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THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION

REPORT ON 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).

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TABLED BY:	CHAIRPERSON, BUDGET AND APPROPRIATIONS COMMITTEE
CLERK-AT-THE-TABLE:	J. LEMRELLE

**CLERK'S CHAMBERS
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PARLIAMENT BUILDINGS
NAIROBI**

JUNE 2025

**NATIONAL ASSEMBLY
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LIST OF ABBREVIATIONS AND ACRONYMS

BBNJ	Biological Diversity of Areas Beyond National Jurisdiction
UNCLOS	United Nations Convention on the Laws of the Sea
UNs	United Nations
COPs	Conference of Parties
SDGs	Sustainable Development Goals
ABNJ	Areas Beyond National Jurisdiction
EIAs	Environmental Impact Assessments
NGOs	Non-Governmental Organizations
MGRs	Marine Genetic Resources
MP	Member of Parliament
DSI	Digital Sequence Information
KIBO	Kenya International Boundary Office

CHAIRPERSON'S FOREWORD

This Report contains proceedings of the Departmental Committee on Blue Economy, Water and Irrigation on its consideration 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 (BBNJ Agreement).

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) was tabled in the National Assembly on Wednesday, 30th April 2025 and consequently referred to the Committee pursuant to the provisions of Standing Order 170A. The Committee is required to facilitate public participation and make appropriate recommendations on whether the House should approve, approve with reservations or reject ratification of the Agreement. The Agreement provides a comprehensive framework to address the critical gaps in the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.

The Agreement was adopted on 19th June 2023, in New York, USA by the Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction convened under the auspices of the United Nations General Assembly. The Agreement addresses a compendium of issues that include marine genetic resources including a fair and equitable sharing of benefits, conservation measures such as Area Based Management Tools, Environmental Impact Assessment, Capacity Building and the Transfer of Marine Technology.

An invitation for submission memoranda from the public was issued through advertisements in the print media on 5th May, 2025. The Committee did not receive any memoranda from the public. However, the Committee conducted a workshop with the relevant stakeholders on Thursday, 29th May 2025 at Radisson Blue Hotel to discuss and conduct consultations on the Agreement.

The Committee held three (3) meetings, both in-house and stakeholder engagements. The Committee recommends that the House **approves** 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) subject to entry of two declarations pursuant to Articles 70 and 71 of the Agreement.

The Committee is grateful to the office of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it in the execution of its mandate.

Finally, I express my appreciation to Members of the Committee and the Committee Secretariat for their patience, sacrifice, endurance and commitment to the assignment, which enabled the Committee to complete the task within the stipulated period.

It is therefore my pleasant duty and privilege, on behalf of the Departmental Committee on Blue Economy, Water and Irrigation to table its Report on the consideration 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.

Hon. Bowen Kangogo, M.P., C.B.S

Chairperson, Departmental Committee on Blue Economy, Water and Irrigation

PART I

I.0 PREFACE

I.1 Establishment of the Committee

- I. The Departmental Committee on Blue Economy, Water and Irrigation is one of the twenty Departmental Committees of the National Assembly established under Standing Order 216 whose mandates pursuant to the Standing Order 216 (5) are as follows:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. *To study and review all legislation referred to it;*
 - v. *To study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - viii. **To examine treaties, agreements and conventions;**
 - ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

I.2 Subjects of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters of: use and regulation of water resources, irrigation, fisheries development including promotion of aquaculture, fish farming, marine fisheries, the sustainable use of ocean resources for economic growth and improved livelihoods, except seaports and marine transport.
3. In executing its mandate, the Committee oversees the following government ministries and departments and agencies (MDAs), namely:
 - i. The State Department for Water and Sanitation
 - ii. The State Department for Irrigation
 - iii. The State Department for Blue Economy and Fisheries

I.3 Committee Membership

The Departmental Committee on Blue Economy and Irrigation was constituted by the House on 27th October, 2022 and comprises of the following Members:

Chairperson

Hon. Bowen Kangogo, MP, CBS
Marakwet East Constituency

United Democratic Alliance Party

Vice- Chairperson

Hon. Kemero Maisori Marwa, MP
Kuria East Constituency

United Democratic Alliance Party

Hon. Mohamed Abdikadir Hussein, MP
Lagdera Constituency

Orange Democratic Movement

Hon. Tandaza Kassim Sawa, MP
Matuga Constituency

Amani National Congress

Hon. Chepkwony Charity Kathambi, MP
Njoro Constituency

United Democratic Alliance Party

Hon. William Kamket, MP
Tiaty Constituency

KANU

Hon. Buyu Rozaah Akinyi, MP
Kisumu West Constituency

Orange Democratic Party

Hon. Eng. Paul Nzengu, MP
Mwingi North Constituency

Wiper Democratic Party

Hon. Adow Mohamed Aden, MP
Wajir South Constituency

Orange Democratic Party

Hon. Dorothy Muthoni Ikiara, MP
Nominated

United Democratic Alliance Party

Hon. Nebart Bernard Muriuki, MP
Mbeere South Constituency

Independent Member

Hon. Mnyazi Amina Laura, MP
Malindi Constituency

Orange Democratic Movement

Hon. Eric Wamumbi, MP
Mathira Constituency

United Democratic Alliance Party

Hon. George Gachagua, MP
Ndaragwa Constituency

United Democratic Alliance Party

I.4 Committee Secretariat

4. The Committee is facilitated by the following staff:

Mr. Nicodemus K. Maluki
Clerk Assistant I/Head of Secretariat

Ms. Ivy Kageha
Clerk Assistant III

Ms. Lynette A. Otieno
Senior Legal Counsel

Ms. Joyce Wachera
Hansard Officer

Ms. Fridah Ngari
Media Relations Officer

Dr. Benjamin Ngimor
Principal Fiscal Analyst

Ms. Veron D. Aluoch
Research Officer III

Mr. Allan Gituku
Sergeant-At-Arms

Mr. Eugene Luteshi
Audio Officer

PART II

2.0 CONSIDERATION OF THE AGREEMENT

2.1 Background information

5. 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) was tabled in the National Assembly 30th April, 2025 and consequently referred to the Committee. The Agreement provides a comprehensive framework to address the critical gaps in the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction addressing issues that include marine genetic resources including a fair and equitable sharing of benefits, conservation measures such as Area Based Management Tools, Environmental Impact Assessment, Capacity Building and the Transfer of Marine Technology.

2.2 Legal and Institutional Framework

2.1.1 Constitutional and Legal Basis

6. Article 2(6) of the Constitution read together with the Treaty Making and Ratification Act (Cap.4D) provides the foundation for incorporating international treaties into domestic law. The National Assembly plays a critical role in ratification, ensuring conformity with constitutional values and public interest.
7. Article 2(5) of the Constitution of Kenya, 2010 provides that the general rules of international law shall form part of the law of Kenya while Article 2(6) of the Constitution provides that any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.
8. The Treaty Making and Ratification Act, Cap. 4D that governs the making and ratification of treaties in Kenya, gives effect to Article 2(6) of the Constitution. Section 2 of the Act defines a treaty as an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation and includes a convention.
9. Under section 7 Cap.4D, where the Government intends to ratify a treaty, the Cabinet Secretary of the relevant State Department shall, in consultation with the Attorney-General, submit to the Cabinet the treaty, together with a memorandum outlining—
 - a) the objects and subject matter of the treaty;
 - b) any constitutional implications including—
 - i. any proposed amendment to the Constitution; and
 - ii. that the treaty is consistent with the Constitution and promotes constitutional values and objectives;
 - c) the national interests which may be affected by the ratification of the treaty;
 - d) obligations imposed on Kenya by the treaty;
 - e) requirements for implementation of the treaty;
 - f) policy and legislative considerations;
 - g) financial implications;
 - h) ministerial responsibility;
 - i) implications on matters relating to counties;
 - j) the summary of the process leading to the adoption of the treaty;

- k) the date of signature;
- l) the number of states that are party to the treaty;
- m) the views of the public on the ratification of the treaty;
- n) whether the treaty sought to be ratified permits reservations and any recommendations on reservations and declarations;
- o) the proposed text of any reservations that should be entered when ratifying the treaty in order to protect or advance national interests or ensure conformity with the Constitution; and
- p) Whether expenditure of public funds will be incurred in implementing the treaty and an estimate, where possible, of the expenditure.

