process, and to provide TOML with sufficient information concerning the relevant procedure and questions to enable it to respond within a reasonable period. The Chamber also directed the parties to cooperate and to refrain from taking any action that might aggravate or extend the dispute.[11]

36. The Order on provisional measures did not prejudge the Chamber's jurisdiction on the merits or the merits of the dispute. Case No. 35 remains pending, and the time limit for the submission of the ISA's Defence is 30 March 2027.[12]

- *Dispute concerning delimitation of the maritime boundary between Ghana and Togo in the Gulf of Guinea (Ghana/Togo)*

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[7] Inquiry by the International Seabed Authority (Nauru Ocean Resources Inc. v International Seabed Authority), Provisional Measures, Order of 18 July 2026.
[8] ibid
[9] Inquiry by the International Seabed Authority (Nauru Ocean Resources Inc. v International Seabed Authority), Order of 4 August 2026.
[10] ITLOS, 'Tonga Offshore Mining Ltd. Institutes Proceedings against the International Seabed Authority; Tonga Offshore Mining Ltd. also Requests the Prescription of Provisional Measures' (Press Release ITLOS/Press 384, 5 June 2026); UNCLOS art 290(1).
[11] Inquiry by the International Seabed Authority (Tonga Offshore Mining Ltd. v International Seabed Authority), Provisional Measures, Order of 18 July 2026.
[12] Inquiry by the International Seabed Authority (Tonga Offshore Mining Ltd. v International Seabed Authority), Order of 4 August 2026.

37. A further case of note is the *Dispute concerning delimitation of the maritime boundary between Ghana and Togo in the Gulf of Guinea (Ghana/Togo)* (Case No. 36). On 3 June 2026, Ghana and Togo submitted, by way of Special Agreement, the dispute concerning the delimitation of their maritime boundary in the Gulf of Guinea to a Special Chamber of the Tribunal.[13]

38. By Order of 12 June 2026, the Tribunal constituted a Special Chamber to deal with the case, comprising five members of the Tribunal and two judges *ad hoc* appointed by the Parties.[14] Subsequently, by Order of 6 July 2026, the President of the Special Chamber fixed 6 January 2027 as the time limit for the submission of the Memorial of Ghana and 6 July 2027 for the submission of the Counter-Memorial of Togo.[15] The proceedings remain pending before the Special Chamber.[16]

B. Recent Developments in the International Seabed Authority

39. The International Seabed Authority (ISA) continued its work during its Thirty-First Session in 2026 on regulatory, institutional, environmental and capacity-building matters relating to activities in the Area. A significant component of the work of the Council concerned the continuing development of the regulatory framework for exploitation of mineral resources in the Area. Pursuant to Part XI of UNCLOS and the 1994 Agreement relating to the Implementation of Part XI, the ISA has developed a set of rules, regulations and procedures governing prospecting, exploration and exploitation of mineral resources in the Area, collectively referred to as the "Mining Code".[17] While regulations governing exploration for polymetallic nodules, polymetallic sulphides and cobalt-rich ferromanganese crusts have been adopted, the Draft Regulations on Exploitation of Mineral Resources in the Area remain under negotiation.[18]

40. During the first part of the Thirty-First Session of the Council, held from 9 to 19 March 2026, negotiations on the Draft Exploitation Regulations proceeded under four broad themes concerning environmental matters; financial matters; regulatory, procedural and institutional

[13] Dispute concerning delimitation of the maritime boundary between Ghana and Togo in the Gulf of Guinea (Ghana/Togo), Special Agreement and Notification (3 June 2026); ITLOS, 'Dispute concerning delimitation of the maritime boundary between Ghana and Togo in the Gulf of Guinea submitted to a Special Chamber of the Tribunal' (Press Release ITLOS/Press 387, 12 June 2026) <https://www.itlos.org/fileadmin/itlos/documents/press_releases_english/PR_387_EN.pdf> accessed 2 October 2026.

[14] Dispute concerning delimitation of the maritime boundary between Ghana and Togo in the Gulf of Guinea (Ghana/Togo), Order 2026/5 (12 June 2026)

[15] Dispute concerning delimitation of the maritime boundary between Ghana and Togo in the Gulf of Guinea (Ghana/Togo), Order 2026/7 (6 July 2026).

[16] ITLOS, 'Docket: List of Pending Cases and Current Status' https://www.itlos.org/en/main/cases/docket/ accessed 2 October 2026.

[17] UNCLOS pt XI; Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (adopted 28 July 1994, entered into force 28 July 1996) 1836 UNTS 3; International Seabed Authority, 'The Mining Code' ISA Mining Code accessed 2 October 2026.

[18] Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, ISBA/19/A/9 and ISBA/19/C/17; Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area, ISBA/16/A/12/Rev.1; Regulations on Prospecting and Exploration for Cobalt-rich Ferromanganese Crusts in the Area, ISBA/18/A/11.

matters; and governance matters.[19] Progress made during the session enabled environmental management and monitoring to be removed from the indicative list of outstanding issues requiring further thematic discussion.[20] The African Group reiterated the significance of the principle of the common heritage of humankind and stressed that no plan of work for exploitation should be approved before the Economic Planning Commission is established and operational.[21] Views were also expressed concerning the organisation of the remaining negotiations. The Republic of South Africa favoured a broader overview of outstanding issues, while India cautioned against further expanding the list and drew attention to the need for greater consideration of resource data beyond the Pacific Ocean in the financial model. Japan supported proceeding on the basis of the Secretariat's indicative list and programme of work.[22] At the conclusion of the session, the Council agreed on the need for structured intersessional work to advance the negotiations.[23]

41. During the second part of the Council session, held from 13 to 24 July 2026, negotiations proceeded on the basis of the third revision of the Further Revised Consolidated Text of the Draft Exploitation Regulations.[24] Discussions addressed, inter alia, the institutional and administrative arrangements necessary for the effective implementation of the regulatory framework, equitable benefit-sharing, and environmental safeguards. A number of Asian and African States emphasised the need for the regulatory framework to be accompanied by appropriate institutions, systems and safeguards to ensure that activities in the Area are undertaken for the benefit of humankind as a whole.[25] Discussions also addressed environmental threshold values and monitoring requirements, with the African Group calling for clearly defined monitoring requirements and the Philippines emphasising environmental threshold values as prerequisites for future exploitation.[26]

42. The Draft Exploitation Regulations remain under negotiation. At the conclusion of the second part of its Thirty-First Session, the Council adopted a decision concerning the continuation of the elaboration of rules, regulations and procedures relating to exploitation and the resolution of remaining key outstanding issues.[27] The decision requested the Secretariat to prepare a roadmap and updated indicative list of outstanding issues, an advanced negotiating text taking into account the discussions during the Thirty-First Session and subsequent intersessional input, and an indicative programme of work for the continuation of negotiations. The Council also called for

[19] International Institute for Sustainable Development, 'Summary of the First Part of the Thirty-First Annual Session of the International Seabed Authority: 9-19 March 2026' (22 March 2026) 25(261) Earth Negotiations Bulletin 8.
[20] ibid 1.
[21] ibid 5.
[22] ibid 4, 8-9.
[23] ibid 9.
[24] International Seabed Authority, Further Revised Consolidated Text of the Draft Regulations on Exploitation of Mineral Resources in the Area (Revision 3) (20 June 2026) ISBA/31/C/CRP.1/Rev.3; International Institute for Sustainable Development, 'Summary of the Second Part of the Thirty-First Annual Session of the International Seabed Authority: 13-31 July 2026' (3 August 2026) 25(263) Earth Negotiations Bulletin 1.
[25] International Institute for Sustainable Development, 'Summary of the Second Part of the Thirty-First Annual Session' (n 8) 23-24.
[26] ibid 4
[27] International Seabed Authority, 'Decision of the Council of the International Seabed Authority on the Approach to the Continuation of the Elaboration of Rules, Regulations and Procedures relating to Exploitation and Resolution of the Remaining Key Outstanding Issues' (24 July 2026) ISBA/31/C/38.

continued participation in informal working groups and intersessional work. Negotiations are expected to continue during the Thirty-Second Session of the Council in 2027.[28]

43. The continuing work of the ISA remains of particular relevance to developing States, given the status of the Area and its resources as the common heritage of mankind.[29] The development of the regulatory framework raises important considerations concerning equitable participation and benefit-sharing, protection of the marine environment, access to scientific and technical expertise, and the effective participation of developing States in activities and decision-making concerning the Area.