2.1.2 Role of the National Assembly

10. Section 8(1) of the Treaty Making and Ratification Act provides that where the Cabinet approves the ratification of a treaty, the Cabinet Secretary shall submit the treaty and a memorandum on the treaty to the Speaker of the National Assembly.
11. Standing Order (170A) further outline procedures for public participation and reporting by Parliamentary Committees as follows-
 - 170A.** (1) A treaty submitted to the National Assembly for ratification shall be laid on the Table of the House and stand committed to the relevant Committee for consideration.
 - (2) The Committee shall undertake public participation before submitting its report to the House.
 - (3) In addition to the information required to be submitted to the National Assembly under written law, the committee may require the relevant Cabinet Secretary to submit further information, including—
 - (a) the social and environmental impact of the treaty in the short-term, medium-term and long-term; and,
 - (b) the nature and evidence of any public participation conducted on the treaty.
 - (4) The report of the committee to the House shall include—
 - (a) information on the views of the people on the ratification of the treaty emanating from public participation conducted by the committee;
 - (b) the findings of the committee on the treaty and any other information the committee may deem necessary; and
 - (c) a recommendation that the House—
 - (i) approves the ratification of the treaty, or
 - (ii) approves the ratification of the treaty with reservations, or
 - (iii) rejects the ratification of the treaty.
 - (5) In approving ratification of a treaty with reservations, the House shall specify the affected provisions of the treaty and the proposed text of each reservation, which may include prescription of timelines within which an obligation is to be fulfilled before implementation of the Treaty.
 - (6) Upon decision of the House on a treaty the Clerk shall, within seven days, notify the relevant Cabinet Secretary and enter the information in the register of treaties.

2.2 Overview of the BBNJ Agreement

The BBNJ Agreement was adopted on 19th June 2023, in New York, USA by the Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction convened under the auspices of the United Nations General Assembly. The Agreement addresses a package of issues that include marine genetic resources including a fair and equitable sharing of benefits, conservation measures such as Area Based Management Tools, Environmental Impact Assessment, Capacity Building and Transfer of Marine Technology.

2.3 Key Provisions of the Agreement

Part	Key Focus
I	Preamble, Introduction, General provisions
II	Marine genetic resources, including the fair and equitable sharing of benefits
III	Measures such as Area-Based Management tools, including marine protected areas
IV	Environmental Impact Assessments
V	Capacity building and Transfer of marine Technology
VI	Institutions and organs under BBNJ
VII	Financial Resources
VIII	Implementation and Compliance
IX	Settlement of Disputes
X	Non-parties to the Agreement
ANNEX I	Indicative criteria for identification of areas
ANNEX II	Types of capacity building and of the transfer of marine technology

PART III

3 PUBLIC PARTICIPATION/ STAKEHOLDER ENGAGEMENT

3.1 Call for submission of memoranda from public

12. The Committee placed an advertisement in two national dailies on Monday 6th May, 2025 pursuant to provisions of article 118(1) (b) of the Constitution on public participation, Section 8(3) of Treaty Making and Ratification Act, Cap.4D and Standing Order 170A calling for submission of memoranda on the subject matter. By close of the deadline, the Committee had not received any memoranda on the Agreement. The Committee did not receive any memoranda from the public. However, the Committee conducted a sensitization workshop with the relevant stakeholders on Thursday, 29th May 2025 at Radisson Blue Hotel to discuss the Agreement.
 - i. The State Department for Blue Economy and Fisheries;
 - ii. The Office of the Attorney-General;
 - iii. The State Department for Foreign Affairs; and
 - iv. The Kenya International Boundary Office.

3.2 State Department for Blue Economy and Fisheries

Dr. Davies Makilla, Director of Blue Economy at the State Department for Blue Economy and Fisheries on behalf of the Principal Secretary appeared before the Committee on Thursday, 29th May 2025 and submitted as follows:

13. The objective was to apprise Members of Parliament on the significance of the Agreement and to seek approval for Kenya's ratification, in accordance with Section 8 of the Treaty Making and Ratification Act, Cap. 4D.
14. The BBNJ Agreement was adopted on 19th June 2023, in New York, USA by the Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction convened under the auspices of the United Nations General Assembly. The Committee was informed that the Agreement became the third implementing Agreement to the UNCLOS.
15. The Committee was informed that the main issues the Agreement addresses are marine genetic resources including a fair and equitable sharing of benefits, conservation measures such as Area Based Management Tools, Environmental Impact Assessment, Capacity Building and Knowledge transfer.
16. The Committee was further briefed that all States and regional economic integration organizations may become parties to the BBNJ Agreement, whether they are parties to the United Nations Convention on the Law of the Sea or not. The Agreement also provides that the legal status of non-parties to the Convention be not affected by the Agreement. Thus far, one hundred and fifteen (115) countries are signatories to the Agreement out of which twenty-five (25) are African states and Twenty-eight countries have ratified including Seychelles, Mauritius, Malawi and Gabon. The Agreement is not yet in force as it can only enter into force 120 days after the date

- of deposit of the sixtieth (60th) instrument of ratification, according to article 68 (I) of the Agreement.
17. ABNJ that contain living and non-living resources, covers nearly two thirds of the World Ocean. However, until the adoption of the BBNJ Agreement, there was no single instrument, which comprehensively addressed the question of management and protection of marine biodiversity in ABNJ. Regulation was limited to single sectors (like fishing) and covered small areas of the ocean.
 18. The Committee was informed of the overarching objective of the agreement is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination. Other objectives of the Agreement;
 - i. Measures to establish area based management tools such as Marine Protected Areas (ABMTs),
 - ii. Access and benefit sharing of marine genetic resources (MGRs),
 - iii. Capacity building and marine technology transfer, and
 - iv. Environmental Impact Assessment (EIAs).
 19. Further, the Committee was informed that upon ratification, Kenya would be obligated to;
 - i. Enact or align laws and administrative procedures to ensure that objectives set out in the Agreement are implemented fully;
 - ii. Submit proposals regarding the establishment of area-based management tools, including marine protected areas if it so wishes; and
 - iii. Take measures to ensure that certain information in relation to the collection *in situ* marine genetic resources of areas beyond Kenya's national jurisdiction is notified to the clearing-house mechanism.
 20. In addition, the State Department noted that Kenya stood to gain various benefits, including;
 - i. Biodiversity conservation;
 - ii. Promotion of scientific knowledge;
 - iii. Reduction of financial strain through the funding model that eases burden on developing nations;
 - iv. Opportunities to meet the United Nation Sustainable Development Goals;
 - v. Regulation of Illegal Unreported and Unregulated (IUU) fishing;
 - vi. Capacity building for substantive elements of the Agreement, including EIAs;
 - vii. International opportunities for Kenyans;
 - viii. Positioning Kenya as a regional hub for BBNJ and Blue Economy matters;
 - ix. Boosting Kenya's International Reputation; and
 - x. That the measures are directly aligned with Kenya's national interests, including the preservation of marine biodiversity, the protection of ecosystem services, and the support of food security and broader socioeconomic development objectives.

21. The Committee was informed that implementation of the BBNJ Agreement will primarily be integrated into the ongoing mandates of existing Government Ministries, Departments, and Agencies, and therefore does not require the creation of new institutional structures at the national level. However, as a party to the Agreement, Kenya might be expected to contribute to the operational budget of the institutions established under the Agreement, including the Secretariat and the Conference of the Parties. Importantly, the Committee was also informed that the Agreement also provides for targeted support to developing countries, including Kenya, through technical assistance, capacity-building programmes, and the transfer of marine technology. These efforts are designed to ensure equitable participation and effective implementation by developing states, and may be financed through voluntary contributions or dedicated international funding mechanisms.
22. Further, the Committee was informed there were no legal implications from ratifying the Agreement which will require amendments of the Constitution, it is consistent with the Constitution and upon ratification, it will require the review of existing legislation relating to environmental protection, ocean management and biodiversity management for full implementation of the Agreement.
23. In conclusion, the State Department emphasized the need for Kenya to ratify the Agreement to enjoy the anticipated benefits. The Committee was therefore requested to:
 - i. Note the contents of the memorandum;
 - ii. Approve Kenya's ratification 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 (BBNJ Agreement) in line with section 8 of the Treaty Making and Ratification Act (Cap 4D) in its entirety without any reservations.

3.3 Office of the Attorney General and Department of Justice

Ms. Nelly Ledian, Principal State Counsel in the Office of the Attorney General appeared before the Committee on behalf of the Attorney General on Thursday, 29th May 2025 and briefed on the BBNJ Agreement on as follows:

24. The BBNJ agreement established under UNCLOS provides a legal framework for ocean governance primarily through the conservation and sustainable use of marine resources.
25. The Committee was informed of the objectives that include:
 - i. Provides rules and regulations for conservation and responsible use of marine resources;
 - ii. Offers modalities for fair and equitable sharing of benefits accrued from utilization of marine resources; and
 - iii. Aims to reduce harm and disruptions that can be caused by activities in the ABNJ (E.I.A).
26. The linkage between BBNJ and UNCLOS was highlighted to the Committee where UNCLOS provides the institutional and legal framework for maritime governance. UNCLOS designates maritime zones and confers rights and responsibilities. Maritime zones are broadly categorized into areas within National Jurisdiction (up-to to

Exclusive Economic Zones) and areas beyond National Jurisdiction (ABNJ), and that UNLOS recognizes the resources in the ABNJ as global commons and directs that their usage is for the benefit of ALL humankind.

27. The Committee was informed that the Agreement has institutional arrangement with the Conference of parties being the apex decision-making body that adopts all decision through consensus. The Conference of parties will be supported by the Secretariat that will provide administrative and logistical support to it and subsidiary bodies. Further, the secretariat will have five subsidiary bodies under it namely
 - i. Scientific and Technical Body;
 - ii. Capacity and transfer of technology Committee;
 - iii. Finance Committee;
 - iv. Access and Benefit Sharing Committee; and
 - v. Implementation and Compliance Committee.
28. The Committee was also informed of the financing of the BBNJ which involved three types of Funds namely:
 - i. **Voluntary Trust Fund** whose contributors are developing countries and interested entities like NGOs. It is for facilitating participation of representatives of developing nations in BBNJ engagements;
 - ii. **Special fund** which is primarily a monetary benefit from utilization of MGRs, and assessed annual contributions by parties to the Agreement. It is for funding capacity building projects, assisting developing nations in implementing the agreement and support conservation and sustainable use programmes by indigenous people; and
 - iii. **Global Environmental Facility** which is contributed by donor countries through the World Bank. It is for supporting consultations at national, sub regional and regional levels, and also fund the undertaking of any other activities as decided by the Conference of parties.

3.4 State Department for Foreign and Diaspora Affairs

Mr. Tobias Ogwen, Deputy Director, Foreign Services on behalf of the Principal Secretary State Department for Foreign and Diaspora Affairs appeared before the Committee on Thursday, 29^h May 2025 and briefed on the BBNJ Agreement as follows:

29. The BBNJ Agreement was concluded and adopted on 19th June 2023, in New York, USA by the International conference on marine biodiversity of ABNJ convened under the auspices of the United Nations General Assembly and that its ratification was approved through the executive approval from the H.E the President of Kenya on 18th September, 2024.
30. The State Department informed that the Agreement was adopted following nearly twenty years of negotiations and discussions. Its adoption marked a historic achievement in efforts to ensure the health and resilience of ocean ecosystems, and to level the playing field in the capacity to participate in and benefit from activities in areas beyond

national jurisdiction. The Africa Group, of which the Republic of Kenya is a member in particular, played a significant role in driving the conclusion of the BBNJ Agreement.

31. The Agreement addresses a package of issues under the overall objective of ensuring the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction for the present and in the long term, through effective implementation of the relevant provisions of the UNCLOS and further international cooperation and coordination.
32. Further, as part of the ratification process, a Cabinet Memorandum was submitted to the Cabinet for approval, in line with section 7 of the Treaty Making and Ratification Act, CAP 4D. It was noted that, on 24th September, 2024, the Cabinet approved the ratification of the BBNJ Agreement.
33. Following the Cabinet's approval, the Prime Cabinet Secretary and the Cabinet Secretary for Foreign & Diaspora Affairs submitted a Parliamentary Memorandum, along with a copy of the Agreement, to the National Assembly.
34. Upon ratification, Kenya would be required to review its existing legislation relating to environmental protection, ocean management and biodiversity management for full implementation of the Agreement.
35. In addition, it was noted that Kenya would benefit from the ratification of the Agreement in the following ways:
 - i. Improved ocean health and ecosystem services;
 - ii. It will be diplomatically advantageous since it will bolster global cooperation and partnership;
 - iii. It will help to position Kenya as a regional hub for BBNJ and also boost Kenya's position when vying to host subsidiary offices that are created by the agreement;
 - iv. It will help in capacity building for Kenyan professionals as well as strengthened institutions; and
 - v. It will provide international opportunities for Kenyans for representation in the subsidiary bodies and institutions.
36. It was noted that the ratification of the BBNJ Agreement would strengthen national efforts to achieve Kenya's constitutional objectives and values, as stated in Articles 60(1)(e) relating to sound conservation and protection of ecologically sensitive areas, and article 69 (1) (a) (e) (f) (g) and (h) that relates to the state's obligations on sustainable, utilization, management, and conservation of the environment and natural resources, and ensuring the equitable sharing of the accruing benefits.
37. Additionally, it was stated that Kenya's ratification of the BBNJ Agreement would not necessitate any amendments to the Constitution, as it was consistent with constitutional provisions, particularly Articles 60 and 69 of the Constitution of Kenya (2010).

3.5 The Kenya International Boundary Office (KIBO).

Mr. Franklin Oketch, a representative of the Kenya International Boundary Office appeared before the Committee on Thursday, 29h May 2025 and briefed the Committee on the BBNJ Agreement as follows:

38. The BBNJ agreement provides a legal framework for the conservation and sustainable use of marine biodiversity within the deep-sea bed and high seas of ABNJ.
39. The Committee was informed that since Kenya is a coastal state and by default an 'immediate' neighbor to the ABNJ, activities in the ABNJ have a direct bearing on Kenya. Effects from activities within the ABNJ have far-reaching impacts to ecosystems and resources within Kenya's boundaries and thus, Kenya as a developing coastal state stands to gain from the implementation of BBNJ since it seeks to protect marine resources and ensures fair and equitable sharing of benefits from resources in the ABNJ.
40. On KIBO's mandate and relationship with BBNJ, they stated that KIBO implements provisions of the UNCLOS that designates maritime zones conferred to coastal states which includes the territorial sea and the continental shelf.
41. The Committee was informed that KIBO has successfully secured Kenya a surplus maritime territory through its submission to the Commission on Limits of the Continental Shelf - a treaty body established under UNCLOS. Kenya's continental shelf now extends to 350 NM with added maritime swathes of approximately 103,400 km² equivalent to a fifth of Kenya's terrestrial land area a new development comes with endowment of resources specifically in the seabed and subsoils.
42. In addition, the exploration and ultimate exploitation activities of the above-mentioned resources are inextricably linked with the critical issues in the BBNJ package in particular, Environmental Impact Assessment, and Capacity Building and Technology Transfer.
43. In conclusion, KIBO emphasized the need for Kenya to ratify the Agreement to enjoy the anticipated potential benefits which include:
 - i. Capacity building and technology transfer;
 - ii. Environmental Impact Assessments;
 - iii. Cooperation and partnership; and
 - iv. Representation in the Bodies established under BBNJ.