C. Developments concerning the Commission on the Limits of the Continental Shelf

44. The Commission on the Limits of the Continental Shelf has continued its work concerning the implementation of Article 76 of UNCLOS. The Commission is mandated to consider the scientific and technical data submitted by coastal States concerning the establishment of the outer limits of their continental shelf beyond 200 nautical miles and to make recommendations to the coastal States concerned. Where the outer limits of the continental shelf are established by a coastal State on the basis of the recommendations of the Commission, such limits are final and binding in accordance with Article 76, paragraph 8, of UNCLOS.[30]

45. The Commission held its Sixty-Sixth and Sixty-Seventh Sessions in 2026, continuing its consideration of submissions and revised submissions relating to the outer limits of the continental shelf. The Sixty-Seventh Session was held at United Nations Headquarters in New York from 6 July to 7 August 2026. During the session, the Commission and its sub-commissions continued their consideration of a number of submissions and revised submissions made by coastal States pursuant to Article 76 of UNCLOS.[31] In view of the substantial number of submissions before it, the Commission continues to apply the system under which original submissions and revised submissions are considered through separate queues.[32]

46. The work of the CLCS remains of particular importance to coastal developing States, including those in Asia and Africa seeking to establish the outer limits of their continental shelf beyond 200 nautical miles. The preparation of submissions under Article 76 requires extensive geological, geophysical and hydrographic data, as well as specialised scientific and technical expertise. In this regard, the functions of the Commission include the provision of scientific and

[28] ibid; International Seabed Authority, '32nd Session (2027)' ISA Thirty-Second Session accessed 2 October 2026.
[29] UNCLOS art 136.
[30] UNCLOS, art 76(8) and annex II, art 3(1)(a).
[31] Commission on the Limits of the Continental Shelf, 'Progress of Work in the Commission on the Limits of the Continental Shelf: Statement by the Chair' (31 March 2026) UN Doc CLCS/66/2; United Nations, 'Commission on Limits of Continental Shelf Concludes Sixty-Seventh Session' (7 August 2026) UN Press Release SEA/2253 <https://press.un.org/en/2026/sea2253.doc.htm> accessed 18 August 2026.
[32] Commission on the Limits of the Continental Shelf, 'Progress of Work in the Commission on the Limits of the Continental Shelf: Statement by the Chair' UN Doc CLCS/57/2, para 72; United Nations, 'Commission on Limits of Continental Shelf Concludes Fifty-Eighth Session' (31 August 2023) UN Press Release SEA/2185 <https://press.un.org/en/2023/sea2185.doc.htm> accessed 18 August 2026.

technical advice, where requested by the coastal State concerned, during the preparation of the data necessary for a submission.[33]

47. Taken together, these developments demonstrate the continuing evolution and implementation of the institutional framework established under UNCLOS and its implementing agreements. They are of particular relevance to Asian and African States in relation to participation in international judicial and institutional processes, the equitable and sustainable governance of marine resources, and access to the scientific and technical capacities necessary for the effective exercise of rights and fulfilment of obligations under the international law of the sea.

III. MARINE ENVIRONMENT PROTECTION

A. Introduction

48. The protection and preservation of the marine environment constitutes a central component of the contemporary international law of the sea. Part XII of the United Nations Convention on the Law of the Sea (UNCLOS) establishes the general obligation of States to protect and preserve the marine environment and requires States, individually or jointly as appropriate, to take measures necessary to prevent, reduce and control pollution of the marine environment from any source.[34] These obligations are complemented by requirements relating to cooperation, monitoring and environmental assessment, as well as by other international and regional instruments addressing specific sources of marine environmental degradation.

49. The legal framework for marine environmental protection has continued to evolve in response to increasing pressures on marine ecosystems and the emergence of new activities and uses of ocean space. Of particular significance has been the development of an international legal framework for the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction. The adoption and subsequent entry into force of the BBNJ Agreement on 17 January 2026 represent an important development in this regard.[35]

50. At the same time, the expansion of offshore renewable energy, particularly offshore wind energy, has brought renewed attention to the application of existing law of the sea rules to emerging uses of the marine environment. Such activities present significant opportunities for sustainable energy development, while also raising questions concerning coastal State jurisdiction, environmental impact assessment, navigation, fisheries, marine spatial planning and the coexistence of different uses of ocean space.

51. Against this background, the present Part considers two developments of contemporary relevance to marine environmental protection. First, it examines the implementation of the BBNJ Agreement, with particular attention to the institutional arrangements being developed in

[33] UNCLOS, annex II, art 3(1)(b); United Nations Division for Ocean Affairs and the Law of the Sea, 'Functions of the Commission on the Limits of the Continental Shelf' <https://www.un.org/Depts/los/clcs_new/commission_purpose.htm> accessed 18 August 2026.
[34] United Nations Convention on the Law of the Sea (opened for signature 10 December 1982, entered into force 16 November 1994) 1833 UNTS 397 ('UNCLOS') arts 192, 194, 197, 204-206.
[35] BBNJ Agreement; United Nations, 'Becoming a Party' < Becoming a Party | Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction > accessed 18 August 2026.

preparation for the first meeting of the Conference of the Parties (COP). Secondly, it considers the legal and regulatory framework applicable to offshore renewable energy activities in the marine environment. Both developments are of particular relevance to Asian and African States, including in relation to effective participation in emerging international processes, access to scientific and technological capabilities, and the sustainable utilisation and protection of marine resources.

B. Implementation of the Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement)

i. Entry into Force of the BBNJ Agreement

52. The BBNJ Agreement was adopted by consensus on 19 June 2023, following nearly two decades of discussions and negotiations concerning the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction.[36] The Agreement addresses four principal areas: marine genetic resources (MGRs), including the fair and equitable sharing of benefits; measures such as area-based management tools (ABMTs), including marine protected areas (MPAs), environmental impact assessments (EIAs), and capacity-building and the transfer of marine technology. It also establishes a financial mechanism and an institutional framework to facilitate its implementation.[37]

53. The BBNJ Agreement constitutes the third implementing agreement under UNCLOS, following the 1994 Agreement relating to the Implementation of Part XI of UNCLOS and the 1995 United Nations Fish Stocks Agreement.[38] Its objective 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 the effective implementation of the relevant provisions of UNCLOS and further international cooperation and coordination.[39]

54. Pursuant to Article 68, the Agreement was to enter into force 120 days after the deposit of the sixtieth instrument of ratification, approval, acceptance or accession. The threshold was reached on 19 September 2025 and, accordingly, the Agreement entered into force on 17 January 2026.[40] Its entry into force marked an important transition from the negotiation of the substantive framework towards its institutional and practical implementation. States that did not sign the Agreement before the closure of the signature period on 20 September 2025 may accede to it.[41] Participation in the Agreement has continued to expand following the attainment of the entry-into-force threshold.

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[36] BBNJ Agreement; UNGA Res 72/249 (24 December 2017) UN Doc A/RES/72/249.
[37] BBNJ Agreement pts II-VI. See also United Nations, BBNJ Agreement accessed 18 August 2026.
[38] Agreement relating to the Implementation of Part XI of UNCLOS (adopted 28 July 1994, entered into force 28 July 1996) 1836 UNTS 3; Agreement for the Implementation of the Provisions of UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (adopted 4 August 1995, entered into force 11 December 2001) 2167 UNTS 3.
[39] BBNJ Agreement art 2.
[40] ibid art 68(1); United Nations, 'Becoming a Party' (n 14).
[41] BBNJ Agreement arts 66-67; United Nations, 'Becoming a Party' (n 14).

55. The significance of this transition lies not only in the legal obligations that now apply to Parties, but also in the need to operationalise the institutional, financial, scientific and technical architecture contemplated by the Agreement. Several important elements of that architecture require decisions by the COP. Consequently, the effectiveness of the Agreement will depend substantially upon the arrangements adopted during its initial implementation phase and the ability of Parties, including developing States, to participate meaningfully in the institutions and mechanisms being established.

ii. Institutional Framework and Preparations for the First Conference of the Parties

I. Conference of the Parties

56. The BBNJ Agreement establishes a Conference of the Parties (COP) as its principal decision-making body. Article 47 provides that the COP shall keep under review and facilitate the implementation of the Agreement. Among its functions, the COP is empowered to adopt decisions and recommendations relating to implementation; exchange information relevant to implementation; promote cooperation and coordination with and among relevant legal instruments and frameworks and relevant global, regional, sub-regional and sectoral bodies; establish such subsidiary bodies as may be necessary; adopt a budget; and undertake other functions identified under the Agreement.[42]

57. The first meeting of the COP assumes particular significance because several components of the Agreement's institutional architecture require decisions at that meeting. Article 47 requires the first COP to adopt, by consensus, rules of procedure for itself and its subsidiary bodies and financial rules governing its funding and that of the secretariat and subsidiary bodies. Article 50 further requires the COP, at its first meeting, to make arrangements for the functioning of the secretariat, including deciding on its seat.[43] The first COP will therefore perform an important constitutive function in moving the Agreement from its transitional arrangements towards a fully operational institutional framework.

58. Under Article 47(2), the first meeting of the COP is to be convened no later than one year after the entry into force of the Agreement**.** Preparations for that meeting have consequently constituted an important component of the implementation process. Until the secretariat established under the Agreement commences its functions, the Secretary-General of the United Nations, through the Division for Ocean Affairs and the Law of the Sea (DOALOS), performs the secretariat functions under the Agreement.[44]

II. Work of the Preparatory Commission

59. Recognising the range of institutional and administrative arrangements required for the operationalisation of the Agreement, the United Nations General Assembly established a Preparatory Commission in 2024 to prepare for the entry into force of the Agreement and the convening of the first meeting of the COP.[45] Following an organisational meeting in June 2024,

[42] BBNJ Agreement art 47.
[43] ibid arts 47(4), 50(2).
[44] ibid art 50(3).
[45] UNGA Res 78/272 (24 April 2024) UN Doc A/RES/78/272.

the Preparatory Commission held three substantive sessions: from 14 to 25 April 2025, 18 to 29 August 2025, and 23 March to 2 April 2026, respectively.[46]

60. The work of the Preparatory Commission encompassed a broad range of matters necessary for the effective functioning of the new regime. These included the rules of procedure of the COP, financial rules, arrangements concerning the secretariat, the terms of reference and modalities for the operation of subsidiary bodies and the selection of their members; arrangements concerning the Clearing-House Mechanism, the financial mechanism, and modalities for cooperation with relevant legal instruments and frameworks and relevant global, regional, sub-regional and sectoral bodies.[47]

61. The Preparatory Commission concluded its substantive work at its third session on 2 April 2026 and adopted its final report for presentation to the COP at its first meeting.[48] The preparatory process has therefore established the foundation upon which the first COP will take the decisions necessary to operationalise the Agreement. The finalisation of these arrangements is particularly important because many of them will determine the manner in which States participate in, obtain information from and access the scientific, technical and financial mechanisms of the Agreement.

III. Rules of procedure and participation

62. The rules of procedure of the COP will regulate matters including representation and credentials, participation of observers, organisation of meetings, decision-making, elections and the functioning of subsidiary bodies. These procedural matters have substantive implications for the effectiveness and inclusiveness of the BBNJ regime. The Preparatory Commission devoted considerable attention to the draft rules during its three sessions, including questions concerning decision-making and representation within the institutional structure.[49]

63. Of particular relevance to developing States is the composition of the subsidiary bodies established by the Agreement. The institutional structure includes a Scientific and Technical Body, Access and Benefit-Sharing Committee, Capacity-Building and Transfer of Marine Technology Committee, Finance Committee, and Implementation and Compliance Committee.[50] The preparatory work concerning these bodies has addressed the selection of members and considerations including equitable geographical representation, gender balance and relevant

[46] United Nations, 'Background: Preparatory Commission' BBNJ Preparatory Commission - Background accessed 18 August 2026; United Nations, First Session of the Preparatory Commission, 14-25 April 2025 accessed 18 August 2026; United Nations, Second Session, 18-29 August 2025 accessed 18 August 2026; United Nations, Third Session, 23 March-2 April 2026 < https://www.un.org/bbnjagreement/en/third-session-23-march-2-april-2026> accessed 18 August 2026.

[47] Preparatory Commission for the Entry into Force of the BBNJ Agreement and the Convening of the First Meeting of the Conference of the Parties, 'Report of the Preparatory Commission' (4 May 2026) UN Doc A/AC.296/2026/9 ('PrepCom Final Report').

[48] ibid; United Nations, 'Third Session (23 March-2 April 2026)' (n 25).

[49] Preparatory Commission, 'Rules of Procedure for the Conference of the Parties: Aid to Discussions and Negotiations Prepared by the Co-Chairs' (2025) UN Doc A/AC.296/2025/3; Preparatory Commission, 'Rules of Procedure for the Conference of the Parties: Revised Aid to Discussions and Negotiations Prepared by the Co-Chairs' (2025) UN Doc A/AC.296/2025/12.

[50] BBNJ Agreement arts 15, 46, 49, 52(14), 55.

expertise.[51] Effective representation within these bodies will be important in ensuring that the scientific, technical and implementation priorities of States with differing capacities and circumstances are reflected in the operation of the Agreement.

IV. Financial Arrangements

64. The operationalisation of the financial mechanism will similarly be an important matter for the first COP. Article 52 establishes a mechanism for the provision of adequate, accessible, new and additional, and predictable financial resources under the Agreement. It includes a voluntary trust fund, a special fund, and the Global Environment Facility Trust Fund. The voluntary trust fund is intended, inter alia, to facilitate participation of representatives of developing States Parties, particularly least developed countries, landlocked developing countries and small island developing States, in meetings of the bodies established under the Agreement.

65. The Preparatory Commission considered draft financial rules governing the funding of the COP, secretariat and subsidiary bodies, as well as arrangements concerning the relationship between the COP and the Global Environment Facility.[52] These arrangements will have particular practical significance for developing States because the ability to participate consistently in meetings, access capacity-building programmes and implement the substantive obligations of the Agreement may depend upon the availability and accessibility of financial support.

V. Secretariat and Clearing-House Mechanism

66. The Agreement establishes a secretariat to provide administrative and technical support to the COP and its subsidiary bodies, facilitate cooperation with relevant international organisations and perform other functions assigned under the Agreement. The location and arrangements for the functioning of the permanent secretariat remain among the institutional matters to be determined by the COP. Pending its establishment, DOALOS continues to perform the relevant secretariat functions.[53]

67. The Clearing-House Mechanism, established under Article 51, will constitute an important information and cooperation platform under the Agreement. Its functions include facilitating access to, provision and dissemination of information concerning activities under the Agreement; matching capacity-building needs with available support and providers; facilitating links to relevant global, regional, sub-regional, national and sectoral clearing-house mechanisms and other databases; and promoting transparency. The Preparatory Commission considered the technical

[51] Preparatory Commission, 'Terms of Reference and Modalities for the Operation of, and Rules of Procedure for, the Subsidiary Bodies, including the Selection Process for their Members: Aid to Discussions and Negotiations Prepared by the Co-Chairs' (9 January 2026) UN Doc A/AC.296/2026/3; United Nations, Preparatory Commission III written, < https://www.un.org/bbnjagreement/en/prepcom-III-written-input > input accessed 18 August 2026.

[52] Preparatory Commission, 'Financial Rules Governing the Funding of the Conference of the Parties and the Funding of the Secretariat and any Subsidiary Bodies: Revised Aid to Discussions and Negotiations Prepared by the Co-Chairs' (2025) UN Doc A/AC.296/2025/13; Preparatory Commission, 'Draft Financial Rules' (2026) UN Doc A/AC.296/2026/CRP.3/Rev.1/Corr.1; United Nations, Preparatory Commission III Informal Documents accessed 18 August 2026.

[53] BBNJ Agreement art 50; Preparatory Commission, 'Arrangements for the Functioning of the Secretariat, including its Seat: Note by the Secretariat' (2026) UN Doc A/AC.296/2026/8.

aspects of its operationalisation, including through a consolidated technical study presented during its third session.[54]

68. The effective design of the Clearing-House Mechanism is particularly relevant for States with limited access to marine scientific infrastructure, data and technological resources. Its accessibility, interoperability and ability to connect identified capacity needs with available resources may affect whether developing States are able to engage effectively with the substantive mechanisms established by the Agreement.

69. The first COP will therefore represent more than the formal commencement of periodic meetings under the Agreement. It will be central to the establishment of the procedural, financial and institutional conditions under which the BBNJ regime will operate. For Asian and African States, the decisions taken during this initial phase will be particularly relevant to participation in subsidiary bodies, access to financial and technical support, access to information through the Clearing-House Mechanism, and the ability to contribute effectively to subsequent decisions concerning MGRs, ABMTs and EIAs.

iii. Marine Genetic Resources and Fair and Equitable Sharing of Benefits

70. Part II of the BBNJ Agreement establishes a regime governing activities with respect to marine genetic resources of areas beyond national jurisdiction and digital sequence information on such resources. One of its principal objectives is the fair and equitable sharing of benefits arising from activities concerning MGRs. It also seeks to generate knowledge, scientific understanding and technological innovation and to promote the development of the marine scientific and technological capacity of Parties, particularly developing States.[55]

71. The Agreement provides for the sharing of both non-monetary and monetary benefits. Non-monetary benefits include access to samples and sample collections, access to digital sequence information, open access to scientific data, transfer of marine technology and capacity-building opportunities.[56] Monetary benefits arising from the utilisation of MGRs and digital sequence information are to be shared fairly and equitably through the financial mechanism established under the Agreement. The COP is tasked with determining modalities for monetary benefit-sharing, taking into account recommendations of the Access and Benefit-Sharing Committee.[57]

72. Digital sequence information is particularly significant because advances in biotechnology increasingly enable research and innovation to be undertaken using genetic information without requiring continued physical access to the original biological sample. The inclusion of digital sequence information within the benefit-sharing architecture seeks to ensure that technological developments do not undermine the objective of fair and equitable benefit-sharing. The practical

[54] United Nations, 'Third Session (23 March-2 April 2026)' (n 25).
[55] BBNJ Agreement arts 9-10.
[56] ibid art 14.
[57] ibid arts 14-15.

modalities for monetary benefit-sharing involving such information will therefore constitute an important aspect of the implementation of the Agreement.[58]

73. Transparency and traceability are supported through notification requirements. Before the collection in situ of MGRs in areas beyond national jurisdiction, specified information is to be notified to the Clearing-House Mechanism. Further information must subsequently be notified following collection and where MGRs or digital sequence information are utilised.[59] These requirements are intended to facilitate transparency while preserving marine scientific research and access to scientific information.