PART IV

4.0 COMMITTEE OBSERVATIONS

Having engaged and considered submissions from the relevant stakeholders the Committee made the following observations on 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-

44. Upon ratification Kenya would need to align its laws, regulations and administrative procedures with the Agreement. This includes reviewing the existing legislation relating to environmental protection, ocean management and biodiversity management for full implementation of the agreement.
45. Kenya will also be required to submit proposals regarding the establishment of area-based management tools, including marine protected areas if it so wishes upon ratification of the agreement. These proposals will be reviewed by the Scientific and Technical Body established pursuant to the BBNJ Agreement and are subject to a stakeholder consultation process.
46. The Agreement is consistent with the Constitution and indeed promotes its principles under article 60(1) (e) relating to sound conservation and protection of ecologically sensitive areas, and article 69 (1) (a) (e) (f) (g) and (h) that relates to the state's obligations on sustainable, utilization, management, and conservation of the environment and natural resources, and ensuring the equitable sharing of the accruing benefits.
47. The Agreement might require Kenya to contribute financially to the operational budget of the institutions established under the Agreement including the COPs and the secretariat. Additionally, Kenya might benefit because, the Agreement provides for targeted support to developing countries, including Kenya, through technical assistance, capacity-building programmes, and the transfer of marine technology. These efforts are designed to ensure equitable participation and effective implementation by developing states, and may be financed through voluntary contributions or dedicated international funding mechanisms.
48. Kenya will benefit upon ratification of the Treaty through improvement of our ocean health and ecosystem services, capacity building for Kenyan professionals as well as strengthened institutions, opportunity to meet the United Nations SDGs, positioning Kenya as a regional hub for BBNJ and Blue Economy matters, and international opportunities for Kenyans for representation in the subsidiary bodies and institutions.
49. The BBNJ agreement focus on marine ecological connectivity and other measures will limit fishing companies from developed countries from unsustainable and unregulated overfishing in ABNJ of coastal African states hence promoting conservation.
50. Provisions of Part IV of the Agreement elaborates on the provisions of the UNCLOS on the Environmental Impacts Assessment by establishing detailed processes thresholds and other requirements for conducting and reporting assessments in ABNJ. The Committee noted that the scope of the provisions covers activities taking place in ABNJ as well those taking place within areas of national jurisdiction if there

is a possibility that it would cause substantial pollution of or significant and harmful changes to the marine environment in ABNJ.

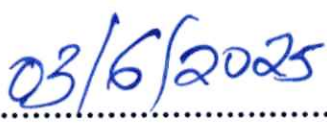
51. Provisions of Part II do not only cover MGRs, but they generally also cover derivatives of living organisms in ABNJ and DSI on MGRs. Derivatives are included in the definition of “utilization of MGRs” (article 14) through the link to “biotechnology” (article 1(3.)) which is important as derivatives are currently more profitable than MGRs. The Committee noted that by default that the provisions of Article 10 of the BBNJ Agreement apply retroactively to MGRs and DSI collected prior to its entry into force, unless a party makes an exemption in writing in line with Articles 70 and 71 of the Agreement on declarations.
52. The terms of reference including membership and tenure of the institutional arrangements established pursuant to the Agreement have not been expressly including the seat of the Secretariat have not been provided for, save for the Access and Benefit-Sharing Committee. The Access and Benefit-sharing Committee is established to make recommendations and provide guidance on the implementation of the benefit sharing provisions under the Agreement including making recommendations on potential future revisions of the monetary benefit sharing mechanism. This Committee is to be composed of fifteen (15) members.
53. There is need for developing countries such as Kenya to benefit from membership, employment opportunities and hosting of Secretariat to such agreements. Future negotiations and agreements on the terms of reference should take into the interests of developing countries such as Kenya.
54. There is need for the process of ratification of treaties and agreements by the Executive to involve evidenced based research before in accordance with Cap. 4D to ensure that Kenya adequately benefits from treaties and agreements.

PART V

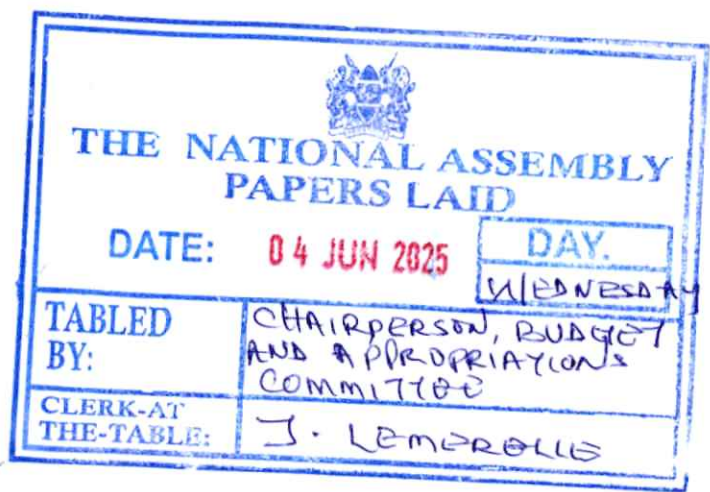
COMMITTEE RECOMMENDATIONS

55. The Committee having received written and oral submissions and after its deliberations recommends—

- 1) **THAT**, pursuant to Standing Order 170A, House **approves** 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), A subject to the following declaration to be made-
 - (i) Pursuant to Articles 10(1), 71 and 70 of the Agreement, the Republic of Kenya makes an exception that the application of the provisions of the Agreement does not extend to the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction collected or generated before the entry into force of the Agreement for the Republic of Kenya; and
 - (ii) the Agreement shall in no way undermine international treaties, agreements or frameworks, relevant global, regional, sub regional and sectoral bodies to which Kenya is a party, such as, among others, the United Nations Convention on the Law of the Sea and the Indian Ocean Tuna Commission.
- 2) **THAT**, the Ministry of Mining, Blue Economy and Fisheries and other relevant Ministries and state agencies should on a quarterly basis, apprise the Committee on the implementation of the Agreement and monetary and non-monetary benefits including capacity building assistance that accrue or benefit Kenya under the Agreement.

SIGNED.......... DATE..........

HON. BOWEN KANGOGO, M.P., C.B.S.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON BLUE ECONOMY,
WATER AND IRRIGATION





THE NATIONAL ASSEMBLY
15TH PARLIAMENT - FOURTH SESSION - 2025
DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION
MEMBERS ATTENDANCE SCHEDULE

DATE: 03/06/25 START: 9:30AM END: 11:20AM
VENUE: COMMITTEE ROOM 26, 5TH FLOOR, BUNGLE TOWER
AGENDA: ADOPTION OF THE COMMITTEE REPORT ON CONSIDERATION OF THE AGREEMENT UNDER THE UN CONVENTION ON THE LAW OF THE SEA ON CONSERVATION & SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION

O.	NAME	SIGNATURE
1.	Hon. Bowen Kangogo, MP - Chairperson	
2.	Hon. Kemero Maisori Marwa Kitayama, MP - Vice- Chairperson	
3.	Hon. Chepkwony Charity Kathambi, MP	
4.	Hon. William Kamket, MP	
5.	Hon. Buyu Rozaah Akinyi, MP	
6.	Hon. Eng. Nzengu Paul Musyimi, MP	
7.	Hon. Eng. Tandaza Kassim Sawa, MP	
8.	Hon. Mohamed Abdikadir Hussein, MP	
9.	Hon. Gachagua George, MP	
10.	Hon. Eric Wamumbi, MP	
11.	Hon. Dorothy Muthoni Ikiara, MP	
12.	Hon. Eng. Nebart Bernard Muriuki, MP	
13.	Hon. Mnyazi Amina Laura, MP	
14.	Hon. Adow Mohamed Aden, MP	

Forwarded by:

Signed: Date: 29/5/25
Mr. Nicodemus K. Maluki
First Clerk Assistant - Committee Clerk

Approved by:

Signed: Date:
Ms. Rose M. Wanjohi,
Principal Clerk Assistant II/ Head of Department- Productive Sector
Directorate of Departmental Committees



**PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FOURTH SESSION – 2025**

**MINUTES OF THE 34TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
BLUE ECONOMY, WATER AND IRRIGATION HELD ON TUESDAY 3RD JUNE,
2025 IN THE COMMITTEE ROOM 26, FIFTH (5TH) FLOOR, BUNGE TOWER,
PARLIAMENT BUILDINGS AT 9.30 AM**

PRESENT

- | | | |
|---|---|--------------------------|
| 1. Hon. Bowen David Kangogo, MP | - | Chairperson |
| 2. Hon. Kemero Maisori Marwa Kitayama, MP | - | Vice- Chairperson |
| 3. Hon. William Kamket, MP | | |
| 4. Hon. Buyu Rozaah Akinyi, MP | | |
| 5. Hon. Eng. Tandaza Kassim Sawa, MP | | |
| 6. Hon. Mohamed Abdikadir Hussein, MP | | |
| 7. Hon. Gachagua George, MP | | |
| 8. Hon. Dorothy Muthoni Ikiara, MP | | |
| 9. Hon. Mnyazi Amina Laura, MP | | |