74. Initial practical implementation of these provisions has already commenced. On 16 July 2026, the interim secretariat received from Ireland the first pre-collection notification pursuant to Article 12(2). As the Clearing-House Mechanism is not yet operational, DOALOS assigned an interim reference number and made the information available through the BBNJ Agreement website.[60] This development illustrates the transitional nature of the present implementation phase: substantive obligations under the Agreement are already operating while the permanent institutional and digital mechanisms necessary for their administration are still being established.

75. The benefit-sharing regime is particularly relevant for developing States that may possess limited technological and financial capacity to undertake sophisticated research concerning MGRs in areas beyond national jurisdiction. Effective implementation will therefore require attention not only to the distribution of monetary benefits, but also to access to samples, scientific information, research opportunities, technology and technical expertise. The operation of the Access and Benefit-Sharing Committee, financial mechanism and Clearing-House Mechanism will be important in determining how effectively these objectives are realised.

iv. Area-Based Management Tools, including Marine Protected Areas

76. Part III of the BBNJ Agreement establishes a framework for the adoption and implementation of area-based management tools, including marine protected areas. Its objectives include conserving and sustainably using areas requiring protection, strengthening cooperation and coordination in the use of ABMTs, protecting and restoring biodiversity and ecosystems, and supporting developing States in developing and implementing such measures.

77. Parties may submit proposals for the establishment of ABMTs, including MPAs, to the secretariat. Proposals are required to contain, among other matters, a description of the area, information concerning the biodiversity and ecosystems concerned, the objectives of the proposed measure, proposed management measures and information concerning relevant human activities

[58] Convention on Biological Diversity, Report of the Ad Hoc Technical Expert Group on Digital Sequence Information on Genetic Resources (2018) CBD/DSI/AHTEG/2018/1/4, paras 7-8; BBNJ Agreement, arts 10, 12 and 14.
[59] BBNJ Agreement art 12.
[60] United Nations, 'Notification 2026-002: Pre-collection Notification under Article 12, Paragraph 2, of the BBNJ Agreement' (16 July 2026) BBNJ Notification 2026-002 < https://www.un.org/bbnjagreement/en/notification-2026-002 > accessed 18 August 2026; United Nations, Notifications under Article 12 < https://www.un.org/bbnjagreement/en/mgr-notifications> accessed 18 August 2026.

and potential impacts.[61] Proposals are subject to preliminary review by the Scientific and Technical Body before being made publicly available and proceeding to consultation.

78. Consultation is an important component of this process. States, relevant international organisations and bodies, Indigenous Peoples and local communities, the scientific community, civil society and other relevant stakeholders may provide input.[62] The Scientific and Technical Body then assesses the proposal and provides recommendations to the COP. The COP may ultimately take decisions concerning the establishment of ABMTs, including MPAs, and associated measures.

79. The Agreement is expressly intended to operate alongside existing international legal instruments and frameworks and relevant global, regional, sub-regional and sectoral bodies and not to undermine them.[63] This is particularly significant in relation to ABMTs because activities in areas beyond national jurisdiction may already fall within the competence of bodies dealing with fisheries, shipping or other sectoral activities. Effective implementation will therefore require coordination between the COP and existing institutions.

80. These arrangements are particularly relevant for coastal, archipelagic and island developing States whose marine ecosystems and economic interests may be ecologically connected with adjacent areas beyond national jurisdiction. Effective participation in the proposal, consultation, scientific assessment and monitoring of ABMTs will require access to appropriate scientific information and technical expertise. The BBNJ framework consequently provides an opportunity for such States to participate more directly in conservation decisions concerning areas beyond national jurisdiction while reinforcing the need for adequate scientific and institutional capacity.

v. Environmental Impact Assessments

81. Part IV of the BBNJ Agreement establishes rules concerning environmental impact assessments for planned activities under the jurisdiction or control of Parties that may have effects in areas beyond national jurisdiction. These provisions complement the broader obligations concerning environmental assessment under UNCLOS and seek to ensure that activities are assessed with a view to preventing, mitigating and managing significant adverse impacts on the marine environment.

82. The Agreement establishes a staged process, under articles 30 to 33, involving screening, scoping, impact prediction and evaluation, prevention, mitigation and management of potential adverse effects, followed where appropriate by monitoring and review. Where a Party has reasonable grounds for believing that a planned activity may cause substantial pollution of or significant and harmful changes to the marine environment in areas beyond national jurisdiction, an EIA is required.

[61] BBNJ Agreement art 19.
[62] ibid arts 20-21.
[63] ibid arts 5(2), 22.

83. Transparency and consultation form important components of the EIA framework. Parties are required to provide timely public notification of a planned activity and opportunities for participation during the assessment process.[64] EIA reports are to be made available through the Clearing-House Mechanism, thereby facilitating access to information and enabling other States and relevant stakeholders to understand the environmental implications of activities affecting areas beyond national jurisdiction.

84. The Agreement also recognises the existence of environmental assessment processes under other relevant legal instruments and frameworks and relevant bodies. It therefore provides mechanisms intended to avoid unnecessary duplication where an activity has already been assessed under another applicable framework, subject to the conditions established by the Agreement.[65] This is significant for maintaining coherence between the BBNJ regime and existing global, regional and sectoral environmental assessment processes.

85. Implementation of the EIA provisions will nevertheless require substantial scientific, technical and administrative capacity. States may need expertise in baseline environmental data collection, impact prediction, cumulative impact assessment, monitoring and review. This is particularly relevant for developing States with limited access to marine scientific data and specialised expertise. The EIA regime therefore illustrates the close relationship between substantive environmental obligations and the capacity-building and technology-transfer provisions of the Agreement.

vi. Capacity-Building and Transfer of Marine Technology under the BBNJ Agreement

86. Capacity-building and the transfer of marine technology constitute one of the four principal components of the BBNJ Agreement. Part V seeks, inter alia, to assist Parties, particularly developing States Parties, in implementing the Agreement; enable inclusive and effective participation in activities under it; develop marine scientific and technological capacity; and increase access to and use of relevant knowledge and marine technology.

87. Capacity-building may encompass scientific, technical, technological, institutional and human-resource development. The Agreement envisages measures including the sharing and use of relevant data and knowledge; development and strengthening of institutional and regulatory capacities; development of scientific and research capabilities; education and training; access to scientific infrastructure; and collaboration and cooperation in marine scientific research.[66] Implementation is supported by the Capacity-Building and Transfer of Marine Technology Committee, the Clearing-House Mechanism and the financial mechanism, including the special fund, voluntary trust fund and GEF Trust Fund.[67]

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[64] BBNJ Agreement art 32.
[65] BBNJ Agreement art 29.
[66] BBNJ Agreement arts 42-44 and annex II.
[67] ibid arts 44-46, 51-52; United Nations, 'Global Environment Facility (GEF) Support' GEF Support under the BBNJ Agreement <https://www.un.org/bbnjagreement/en/capacity-building-and-technical-assistance/global-environment-facility-gef-support > accessed 18 August 2026.

88. These mechanisms are particularly important because effective participation in the MGR, ABMT and EIA regimes depends substantially upon scientific and technological capabilities. Capacity-building under the BBNJ Agreement should therefore be understood as integral to its substantive implementation rather than as an ancillary form of assistance. The broader role of capacity-building and transfer of marine technology in strengthening the participation of developing States in ocean governance is considered further in Part IV of this brief.

vii. Relevance for Asian and African States

89. The entry into force of the BBNJ Agreement presents both opportunities and implementation challenges for Asian and African States. Many States in the two regions have substantial interests in marine biodiversity, fisheries, marine scientific research and the sustainable use of ocean resources, while levels of scientific, technological, institutional and financial capacity vary considerably. The implementation phase therefore raises important questions concerning whether the mechanisms established by the Agreement will enable meaningful and equitable participation by developing States.

90. In the immediate term, particular attention may be given to participation in the first COP and the subsidiary bodies established under the Agreement. Decisions concerning rules of procedure, representation, financial arrangements, the secretariat and the Clearing-House Mechanism will shape the institutional environment within which subsequent substantive decisions are taken. Equitable geographical representation and access to financial support for participation will accordingly be important to ensuring that perspectives and priorities from Asia and Africa are adequately reflected.