APOLOGIES

1. Hon. Chepkwony Charity Kathambi, MP
2. Hon. Eng. Nzengu Paul Musyimi, MP
3. Hon. Eric Wamumbi, MP
4. Hon. Eng. Nebart Bernard Muriuki, MP
5. Hon. Adow Mohamed Aden, MP

IN- ATTENDANCE

NATIONAL ASSEMBLY – COMMITTEE SECRETARIAT

- | | |
|--------------------------------|-----------------------------|
| 1. Mr. Nicodemus Maluki | First Clerk Assistant |
| 2. Ms. Ivy Kageha | Third Clerk Assistant |
| 3. Ms. Lynette Otieno | Senior Legal Counsel |
| 4. Mr. Eugene Apaa | Research Officer I |
| 5. Ms. Fridah Ngari | Media Relations Officer III |
| 6. Mr. Eugene Luteshi | Audio Officer III |
| 7. Ms. Rhoda Chepeng'at Menach | Attachee |

MIN.NO.DC/ BEW&I/179/2025: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past nine o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

The agenda of the meeting was presented as follows:

1. Prayers
2. Preliminaries/Introductions
 - i. Adoption of the Agenda
 - ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Agenda: Consideration and Adoption the Draft Committee Report on the Agreement under the United Nations Convention on the Law of the Sea regarding the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement)**
5. Any other Business
6. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/180/2025: ADOPTION OF THE AGENDA

The agenda of the day was unanimously adopted by the Committee.

MIN.NO.DC/ BEW&I/181/2025: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

This agenda item was deferred to the next meeting.

MIN.NO.DC/ BEW&I/182/2025: CONSIDERATION AND ADOPTION THE DRAFT COMMITTEE REPORT ON THE AGREEMENT UNDER THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA REGARDING THE CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION (BBNJ AGREEMENT)

Having engaged and considered submissions from the relevant stakeholders the Committee made the following observations on 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-

Committee Observations

- I. Upon ratification Kenya would need to align its laws, regulations and administrative procedures with the Agreement. This includes reviewing the existing legislation relating to environmental protection, ocean management and biodiversity management for full implementation of the agreement.

2. Kenya will also be required to submit proposals regarding the establishment of area-based management tools, including marine protected areas if it so wishes upon ratification of the agreement. These proposals will be reviewed by the Scientific and Technical Body established pursuant to the BBNJ Agreement and are subject to a stakeholder consultation process.
3. The Agreement is consistent with the Constitution and indeed promotes its principles under article 60(1) (e) relating to sound conservation and protection of ecologically sensitive areas, and article 69 (1) (a) (e) (f) (g) and (h) that relates to the state's obligations on sustainable, utilization, management, and conservation of the environment and natural resources, and ensuring the equitable sharing of the accruing benefits.
4. The Agreement might require Kenya to contribute financially to the operational budget of the institutions established under the agreement including the COPs and the secretariat. Additionally, Kenya might benefit because, the Agreement provides for targeted support to developing countries, including Kenya, through technical assistance, capacity-building programmes, and the transfer of marine technology. These efforts are designed to ensure equitable participation and effective implementation by developing states, and may be financed through voluntary contributions or dedicated international funding mechanisms.
5. Kenya will benefit upon ratification of the treaty through improvement of our ocean health and ecosystem services, capacity building for Kenyan professionals as well as strengthened institutions, opportunity to meet the United Nations SDGs, positioning Kenya as a regional hub for BBNJ and Blue Economy matters, and international opportunities for Kenyans for representation in the subsidiary bodies and institutions.
6. The BBNJ agreement focus on marine ecological connectivity and other measures will limit fishing companies from developed countries from unsustainable and unregulated overfishing in ABNJ of coastal African states hence promoting conservation.
7. Provisions of Part IV of the agreement elaborates on the provisions of the UNCLOS on the Environmental Impacts Assessment by establishing detailed processes thresholds and other requirements for conducting and reporting assessments in ABNJ. The Committee noted that the scope of the provisions covers activities taking place in ABNJ as well those taking place within areas of national jurisdiction if there is a possibility that it would cause substantial pollution of or significant and harmful changes to the marine environment in ABNJ.

8. Provisions of Part II do not only cover MGRs, but they generally also cover derivatives of living organisms in ABNJ and DSI on MGRs. Derivatives are included in the definition of “ utilization of MGRs” (article 14) through the link to “biotechnology” (article 1(3.)) which is important as derivatives are currently more profitable than MGRs. The Committee noted that by default that the provisions of Article 10 of the BBNJ Agreement apply retroactively to MGRs and DSI collected prior to its entry into force, unless a party makes an exemption in writing in line with Articles 70 and 71 of the Agreement on declarations.
9. The terms of reference including membership and tenure of the institutional arrangements established pursuant to the Agreement have not been expressly including the seat of the Secretariat have not been provided for, save for the Access and Benefit-Sharing Committee. The Access and benefit-sharing committee is established to make recommendations and provide guidance on the implementation of the benefit sharing provisions under the Agreement including making recommendations on potential future revisions of the monetary benefit sharing mechanism. This Committee is to be composed of 15 members.
10. There is need for developing countries such as Kenya to benefit from membership, employment opportunities and hosting of Secretariat to such agreements. Future negotiations and agreement on the terms of reference should take into the interests of developing countries such as Kenya.
11. There is need for the process of ratification of treaties and agreements by the Executive to involve evidenced based research before in accordance with Cap.4D to ensure that Kenya adequately benefits from treaties and agreements.

Committee Recommendations

12. The Committee having received written and oral submissions and after its deliberations recommends—
 - 1) **THAT**, pursuant to Standing Order 170A, House **approves** 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), A subject to the following declaration to be made—
 - (i) Pursuant to Articles 10(1), 71 and 70 of the Agreement, the Republic of Kenya makes an exception that the application of the provisions of the Agreement does not extend to the utilization of marine genetic resources and digital sequence information on marine genetic

resources of areas beyond national jurisdiction collected or generated before the entry into force of the Agreement for the Republic of Kenya; and

- (ii) the Agreement shall in no way undermine international treaties, agreements or frameworks, relevant global, regional, subregional and sectoral bodies to which Kenya is a party, such as, among others, the United Nations Convention on the Law of the Sea and the Indian Ocean Tuna Commission.

- 2) **THAT**, the Ministry of Mining, Blue Economy and Fisheries and other relevant Ministries and state agencies should on quarterly basis apprise the Committee on the implementation of the agreement and monetary and non-monetary benefits including capacity building assistance that accrue or benefit Kenya under the Agreement.

MIN.NO.DC/ BEW&I/183/2025: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at twenty minutes past eleven o'clock. The next meeting will be held on notice.

Signed.....

**HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)**

Date.....



**PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FOURTH SESSION – 2025**

**MINUTES OF THE 33RD SITTING OF THE DEPARTMENTAL COMMITTEE ON
BLUE ECONOMY, WATER AND IRRIGATION HELD ON THURSDAY 29TH
MAY 2025 AT THE RADISSON BLU HOTEL AT 9.00AM**

PRESENT

- | | | |
|---|---|--------------------------|
| 1. Hon. Bowen David Kangogo, MP | - | Chairperson |
| 2. Hon. Kemero Maisori Marwa Kitayama, MP | - | Vice- Chairperson |
| 3. Hon. William Kamket, MP | | |
| 4. Hon. Buyu Rozaah Akinyi, MP | | |
| 5. Hon. Eng. Tandaza Kassim Sawa, MP | | |
| 6. Hon. Mohamed Abdikadir Hussein, MP | | |
| 7. Hon. Gachagua George, MP | | |
| 8. Hon. Dorothy Muthoni Ikiara, MP | | |
| 9. Hon. Mnyazi Amina Laura, MP | | |

APOLOGIES

1. Hon. Chepkwony Charity Kathambi, MP
2. Hon. Eng. Nzengu Paul Musyimi, MP
3. Hon. Eric Wamumbi, MP
4. Hon. Eng. Nebart Bernard Muriuki, MP
5. Hon. Adow Mohamed Aden, MP

IN- ATTENDANCE

NATIONAL ASSEMBLY – COMMITTEE SECRETARIAT

- | | |
|--------------------------------|--------------------------|
| 1. Mr. Nicodemus Maluki | First Clerk Assistant |
| 2. Dr. Benjamin Ngimor | Principal Fiscal Analyst |
| 3. Ms. Lynette Otieno | Senior Legal Counsel |
| 4. Mr. Eugene Apaa | Research Officer I |
| 5. Mr. Eugene Luteshi | Audio Officer III |
| 6. Ms. Rhoda Chepeng'at Menach | Attachee |

Office of the Attorney General

- | | |
|------------------|--------------------------------|
| 1. Nelly Ledian | Office of the Attorney General |
| 2. Edwin Mwangi | Senior State Counsel |
| 3. Isidoro Maing | Legal Attaché |

State Department for Blue Economy and Fisheries

- | | |
|-----------------------|-----------------------|
| 1. Dr. Davies Makilla | Director Blue Economy |
|-----------------------|-----------------------|

- | | |
|-----------------------|--------------------------|
| 2. Peter Joseph Kamau | KMFRI |
| 3. Peter Kimwele | Fisheries Officer |
| 4. Caren Unity | Legal Department |
| 5. Angela Njuguna | Senior Fisheries Officer |

MINISTRY OF FOREIGN AFFAIRS

- | | |
|------------------|--------------------------|
| 1. Paula Lesuuda | Foreign Services Officer |
| 2. Cynthia Njeri | Legal Attaché |
| 3. Grace Morna | Legal Attaché |

MIN.NO.DC/ BEW&I/174/2025: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past nine o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

The agenda of the meeting was presented as follows:

1. Prayers
2. Preliminaries/Introductions
 - i. Adoption of the Agenda
 - ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Agenda: sensitization workshop with all the relevant stakeholders Agreement under the United Nations Convention on the Law of the Sea regarding the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement)**
5. Any other Business
6. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/175/2025: ADOPTION OF THE AGENDA

The agenda of the day was unanimously adopted by the Committee.

MIN.NO.DC/ BEW&I/176/2025: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

This agenda item was deferred to the next meeting.

MIN.NO.DC/ BEW&I/177/2025: : SENSITIZATION WORKSHOP ON AGREEMENT UNDER THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA REGARDING THE CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION (BBNJ AGREEMENT)

a) State Department for Blue Economy and Fisheries

1. Dr. Davies Makilla, Director of Blue Economy at the State Department for Blue Economy and Fisheries on behalf of the Principal Secretary appeared before the Committee on Thursday, 29th May 2025 and submitted as follows:
2. The objective was to apprise Members of Parliament on the significance of the Agreement and to seek approval for Kenya's ratification, in accordance with Section 8 of the Treaty Making and Ratification Act, Cap. 4D.
3. The BBNJ Agreement was adopted on 19th June 2023, in New York, USA by the Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction convened under the auspices of the United Nations General Assembly. The Committee was informed that the Agreement became the third implementing agreement to the UNCLOS.
4. The Committee was informed that the main issues the Agreement addresses are: marine genetic resources including a fair and equitable sharing of benefits, conservation measures such as Area Based Management Tools, Environmental Impact Assessment, Capacity Building and Knowledge transfer.
5. The Committee was further briefed that all States and regional economic integration organizations may become parties to the BBNJ Agreement, whether they are parties to the United Nations Convention on the Law of the Sea or not. The Agreement also provides that the legal status of non-parties to the Convention is not affected by the Agreement. Thus far, 115 countries are signatories to the Agreement out of which 25 are African states and Twenty-eight countries have ratified including Seychelles, Mauritius, Malawi and Gabon. The Agreement is not yet in force as it can only enter into force 120 days after the date of deposit of the sixtieth (60th) instrument of ratification, according to article 68 (1) of the Agreement.
6. ABNJ which contain living and non-living resources, covers nearly two thirds of the World Ocean. However, until the adoption of the BBNJ Agreement, there was no single instrument which comprehensively addressed the question of management and protection of marine biodiversity in ABNJ. Regulation was limited to single sectors (like fishing) and covered small areas of the ocean.
7. The Committee was informed of the overarching objective of the agreement is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the

relevant provisions of the Convention and further international cooperation and coordination. Other objectives of the Agreement;

- i. Measures to establish Area Based Management Tools such as Marine Protected Areas (ABMTs),
 - ii. Access and Benefit Sharing of Marine Genetic Resources (MGRs),
 - iii. Capacity Build and Technology Transfer, and
 - iv. Environmental Impact Assessment (EIAs).
8. Further, the Committee was informed that upon ratification, Kenya would be obligated to;
- i. Enact or align laws and administrative procedures to ensure that objectives set out in the agreement are implemented fully;
 - ii. Submit proposals regarding the establishment of area-based management tools, including marine protected areas if it so wishes; and
 - iii. Take measures to ensure that certain information in relation to the collection *in situ* marine genetic resources of areas beyond Kenya's national jurisdiction is notified to the clearing-house mechanism.
9. In addition, the state Department noted that Kenya stood to gain various benefits, including:
- i. Biodiversity conservation;
 - ii. Promotion of scientific knowledge;
 - iii. Reduction of financial strain through the funding model that eases burden on developing nations;
 - iv. Opportunities to meet the United Nation Sustainable Development Goals;
 - v. Regulation of Illegal Unreported and Unregulated (IUU) fishing;
 - vi. Capacity building for substantive elements of the Agreement, including EIAs;
 - vii. International opportunities for Kenyans;
 - viii. Positioning Kenya as a regional hub for BBNJ and Blue Economy matters;
 - ix. Boosting Kenya's International Reputation; and
 - x. That the measures are directly aligned with Kenya's national interests, including the preservation of marine biodiversity, the protection of ecosystem services, and the support of food security and broader socioeconomic development objectives.
10. The Committee was informed that implementation of the BBNJ Agreement will primarily be integrated into the ongoing mandates of existing Government Ministries, Departments, and Agencies, and therefore does not require the creation of new institutional structures at the national level. However, as a Party to the Agreement, Kenya might be expected to contribute to the operational budget of the institutions established under the Agreement, including the Secretariat and the Conference of the Parties. Importantly, the committee was also informed that the Agreement also provides for targeted support to developing countries, including Kenya, through technical assistance, capacity-building programmes, and the transfer of marine technology. These efforts are designed to ensure equitable participation and effective implementation by developing states, and may be financed through voluntary contributions or dedicated international funding mechanisms.

11. Further, the Committee was informed there were no legal implications from ratifying the Agreement which will require amendments of the Constitution, it is consistent with the Constitution and upon ratification it will require the review of existing legislation relating to environmental protection, ocean management and biodiversity management for full implementation of the Agreement.
12. In conclusion, the State Department emphasized the need for Kenya to ratify the Agreement to enjoy the anticipated benefits. The Committee was therefore requested to:
 - i. Note the contents of the memorandum;
 - ii. Approve Kenya's ratification 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 (BBNJ Agreement) in line with section 8 of the Treaty Making and Ratification Act (Cap 4D) in its entirety without any reservations.

b) Office of the Attorney General and department of Justice

13. Ms. Nelly Ledian, the Principal State Counsel in the Office of the Attorney General appeared before the Committee on behalf of the Attorney General on Thursday, 29th May 2025 and briefed on the BBNJ Agreement on as follows:
14. The BBNJ agreement established under UNCLOS provides a legal framework for ocean governance primarily through the conservation and sustainable use of marine resources.
15. The Committee was informed of the objectives that include:
 - i. Provides rules and regulations for conservation and responsible use of marine resources;
 - ii. Offers modalities for fair and equitable sharing of benefits accrued from utilization of marine resources; and
 - iii. Aims to reduce harm and disruptions that can be caused by activities in the ABNJ (E.I.A).
16. The linkage between BBNJ and UNCLOS was highlighted to the Committee where UNCLOS provides the institutional and legal framework for maritime governance. UNCLOS designates maritime zones and confers rights and responsibilities. Maritime zones are broadly categorized into areas within National Jurisdiction (up-to to Exclusive Economic Zones) and areas beyond National Jurisdiction (ABNJ), and that UNLOS recognizes the resources in the ABNJ as global commons and directs that their usage is for the benefit of ALL humankind.
17. The Committee was informed that the agreement has institutional arrangement with the Conference of parties being the apex decision making body that adopts all decision

through consensus. The Conference of parties will be supported by the Secretariat that will provide administrative and logistical support to it and subsidiary bodies. Further, the secretariat will have five subsidiary bodies under it namely

- i. Scientific and Technical Body;
- ii. Capacity and transfer of technology Committee;
- iii. Finance Committee;
- iv. Access and Benefit Sharing Committee; and
- v. Implementation and Compliance Committee.