91. The implementation of the MGR regime also presents an important opportunity to promote more equitable participation in marine scientific research and the benefits derived from marine biodiversity. For States with limited capacity to conduct research in areas beyond national jurisdiction, non-monetary benefits, including access to samples, data, scientific cooperation, training and marine technology, may be as important as eventual monetary benefits. The manner in which the COP operationalises benefit-sharing and the financial mechanism will therefore be of particular interest.

92. Similarly, effective engagement with ABMT and EIA processes will depend upon the ability of States to obtain and assess scientific information and participate in technical decision-making. This is particularly relevant for coastal, archipelagic and island developing States whose ecosystems and economic activities may be affected by developments in adjacent areas beyond national jurisdiction. Strengthening regional scientific networks, information-sharing and technical cooperation could facilitate more effective participation in these processes.

93. The BBNJ Agreement also provides scope for enhanced South-South and triangular cooperation. Asian and African States possess differing levels and areas of expertise in marine scientific research, biodiversity conservation, ocean observation, environmental assessment and marine technology. Cooperation through regional institutions, research networks and training programmes may complement assistance provided through the BBNJ institutional framework and enable States to share experience in domestic implementation.

94. As the Agreement moves into its operational phase, the first COP will therefore constitute an important milestone for Asian and African States. The effectiveness of the BBNJ regime will depend not only upon the establishment of its institutions but also upon whether those institutions facilitate meaningful participation, equitable benefit-sharing, access to finance, scientific and technological capacity, and effective implementation. Continued engagement with the COP process and its subsidiary bodies will be important in ensuring that the implementation of the Agreement takes adequate account of the circumstances and priorities of developing States.

C. Regulation of Offshore Renewable Energy Activities in the Marine Environment

i. Growth of Offshore Renewable Energy Activities

95. The increasing utilisation of the marine environment for renewable energy production constitutes an important development in contemporary ocean activities. Marine renewable energy encompasses a range of technologies capable of generating energy from resources in the marine environment, including offshore wind, wave and tidal energy, ocean currents and ocean thermal energy. Among these technologies, offshore wind has reached the most advanced stage of commercial deployment, while technological developments, including floating offshore wind installations, are progressively expanding the range of marine areas in which renewable energy projects may be technically feasible.[68]

96. The development of offshore renewable energy reflects the increasing importance of marine areas to sustainable energy development. Offshore renewable energy can contribute to the diversification of energy sources and the transition towards lower-carbon energy systems. At the same time, the establishment of large-scale installations at sea introduces additional uses of marine space and requires consideration of their interaction with marine ecosystems, navigation, fisheries, submarine infrastructure and other maritime activities.[69]

97. These developments are of particular relevance for coastal States in Asia and Africa, including States seeking to expand renewable energy production while ensuring the sustainable use of marine areas. The circumstances of individual States differ considerably in terms of geography, renewable energy potential, technological and institutional capacity, infrastructure and national development priorities. Accordingly, there is no single regulatory model applicable to offshore renewable energy development. Nevertheless, the growth of the sector raises common legal and regulatory considerations concerning coastal-State rights and jurisdiction, environmental protection, the allocation of marine space and coordination among different uses of the sea.

ii. Legal Framework under UNCLOS

[68] International Renewable Energy Agency, Offshore Renewables: An Action Agenda for Deployment (IRENA 2021); International Renewable Energy Agency, Floating Offshore Wind Outlook (IRENA 2024). See also Carlos Soria-Rodríguez, 'Marine Renewable Energy Technologies on the High Seas: Challenges and Opportunities to Strengthen International Environmental and Renewable Energy Governance' (2022) 11 Cambridge International Law Journal 202.

[69] International Renewable Energy Agency, Fostering a Blue Economy: Offshore Renewable Energy (IRENA 2020); Dan Wilhelmsson and others, Greening Blue Energy: Identifying and Managing the Biodiversity Risks and Opportunities of Offshore Renewable Energy (IUCN 2010).

98. The United Nations Convention on the Law of the Sea (UNCLOS) does not establish a sector-specific regime for offshore renewable energy. Its provisions nevertheless provide the principal international legal framework within which such activities take place. The applicable rights and obligations depend upon the maritime zone concerned and operate alongside the Convention's requirements concerning protection and preservation of the marine environment and due regard for the rights and duties of other States.[70]

99. Within the territorial sea, the coastal State exercises sovereignty subject to UNCLOS and other rules of international law. The authorisation and regulation of offshore renewable energy installations within this zone therefore fall within the authority of the coastal State, subject to the applicable provisions of the Convention, including those concerning innocent passage and protection of the marine environment.[71]

100. The legal basis for renewable energy activities is particularly clear in the exclusive economic zone (EEZ). Article 56(1)(a) of UNCLOS recognises the sovereign rights of the coastal State with regard to activities for the economic exploitation and exploration of the zone, expressly including the production of energy from the water, currents and winds. Article 56(1)(b) further provides the coastal State with jurisdiction concerning the establishment and use of artificial islands, installations and structures and the protection and preservation of the marine environment.[72]

101. Article 60 further provides the coastal State with the exclusive right to construct, and to authorise and regulate the construction, operation and use of artificial islands, installations and structures for the purposes provided for in Article 56 and other economic purposes. Where necessary, reasonable safety zones may be established around such installations. Due notice must be given of their construction and permanent means for giving warning of their presence must be maintained. The Convention also addresses abandoned or disused installations, requiring their removal to ensure safety of navigation, taking into account generally accepted international standards and relevant considerations concerning fishing, protection of the marine environment and the rights and duties of other States.[73]

102. Article 80 provides that Article 60 applies mutatis mutandis to artificial islands, installations and structures on the continental shelf.[74] These provisions collectively establish an international legal framework within which coastal States may develop national regulatory arrangements governing the authorisation, construction, operation, safety and decommissioning of offshore installations.

103. The exercise of coastal-State rights over offshore renewable energy takes place within the wider legal framework established by UNCLOS. Article 56(2) requires the coastal State, in exercising its rights and performing its duties in the EEZ, to have due regard to the rights and duties of other States. Correspondingly, Article 58 preserves, subject to the relevant provisions of

[70] UNCLOS.
[71] ibid arts 2, 17-19.
[72] ibid art 56(1)(a)-(b).
[73] UNCLOS art 60(1)-(7).
[74] ibid art 80.

UNCLOS, freedoms including navigation and overflight and the laying of submarine cables and pipelines, while requiring other States to have due regard to the rights and duties of the coastal State.[75] The Convention thus provides a framework for accommodating renewable energy development alongside other lawful uses of marine areas.

iii. Protection and Preservation of the Marine Environment

104. Offshore renewable energy development is also subject to the obligations concerning marine environmental protection contained in Part XII of UNCLOS. Article 192 establishes the general obligation of States to protect and preserve the marine environment. Article 193 recognises the sovereign right of States to exploit their natural resources pursuant to their environmental policies, while expressly making that right subject to their duty to protect and preserve the marine environment. Article 194 further requires States to take measures necessary to prevent, reduce and control pollution of the marine environment from any source.[76]

105. Although renewable energy can contribute to sustainable energy objectives, offshore installations may have environmental effects during different stages of their life cycle. Depending upon the technology, location and characteristics of a particular project, potential effects may include seabed and habitat disturbance during construction, underwater noise, electromagnetic fields associated with submarine cables, changes to the distribution or behaviour of marine species, and collision or displacement risks for certain marine and migratory species. Conversely, submerged structures may in some circumstances create additional habitats or produce localised reef effects. The environmental consequences of offshore renewable energy should therefore not be characterised as uniformly adverse or beneficial, but assessed in the light of the characteristics and environmental setting of the individual project.[77] The IUCN's Greening Blue Energy study similarly emphasises a science-based assessment of both the biodiversity risks and opportunities associated with offshore renewable energy.

106. Environmental impact assessment (EIA) consequently constitutes an important regulatory mechanism. Article 206 of UNCLOS provides that, where States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of, or significant and harmful changes to, the marine environment, they shall, as far as practicable, assess the potential effects of such activities. Environmental assessment can enable relevant authorities to consider baseline environmental conditions, potential impacts, alternative locations or designs and appropriate measures for avoidance, mitigation and monitoring before a project is authorised.

107. Other relevant international environmental instruments may complement the UNCLOS framework where their respective subject matter and obligations are applicable. Article 14 of the Convention on Biological Diversity, for example, addresses impact assessment of proposed

[75] ibid arts 56(2) and 58.

[76] UNCLOS arts 192-194. See also Nikolaos Giannopoulos, 'Global Environmental Regulation of Offshore Energy Production: Searching for Legal Standards in Ocean Governance' (2019) 28 *Review of European, Comparative & International Environmental Law* 289.

[77] Hélène Soubelet, Claire Salomon and Jean-François Silvain, The Impacts of Offshore Wind Power on Biodiversity and Recommendations for Assessing the Risks: Knowledge Synthesis (Fondation pour la recherche sur la biodiversité 2023) 3-16; Wilhelmsson and others (n 48).

projects likely to have significant adverse effects on biological diversity. The Convention on Migratory Species has also addressed the interaction between renewable energy development and migratory species, including through guidance concerning planning, environmental impact assessment, monitoring and mitigation.[78] In May 2026, the fifteenth meeting of the Conference of the Parties to the Convention on Migratory Species (held in March 2026) adopted a revised version of Resolution 11.27 on Renewable Energy and Migratory Species, demonstrating the continuing relevance of this issue.