18. The Committee was also informed of the financing of the BBNJ which involved three types of funds namely:

- i. **Voluntary Trust Fund** whose contributors are developing countries and interested entities like NGOs. It is for facilitating participation of representatives of developing nations in BBNJ engagements;
- ii. **Special fund** which is primarily monetary benefit from utilization of MGRs, Assessed annual contributions by parties to the agreement. It is for funding capacity building projects, assisting developing nations in implementing the agreement and support conservation and sustainable use programmes by indigenous people; and
- iii. **Global Environmental Facility** which is contributed by donor countries through the World Bank. It is for supporting consultations at national, sub regional and regional levels, and also fund the undertaking of any other activities as decided by the Conference of parties.

c) **State Department for Foreign and Diaspora Affairs**

19. Mr. Tobias Ogweno, Deputy Director, Foreign Services in the State Department for Foreign and Diaspora Affairs appeared before the Committee on behalf of the Principal Secretary and the Department on Thursday, 29th May 2025 and briefed on the BBNJ Agreement as follows:

20. The BBNJ Agreement was concluded and adopted during the adopted-on 19 June 2023, in New York, USA by the International conference on marine biodiversity of ABNJ convened under the auspices of the United Nations General Assembly and that its ratification was approved through executive approval from the H.E the President on 18th September, 2024.

21. The State Department informed that the Agreement was adopted following nearly twenty years of negotiations and discussions. Its adoption marked a historic achievement in efforts to ensure the health and resilience of ocean ecosystems, and to level the playing field in the capacity to participate in and benefit from activities in areas beyond national jurisdiction. The Africa Group, of which the Republic of Kenya


- is a member in particular, played a significant role in driving the conclusion of the BBNJ Agreement.
22. The Agreement addresses a package of issues under the overall objective of ensuring the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction for the present and in the long term, through effective implementation of the relevant provisions of the UNCLOS and further international cooperation and coordination.
 23. Further, as part of the ratification process, a Cabinet Memorandum was submitted to the Cabinet for approval, in line with section 7 of the Treaty Making and Ratification Act, CAP 4D. It was noted that, on 24th September, 2024, the Cabinet approved the ratification of the BBNJ Agreement.
 24. Following the Cabinet's approval, the Prime Cabinet Secretary and the Cabinet Secretary for Foreign & Diaspora Affairs submitted a Parliamentary Memorandum, along with a copy of the Agreement, to the National Assembly.
 25. Upon ratification, Kenya would be required to review of existing legislation relating to environmental protection, ocean management and biodiversity management for full implementation of the Agreement.
 26. In addition, it was noted that Kenya would benefit from the ratification of the Agreement in the following ways:
 - i. Improved ocean health and ecosystem services;
 - ii. It will be diplomatically advantageous since it will bolster global cooperation and partnership;
 - iii. It will help to position Kenya as a regional hub for BBNJ and also boost Kenya's position when vying to host subsidiary offices that are created by the agreement;
 - iv. It will help in capacity building for Kenyan professionals as well as strengthened institutions; and
 - v. It will provide international opportunities for Kenyans for representation in the subsidiary bodies and institutions.
 27. It was noted that the ratification of the BBNJ Agreement would strengthen national efforts to achieve Kenya's constitutional objectives and values, as stated in Articles 60(1)(e) relating to sound conservation and protection of ecologically sensitive areas, and article 69 (1) (a) (e) (f) (g) and (h) that relates to the state's obligations on sustainable, utilization, management, and conservation of the environment and natural resources, and ensuring the equitable sharing of the accruing benefits.
 28. Additionally, it was stated that Kenya's ratification of the BBNJ Agreement would not necessitate any amendments to the Constitution, as it was consistent with constitutional provisions, particularly Articles 60 and 69 of the Constitution of Kenya (2010).

d) The Kenya International Boundary Office.

29. Mr. Franklin Oketch, a representative of the Kenya International Boundary Office appeared before the Committee on Thursday, 29h May 2025 and briefed the Committee on the BBNJ Agreement as follows:
30. The BBNJ agreement provides a legal framework for the conservation and sustainable use of marine biodiversity within the deep-sea bed and high seas of ABNJ.
31. The Committee was informed that since Kenya is a coastal state and by default an 'immediate' neighbor to the ABNJ, activities in the ABNJ have a direct bearing on Kenya. Effects from activities within the ABNJ have far-reaching impacts to ecosystems and resources within Kenya's boundaries and thus, Kenya as a developing coastal state stands to gain from the implementation of BBNJ since it seeks to protect marine resources and ensures fair and equitable sharing of benefits from resources in the ABNJ.
32. On KIBO's mandate and relationship with BBNJ, they stated that KIBO implements provisions of the UNCLOS that designates maritime zones conferred to coastal states which includes the territorial sea and the continental shelf.
33. The Committee was informed that KIBO has successful secured Kenya a surplus maritime territory through its submission to the Commission on Limits of the Continental Shelf - a treaty body established under UNCLOS. Kenya's continental shelf now extends to 350NM with added maritime swathes of approximately 103,400km² equivalent to a fifth of Kenya' terrestrial land area a new development comes with endowment of resources specifically in the seabed and subsoils.
34. In addition, the exploration and ultimate exploitation activities of the above-mentioned resources are inextricably linked with the critical issues in the BBNJ package in particular, Environmental Impact Assessment, and Capacity Building and Technology Transfer.
35. In conclusion, KIBO emphasized the need for Kenya to ratify the Agreement to enjoy the anticipated potential benefits which include:
 - i. Capacity building and technology transfer;
 - ii. Environmental Impact Assessments;
 - iii. Cooperation and partnership; and
 - iv. Representation in the Bodies established under BBNJ.

MIN.NO.DC/ BEW&I/178/2025: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at twenty minutes past eleven o'clock. The next meeting will be held on notice.

Signed.....

**HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)**

Date.....



**PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FOURTH SESSION – 2025**

**MINUTES OF THE 32ND SITTING OF THE DEPARTMENTAL COMMITTEE ON
BLUE ECONOMY, WATER AND IRRIGATION HELD ON TUESDAY 27TH
MAY, 2025 IN THE COMMITTEE ROOM 20, THIRD (3RD) FLOOR, BUNGE
TOWER, PARLIAMENT BUILDINGS AT 9.30 AM**

PRESENT

- | | | |
|---|---|--------------------------|
| 1. Hon. Bowen David Kangogo, MP | - | Chairperson |
| 2. Hon. Kemero Maisori Marwa Kitayama, MP | - | Vice- Chairperson |
| 3. Hon. Chepkwony Charity Kathambi, MP | | |
| 4. Hon. Eng. Tandaza Kassim Sawa, MP | | |
| 5. Hon. Mohamed Abdikadir Hussein, MP | | |
| 6. Hon. Gachagua George, MP | | |
| 7. Hon. Dorothy Muthoni Ikiara, MP | | |
| 8. Hon. Eng. Nebart Bernard Muriuki, MP | | |

APOLOGIES

1. Hon. Eng. Nzengu Paul Musyimi, MP
2. Hon. William Kamket, MP
3. Hon. Buyu Rozaah Akinyi, MP
4. Hon. Eric Wamumbi, MP
5. Hon. Mnyazi Amina Laura, MP
6. Hon. Adow Mohamed Aden, MP

IN- ATTENDANCE

NATIONAL ASSEMBLY – COMMITTEE SECRETARIAT

- | | |
|-------------------------|-------------------------------|
| 1. Mr. Nicodemus Maluki | First Clerk Assistant |
| 2. Dr. Benjamin Ng'imor | Principal Fiscal Analyst |
| 3. Ms. Lynette Otieno | Senior Legal Counsel |
| 4. Maryan Gabow | Public Communications Officer |
| 5. Apaa Eugene | Research Officer |

MIN.NO.DC/ BEW&I/169/2025:

PRELIMINARIES

The Chairperson called the meeting to order at forty- five minutes past nine o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

The agenda of the meeting was presented as follows:

- 1. Prayers
- 2. Preliminaries/Introductions
 - i. Adoption of the Agenda
 - ii. Remarks by the Chairperson
- 3. Confirmation of Minutes/Matters Arising
- 4. **Agenda: Consideration of the Legal Brief on 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.**
- 5. Any other Business
- 6. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/170/2025: ADOPTION OF THE AGENDA

The agenda of the day was unanimously adopted by the Committee.