108. Environmental assessment may also need to consider cumulative effects, particularly where several renewable energy projects or other maritime activities are undertaken within the same broader marine area. Environmental effects may arise not only from an individual installation but from the combined effects of multiple projects, associated transmission infrastructure and existing human activities. Appropriate spatial and temporal assessment can therefore complement project-specific evaluation and assist authorities in identifying potential pressures that may not be apparent when individual projects are considered separately.[79]

109. Environmental regulation should accordingly extend throughout the project life cycle, including site selection, construction, operation, maintenance and eventual decommissioning. Monitoring can provide information on actual environmental effects and the effectiveness of mitigation measures, while allowing regulatory approaches to respond to developing scientific knowledge. Articles 204 and 205 of UNCLOS, which concern monitoring of the risks or effects of pollution and publication of reports, provide additional elements of the Convention's broader environmental framework.[80]

110. Decommissioning warrants particular consideration in this context. Article 60(3) requires abandoned or disused installations or structures to be removed to ensure safety of navigation, taking into account generally accepted international standards, protection of the marine environment and other relevant interests. The International Maritime Organization (IMO) has adopted Guidelines and Standards for the Removal of Offshore Installations and Structures on the Continental Shelf and in the EEZ, providing additional international guidance in this area.[81]

iv. Interaction with Other Uses of the Sea

111. Offshore renewable energy installations operate within marine areas that may simultaneously support navigation, fisheries, submarine cables and pipelines, marine conservation, marine scientific research and other lawful activities. The development of renewable energy therefore requires consideration of the relationship between different uses of marine space. Such interactions need not necessarily be characterised as conflicts between competing activities, rather,

[78] Convention on Biological Diversity (opened for signature 5 June 1992, entered into force 29 December 1993) 1760 UNTS 79, art 14; Convention on the Conservation of Migratory Species of Wild Animals, Resolution 11.27 (Rev COP15), 'Renewable Energy and Migratory Species' (COP15, 2026).
[79] Soubelet, Salomon and Silvain (n 56); Convention on the Conservation of Migratory Species of Wild Animals, Resolution 11.27 (Rev COP15) (n 57).
[80] UNCLOS arts 204-206; Soubelet, Salomon and Silvain (n 56).
[81] International Maritime Organization, Resolution A.672(16), 'Guidelines and Standards for the Removal of Offshore Installations and Structures on the Continental Shelf and in the Exclusive Economic Zone' (19 October 1989).

they highlight the importance of due regard, information-sharing, consultation and integrated planning.

112. Safety of navigation constitutes an important consideration in the siting and operation of offshore installations. Article 60 permits reasonable safety zones around installations where necessary and requires appropriate notice and warning of their presence. It further provides that installations and their safety zones may not be established where interference may be caused to the use of recognised sea lanes essential to international navigation.[82] IMO Resolution A.671(16) on Safety Zones and Safety of Navigation around Offshore Installations and Structures recommends, inter alia, early consideration of shipping traffic patterns so that potential interference with marine traffic can be assessed.[83]

113. Offshore renewable energy development may similarly interact with fisheries through the allocation of marine space and possible environmental effects on marine ecosystems and fishery resources. The nature and extent of these interactions are necessarily location- and project-specific. Early consideration of existing fishing activities, consultation where appropriate, and access to relevant scientific and spatial information can assist regulatory authorities in identifying arrangements capable of facilitating compatible uses of marine areas.

114. Submarine cables and pipelines constitute another important consideration. Offshore renewable energy projects themselves generally require transmission infrastructure connecting installations to onshore energy systems, while existing marine areas may already contain telecommunications cables, power cables or pipelines. UNCLOS recognises rights relating to the laying of submarine cables and pipelines in the EEZ and continental shelf, subject to the relevant provisions of the Convention, and requires due regard to cables and pipelines already in position.[84]

115. Marine conservation and marine scientific research may likewise interact with renewable energy development. Environmental and scientific information can assist in identifying suitable locations, establishing environmental baselines and designing monitoring and mitigation measures. Conversely, the presence of ecologically sensitive areas or species may influence decisions concerning the location, scale or design of installations. These considerations reinforce the value of incorporating scientific and environmental information at an early stage of regulatory planning.

v. Marine Spatial Planning and Regulatory Coordination

116. As the range and intensity of activities undertaken in marine areas increase, marine spatial planning (MSP) can provide a useful mechanism for coordinating different uses of ocean space. Although UNCLOS does not prescribe a particular model of marine spatial planning, MSP can assist States in considering environmental, economic and operational factors together when determining the location and scale of marine activities.

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[82] UNCLOS art 60(4)-(7).

[83] International Maritime Organization, Resolution A.671(16), 'Safety Zones and Safety of Navigation around Offshore Installations and Structures' (19 October 1989).

[84] UNCLOS arts 58(1) and 79.

117. In the offshore renewable energy context, marine spatial planning can assist in identifying areas possessing suitable renewable energy potential while taking account of navigation routes, fishing activities, environmentally sensitive areas, submarine infrastructure, marine scientific research and other uses of the sea. It can also facilitate consideration of cumulative effects where multiple projects or activities are contemplated within the same marine area. MSP may therefore complement, rather than replace, project-specific licensing and environmental impact assessment.

118. Effective regulation also requires appropriate coordination among national authorities. Offshore renewable energy projects may engage government bodies responsible for energy, environmental protection, maritime transport, fisheries, infrastructure, scientific research and coastal planning. Clearly defined regulatory responsibilities and mechanisms for inter-agency coordination can facilitate coherent decision-making, reduce duplication and provide greater clarity to project proponents and other users of marine space.

119. Cooperation and information-sharing may also be useful where environmental effects or other practical considerations extend beyond a single jurisdiction. Article 197 of UNCLOS requires States to cooperate on a global and, as appropriate, regional basis in formulating and elaborating international rules, standards and recommended practices and procedures for the protection and preservation of the marine environment. Cooperation may also facilitate scientific research, exchange of environmental information, development of technical expertise and sharing of regulatory experience. Such practical cooperation can be undertaken without prejudice to the respective legal positions of States concerning maritime areas.

vi. Opportunities and Regulatory Challenges for Developing Coastal States

120. Offshore renewable energy presents potential opportunities for developing coastal States to diversify energy supply, develop new industries and utilise available marine renewable energy resources. The extent to which such opportunities can be realised will depend upon national circumstances, including geographical conditions, resource potential, infrastructure, financial resources, technological capacity and national development priorities.

121. The development of the sector may require corresponding regulatory and institutional capacity. States considering offshore renewable energy projects may need to develop or adapt frameworks concerning site allocation, licensing, environmental assessment, construction and operational safety, transmission infrastructure, monitoring and decommissioning. Clear institutional mandates and coordination among relevant authorities may be particularly important where offshore renewable energy constitutes a new area of regulatory activity.

122. Scientific and technical capacity is equally important. Effective planning and regulation may require access to reliable information concerning wind and ocean resources, seabed conditions, biodiversity and existing maritime uses, together with expertise in environmental assessment, marine spatial planning and monitoring. Access to appropriate technology and technical expertise can also assist regulatory authorities in independently evaluating project proposals and environmental information.

123. These considerations connect offshore renewable energy development with the broader question of capacity-building and transfer of marine technology. UNCLOS itself recognises the importance of scientific and technical assistance to developing States under Articles 202 and 203. International and regional cooperation can complement national efforts through technical training, scientific cooperation, exchange of information and regulatory experience, and dissemination of good practices.

124. Cooperation among Asian and African States may be particularly useful in this regard. States within the two regions possess differing levels of experience in offshore energy, marine environmental assessment, ocean science and marine spatial planning. Exchange of regulatory practices and technical experience can therefore enable States considering offshore renewable energy development to draw upon relevant lessons while adapting them to their own geographical, economic and institutional circumstances.

125. Offshore renewable energy ultimately illustrates the broader challenge of accommodating new and emerging uses of the oceans within the existing international law of the sea framework. UNCLOS provides a legal basis for coastal-State rights concerning marine renewable energy while simultaneously requiring protection and preservation of the marine environment and respect for other lawful uses of the sea. The effective regulation of offshore renewable energy therefore calls for an integrated approach combining legal certainty, environmental assessment, scientific information, appropriate spatial planning, monitoring and regulatory cooperation. For developing coastal States, strengthening the institutional, scientific and technical capacity necessary to undertake these functions can help ensure that opportunities presented by offshore renewable energy are pursued consistently with the sustainable use and protection of the marine environment.

IV. CAPACITY BUILDING FOR DEVELOPING STATES

A. Capacity Building and Technology Transfer in Ocean Governance

126. Capacity-building and the development and transfer of marine technology constitute important components of the international law of the sea framework. The effective exercise of rights and fulfilment of obligations under the United Nations Convention on the Law of the Sea (UNCLOS) increasingly require scientific, technical and institutional capabilities, including access to marine scientific research, ocean observations and data, environmental assessment, hydrographic and technological expertise, and appropriately trained personnel. These requirements are particularly significant for developing States seeking to participate effectively in the sustainable use and management of ocean resources.

127. UNCLOS establishes a broad framework for cooperation in this regard. Part XIII requires States and competent international organisations to promote and facilitate the development and conduct of marine scientific research and encourages the dissemination of scientific information and the strengthening of the autonomous marine scientific research capabilities of developing States through education and training.[85] Part XIV specifically addresses the development and transfer of marine technology. Article 266 requires States, directly or through competent

[85] UNCLOS arts 238-244.

international organisations, to cooperate in promoting the development and transfer of marine science and technology on fair and reasonable terms and conditions and to promote the scientific and technological capacity of States requiring technical assistance, particularly developing States.

128. The Convention further identifies the development of technological infrastructure, human resources and access to marine scientific and technological information among the objectives of this framework. It envisages technical cooperation programmes, exchange of scientists and experts, training and education, joint projects and cooperation at bilateral, regional and multilateral levels.[86] UNCLOS also provides for the establishment and strengthening of national and regional marine scientific and technological research centres, particularly in developing States.[87] These provisions remain particularly relevant as contemporary ocean governance increasingly depends upon access to sophisticated scientific information, digital data, research infrastructure and specialised technologies.

129. Developments considered elsewhere in this brief reinforce this relationship between legal implementation and capacity. The implementation of the BBNJ Agreement, environmental impact assessment, marine biodiversity conservation and the regulation of emerging maritime activities all require scientific and technical capabilities. Capacity-building should therefore be understood not merely as technical assistance, but as an important means of enabling developing States to participate effectively in the implementation and continuing development of the law of the sea.

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

130. The United Nations Decade of Ocean Science for Sustainable Development (2021-2030), coordinated by the Intergovernmental Oceanographic Commission (IOC) of UNESCO, provides an important contemporary framework for strengthening ocean science and its contribution to sustainable development. In particular, the Ocean Decade supports the achievement of Sustainable Development Goal 14 (SDG 14), to "conserve and sustainably use the oceans, seas and marine resources for sustainable development", by strengthening the scientific knowledge and capacity necessary for informed ocean action.

131. Proclaimed by the United Nations General Assembly in 2017, the Ocean Decade seeks to mobilise scientific knowledge, infrastructure, partnerships and capacity around the vision of "the science we need for the ocean we want".[88] Its ten-decade Challenges encompass, inter alia, marine pollution, ecosystem protection, the ocean-climate nexus, ocean observation, digital representation of the ocean and, importantly for developing States, skills, knowledge, technology and participation for all.[89]

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[86] UNCLOS arts 268-270.

[87] ibid arts 275-277.

[88] UNGA Res 72/73 (5 December 2017) UN Doc A/RES/72/73, para 292; Intergovernmental Oceanographic Commission, United Nations Decade of Ocean Science for Sustainable Development (2021-2030): Implementation Plan (UNESCO 2021).

[89] Intergovernmental Oceanographic Commission, The Ocean Decade Challenges (IOC-UNESCO); Intergovernmental Oceanographic Commission, United Nations Decade of Ocean Science for Sustainable Development (2021-2030): Implementation Plan (UNESCO 2021).

132. Since the previous Annual Session, implementation of the Ocean Decade has continued to expand. The Vision 2030 process, developed following extensive consultation across the ten Decade Challenges, has provided a strategic pathway for the remaining years of the Decade. Its consolidated outcomes emphasise, among other priorities, meaningful investment in capacity development, greater access to technology, infrastructure, data and information, and the operationalisation of mechanisms capable of addressing identified capacity needs.[90] The process is significant because it shifts attention towards the practical requirements for achieving the Decade's objectives by 2030, including persistent disparities in access to scientific capabilities.

133. The network of Ocean Decade Actions has also continued to grow. In its 2026 Call for Decade Actions, the Ocean Decade reported 62 endorsed Decade Programmes and 657 endorsed Decade Projects, supported by more than 133 contributions of financial and in-kind resources.[91] In June 2026, a further 73 Decade Actions were endorsed, addressing areas including ocean observation, biodiversity, climate resilience, sustainable ocean management and capacity development.[92] The current Ocean Decade database now contains more than 1,000 Actions of different categories.

134. Of particular relevance is the increasing emphasis on capacity development as an enabling condition for ocean science. The Ocean Decade Capacity Development Facility has been developed to identify capacity needs, connect partners and resources, and strengthen capacity-development initiatives within Decade Actions. In 2026, the Ocean Decade continued to promote the Facility as a mechanism for supporting more equitable participation in ocean science.[93] This approach is consistent with the Vision 2030 recommendation that the Facility be fully operationalised and that capacity development be integrated systematically across Decade Actions.

135. The Ocean Decade also places increasing emphasis on access to and use of ocean data and information. This is particularly important for developing States because scientific participation depends not only upon the ability to generate data, but also upon the capacity to discover, access, interpret and apply it. Strengthening interoperable ocean-data systems, observation capabilities and scientific networks can support environmental assessment, marine biodiversity conservation, climate resilience and evidence-based decision-making.

136. The next major milestone will be the 2027 Ocean Decade Conference, to be held in Rio de Janeiro, Brazil, from 7 to 9 April 2027. The Conference is intended to review progress, strengthen

[90] Intergovernmental Oceanographic Commission, Ambition, Action, Impact: The Ocean Decade Pathway to 2030-Consolidated Outcomes of the Vision 2030 Process (IOC-UNESCO 2024) <https://unesdoc.unesco.org/ark:/48223/pf0000391502.locale=en> accessed 19 August 2026.

[91] Intergovernmental Oceanographic Commission, 'Call for Decade Actions No 11/2026' (2026) <https://oceandecade.org/call-for-decade-actions-11-2026/> accessed 19 August 2026.

[92] Intergovernmental Oceanographic Commission, 'New Decade Actions to Reimagine the Future of the Ocean through Science, Partnerships, and Action' (8 June 2026) <https://oceandecade.org/news/new-decade-actions-to-reimagine-the-future-of-the-ocean-through-science-partnerships-and-action/> accessed 19 August 2026.

[93] Intergovernmental Oceanographic Commission, What is the Ocean Decade Capacity Development Facility? (IOC-UNESCO 2026) <https://oceandecade.org/publications/brochure-what-is-the-ocean-decade-capacity-development-facility/> accessed 19 August 2026; Intergovernmental Oceanographic Commission, Ambition, Action, Impact (n 69).

partnerships and accelerate implementation during the final years of the Decade.[94] For Asian and African States, the continuing implementation phase provides opportunities to participate in Decade Actions, research networks and capacity-development initiatives and to contribute to identifying priorities for ocean science beyond 2030.

C. Strengthening Access to Marine Scientific Research, Training, and Technology

137. The effectiveness of capacity-building ultimately depends upon the ability of developing States to acquire and sustain their own scientific and technical capabilities. Article 244 of UNCLOS specifically calls for the flow of scientific data and information and the transfer of knowledge resulting from marine scientific research, particularly to developing States, as well as the strengthening of their autonomous marine scientific research capabilities through education and training. Part XIV similarly emphasises the development of human resources, technological infrastructure and access to marine scientific and technological information.[95]

138. Capacity-building may therefore encompass a broad range of measures: specialised education and professional training; participation in research programmes and expeditions, access to research vessels, laboratories and observation technologies, ocean-data management, hydrographic and environmental expertise, and opportunities for scientists and technical personnel to participate in international research networks. Strengthening institutional capacity is equally important, since the sustainable use of acquired expertise requires national institutions capable of retaining trained personnel, maintaining scientific infrastructure and integrating scientific information into decision-making.

139. The IOC Criteria and Guidelines on the Transfer of Marine Technology provide an established framework for facilitating implementation of the technology-transfer provisions of UNCLOS. The Guidelines seek to promote capacity-building, particularly in developing States, through cooperation concerning marine scientific knowledge, expertise, equipment and methods.[96] Their continuing relevance is reinforced by contemporary developments in ocean observation, digital technologies and biodiversity research, which demonstrate that meaningful participation increasingly depends upon both access to technology and the capacity to utilise it effectively.

140. Particular attention may therefore be given to ensuring that capacity-building is needs-based, sustained and capable of strengthening long-term national capabilities. Short-term training remains valuable, but its effectiveness can be enhanced where it is accompanied by institutional partnerships, access to equipment and data, continuing scientific cooperation and opportunities to apply acquired expertise. The emphasis should ultimately be on enabling developing States not

[94] Intergovernmental Oceanographic Commission, '2027 Ocean Decade Conference Officially Announced in Rio de Janeiro' (17 October 2025) <https://www.ioc.unesco.org/en/2027-ocean-decade-conference-officially-announced-rio-de-janeiro> accessed 19 August 2026.
[95] UNCLOS arts 266, 268-269.
[96] Intergovernmental Oceanographic Commission, IOC Criteria and Guidelines on the Transfer of Marine Technology (UNESCO 2005) IOC/INF-1203; see also United Nations, United Nations Convention on the Law of the Sea at 40: Successes and Future Prospects (United Nations 2023) 19.

only to receive scientific information, but also to generate knowledge and participate as partners in marine scientific research.

D. International, Regional and South-South Cooperation

141. International and regional cooperation is integral to the UNCLOS framework for capacity-building. Article 268 expressly identifies international cooperation at all levels, particularly regional, sub-regional and bilateral levels, as a basic objective of the development and transfer of marine technology. Article 270 similarly envisages cooperation through existing and new bilateral, regional and multilateral programmes, while Articles 275-277 provide for national and regional marine scientific and technological research centres, including training, data processing, dissemination of research and technical cooperation among States.[97]

142. These provisions provide a strong basis for greater cooperation among Asian and African States. States in the two regions possess differing levels of expertise and institutional capacity in fields including oceanography, hydrography, marine biodiversity, environmental assessment, ocean observation and marine technology. South-South cooperation can enable such expertise to be shared through joint research, scientist exchanges, regional training programmes, access to research infrastructure, data-sharing and partnerships among universities and marine research institutions

143. Regional and South-South cooperation can complement, rather than replace, capacity-building provided through global mechanisms. Initiatives under the Ocean Decade, IOC programmes, the BBNJ Agreement and other competent international organisations provide opportunities for broader technical and financial support, while cooperation among developing States can assist in tailoring knowledge and experience to comparable regional circumstances. The Ocean Decade's emphasis on networks, partnerships and capacity development provides a particularly useful platform for connecting these different levels of cooperation.

144. Strengthening capacity-building and marine technology transfer therefore remains important to the effective participation of developing States in contemporary ocean governance. As the scientific and technological requirements associated with implementation of the law of the sea continue to expand, sustained investment in human resources, institutions, scientific infrastructure and international cooperation will be essential. For AALCO, this provides an area in which the exchange of experience and promotion of Asian-African scientific and technical cooperation can complement existing international mechanisms and support more effective implementation of the law of the sea.

V. COMMENTS AND OBSERVATIONS OF THE AALCO SECRETARIAT

145. The law of the sea continues to undergo significant legal, institutional, scientific and technological developments. The AALCO Secretariat notes that these developments present both opportunities and challenges for Asian and African States and reinforce the importance of

[97] UNCLOS (n 1) arts 268(e), 270, 275-277.

continued engagement with the international legal framework governing the oceans. In this regard, AALCO remains well placed to provide a forum for the exchange of views and experiences on matters of common interest and to support greater understanding of developments of particular relevance to its Member States.

146. The Secretariat welcomes the continuing participation and representation of Asian and African States in institutions established under the United Nations Convention on the Law of the Sea (UNCLOS). In particular, the election in June 2026 of three candidates from AALCO Member States to the ITLOS is a noteworthy development. The recent proceedings before the Tribunal, including the first contentious cases brought before the Seabed Disputes Chamber under Part XI of UNCLOS, further illustrate the continuing role of the dispute settlement mechanisms established under the Convention. The continuing work of the International Seabed Authority and the Commission on the Limits of the Continental Shelf likewise underscores the importance of sustained participation in the institutions and processes established under UNCLOS. The continuing negotiations within the ISA on the Draft Regulations on Exploitation of Mineral Resources in the Area, as part of the development of the Mining Code, remain an important institutional and regulatory development under Part XI of UNCLOS. The technical nature of many of these processes further demonstrates the importance of access to appropriate legal, scientific and technical expertise, particularly for developing States.

147. The entry into force of the BBNJ Agreement on 17 January 2026 constitutes one of the most significant recent developments in the international law of the sea and marks the transition from the negotiation of the Agreement to its implementation. The Secretariat considers that the present implementation phase, particularly the preparations for the first meeting of the Conference of the Parties, merits close attention. Decisions concerning the institutional, procedural, financial and scientific arrangements under the Agreement will be important for its effective operation and for ensuring meaningful participation by developing States.

148. The Secretariat further observes that the effective implementation of the BBNJ Agreement will depend upon the ability of States to participate in its substantive and institutional mechanisms. The fair and equitable sharing of benefits arising from marine genetic resources, participation in processes concerning area-based management tools and environmental impact assessments, and access to capacity-building, finance, scientific information and marine technology are therefore of particular relevance to developing States. The mechanisms established under the Agreement provide important opportunities for strengthening scientific and technological capacity and enabling more effective participation in the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.

149. The protection and preservation of the marine environment remains a central consideration in the development and implementation of the law of the sea. The Secretariat considers that the increasing diversity and intensity of activities undertaken in marine areas reinforces the importance of environmental assessment, scientific information, monitoring and appropriate regulatory coordination. These considerations are relevant not only to established maritime activities, but also to new and emerging uses of marine space.

150. In this context, the development of offshore renewable energy represents an emerging area of relevance within the law of the sea. UNCLOS provides an important legal framework for such activities, including through its provisions concerning coastal-State rights and jurisdiction, installations and structures, due regard for other lawful uses of the sea, and protection and preservation of the marine environment. As offshore renewable energy develops, appropriate environmental assessment, marine spatial planning, monitoring and coordination with other maritime activities can contribute to the sustainable and orderly use of marine areas. For developing coastal States, regulatory experience, scientific expertise and access to relevant technologies will be important in evaluating and, where appropriate, developing such activities in accordance with their national circumstances and priorities. The draft accordingly treats offshore renewable energy as an emerging issue while emphasising environmental protection, regulatory coordination and capacity rather than prescribing any particular model of development.

151. The Secretariat considers capacity-building and the transfer of marine technology to be a particularly important cross-cutting consideration in contemporary ocean governance. Effective implementation of the law of the sea increasingly depends upon scientific, technical and institutional capabilities, including marine scientific research, ocean observation, environmental assessment, hydrographic expertise, access to data and appropriately trained personnel. Capacity-building should therefore contribute to strengthening the ability of developing States to exercise their rights, fulfil their obligations and participate effectively in international processes relating to the oceans.

152. The Secretariat welcomes, in this regard, the continued implementation of the United Nations Decade of Ocean Science for Sustainable Development (2021-2030) and its emphasis on strengthening scientific knowledge, capacity development, access to technology and ocean data, and participation in ocean science. Developments since the previous Annual Session, including the continued expansion of Ocean Decade Actions and the increasing emphasis on the Ocean Decade Capacity Development Facility, provide further opportunities for developing States to strengthen scientific networks and capabilities. The forthcoming 2027 Ocean Decade Conference may provide an additional opportunity to review progress and strengthen partnerships during the remaining years of the Decade.

153. The Secretariat further considers that international, regional and South-South cooperation can make an important contribution to these efforts. Asian and African States possess diverse expertise and experience in oceanography, hydrography, marine biodiversity, environmental assessment, ocean observation and marine technology. Cooperation through training, exchange of scientists and experts, joint research, access to research infrastructure, data-sharing and partnerships among relevant institutions can complement existing international capacity-building mechanisms and assist States in developing sustainable national scientific and technical capabilities. The present brief identifies these forms of cooperation as a practical means of strengthening implementation of the law of the sea.

154. In light of the foregoing, the AALCO Secretariat is of the view that continued attention may be given to:

a. the effective implementation of the BBNJ Agreement, including developments relating to its Conference of the Parties and subsidiary bodies, and opportunities for developing States to participate effectively in its institutional, scientific, financial and capacity-building mechanisms;
b. the protection and preservation of the marine environment, including through appropriate environmental assessment, scientific monitoring and cooperation;
c. strengthening capacity-building and the transfer of marine technology for developing States, particularly in marine scientific research, access to ocean data, technical training, research infrastructure and the development of sustained institutional capacity;
d. enhancing international, regional and South-South cooperation, including through joint research, exchange of expertise, training and information-sharing among Asian and African States;
e. continued engagement with developments in institutions established under UNCLOS and related instruments, including opportunities for effective representation and participation by Asian and African States; and
f. consideration of emerging areas of the law of the sea, including offshore renewable energy, with particular attention to environmental protection, regulatory capacity, scientific knowledge and the orderly coexistence of different uses of marine space.

155. The AALCO Secretariat will continue to follow developments in the law of the sea and assist Member States through research, dissemination of information, capacity-building initiatives and the facilitation of dialogue and exchange of experience. In view of the increasing scientific, technological and institutional dimensions of contemporary ocean affairs, the Secretariat considers that strengthening the capacity of developing States and promoting greater Asian-African cooperation should remain important elements of AALCO's future work in this field.