MIN.NO.DC/ BEW&I/171/2025: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

This agenda item was deferred to the next meeting.

MIN.NO.DC/ BEW&I/172/2025 : CONSIDERATION OF THE LEGAL BRIEF ON THE AGREEMENT UNDER THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA ON THE CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION.

The Committee deferred the meeting to allow the State Department for Blue Economy and Fisheries to organize a sensitization workshop with all relevant stakeholders on Thursday, 29th May 2025, at the Radisson Blu Hotel to discuss the agreement.

MIN.NO.DC/ BEW&I/173/2025: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at ten minutes past ten o'clock. The next meeting will be held on notice.

Signed.....

**HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)**

Date.....

Simplified Overview of the BBNJ Agreement Document

May 29, 2025

What is the BBNJ Agreement?

- Adopted on **19 June 2023**, the BBNJ Agreement is an international treaty under the United Nations Convention on the Law of the Sea (UNCLOS).
- It focuses on the **conservation and sustainable use of marine biodiversity** in areas beyond national jurisdiction (high seas and international seabed).
- **Key areas covered:**
 1. **Marine Genetic Resources (MGRs)** and fair benefit-sharing.
 2. **Area-Based Management Tools (ABMTs)**, including Marine Protected Areas (MPAs).
 3. **Environmental Impact Assessments (EIAs)**.
 4. **Capacity-building and transfer of marine technology**.

How Can States Join the Agreement?

1. **Signing:**
 - Open for signature from **20 September 2023 to 20 September 2025**.
 - Signing expresses intent to comply but is not legally binding.
 - Requires an authorized representative (e.g., head of state or foreign minister) to sign at UN Headquarters in New York.
2. **Becoming a Party:**
 - **States must ratify, accept, or approve the Agreement to be legally bound.**
 - **Ratification involves both national-level approval (e.g., legislature or executive) and international-level deposit of an instrument of ratification with the UN Secretary-General.**
3. **Accession:**
 - After the signature period ends (post-20 September 2025), states can join by **accession**, which requires only the deposit of an instrument of accession.

Entry into Force

- The Agreement will enter into force **120 days after the 60th instrument of ratification, approval, acceptance, or accession** is deposited.

National Implementation

States should prepare for implementation by:

- Consulting relevant departments (e.g., fisheries, environment, shipping).
- Reviewing domestic laws and policies to ensure compliance.
- Drafting new legislation if needed.
- Establishing a **national focal point** to liaise with the Agreement's Secretariat.

Reservations and Declarations

- States cannot make reservations to the Agreement unless explicitly allowed.
- They may make **declarations or statements** to clarify their interpretation of specific provisions.

Key Dates

- **Signature Period:** 20 September 2023 – 20 September 2025.
- **Entry into Force:** 120 days after the 60th ratification.

Contact Information

For more details, contact Alison Swaddling (Ocean Governance Adviser) at a.swaddling@commonwealth.int or visit www.thecommonwealth.org.

This document simplifies the process for states to sign, ratify, and implement the BBNJ Agreement, ensuring sustainable management of marine biodiversity beyond national jurisdiction.

TABLE OF CONTENTS

Document	Subject
A	Programme
B	Remarks
C	MDAs on BBNJ
D	Memorandum (29 th May 2025)
E	Executive (cabinet) Approval
F	Letter to Clerk of National Assembly forwarding Submission of Memorandum.
G	Memorandum to National Assembly
H	Letter to Clerk of the National Assembly inviting the Committee to sensitization meeting.
I	Letter by Office of Cabinet Secretary Foreign Affairs to Clerk of National Assembly on Cabinet Memorandum.
J	Text of the BBNJ Agreement in English
K	Text of the BBNJ Agreement in Kiswahili
L	Treaty Making and Ratification Act
M	Public Notice on Ratification of BBNJ Agreement
N	Public Participation Questionnaire on Ratification of BBNJ Agreement
O	Copy of Public Notice in the Daily Nation and MyGov Newspapers
P	Letter to all Principal Secretaries requesting for comments on the Agreement
Q	Comments on the Ratification of BBNJ Agreement.

R	Correspondences forwarding Comments on the Agreement.
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MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS

AGENDA: SENSITIZATION OF THE NATIONAL ASSEMBLY COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION ON 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.

DATE: THURSDAY, 29TH MAY 2025

VENUE: RADISSON BLU ARBORETUM, ALONG ARBORETUM PARK LANE, NAIROBI

Programme:

Time	Activity	Moderator
9:30 -10:00 a.m.	Arrival and registration	Secretariat
<i>Session Chair: Hon. Bowen David Kangogo, MP</i>		<i>Chairman, Committee on Blue Economy, Water and Irrigation</i>
10:00 – 10:15 a.m.	Remarks: a) Principal Secretary, State Department for the Blue Economy and Fisheries. b) Chair-Committee on Blue Economy, Water and Irrigation.	
<i>Session Chair: Hon. Bowen David Kangogo, MP</i>		<i>Chairman, Committee on Blue Economy, Water and Irrigation</i>
10:15 - 11:00 a.m.	Presentation of the BBNJ Agreement	Principal Secretary, State Department for the Blue Economy and Fisheries.

<i>Session Chair: Hon. Bowen David Kangogo, MP</i>		<i>Chairman, Committee on Blue Economy, Water and Irrigation</i>
11:00 a.m. – 12:00 p.m.	Question and Answer Session	Technical Teams (GoK and IUCN)
<i>Session Chair: Hon. Bowen David Kangogo, MP</i>		<i>Chairman, Committee on Blue Economy, Water and Irrigation</i>
12:00 – 12:30 p.m.	Way forward	Chairman, Committee on Blue Economy, Water and Irrigation
12: 30- 1:00 p.m.	Lunch and Departure	IUCN Country Director

B.



REPUBLIC OF KENYA
MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS
STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES

SENSITIZATION OF THE NATIONAL ASSEMBLY COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION ON THE AGREEMENT UNDER THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS) ON THE CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION (BBNJ) AGREEMENT

1.0. Introduction

Honorable Chairman and Honorable Committee Members, I would like to express my gratitude to this Committee for according me another opportunity to deliberate with you on the contents of the Agreement under the United Nations Convention on the Law of the Sea (UNCLOS) on the Conservation and sustainable use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ) Agreement. The Agreement was adopted on 19th June 2023.

As you are aware, **Hon. Chairman**, the Committee on Blue Economy, Water and Irrigation is established by Standing Order 216 of the National Assembly whose mandates pursuant to the Standing Order 216 (5), amongst others, '*shall examine treaties, agreements and conventions*'.

As you are well aware, **Hon. Chairman and Honourable Committee Members**, Kenya, as a coastal and maritime State, recognizes the immense potential of our Blue Economy. This Agreement, **Hon. Chairman and Honourable Committee Members**, provides a comprehensive framework to address the critical gaps in the conservation and sustainable use of marine biodiversity in these vital areas.

Hon. Members, Kenya demonstrated her commitment to this vital global instrument by signing the BBNJ Agreement on 24th September, 2024. This was a clear signal of our dedication to ocean health and sustainable development. Now, the critical step is ratification.

2.0. Role of the Committee

We are acutely aware of your paramount role, **Hon. Members**, in the ratification process. Your insights, expertise guidance, and oversight are indispensable as we move towards domesticating this international Agreement. We have initiated the necessary internal

processes, including seeking public inputs, to ensure that the Agreement's provisions are fully understood and align with our national legislative framework.

3.0. Conclusion

In conclusion, **Hon. Chairman and Honourable Members**, I urge this Committee to consider the BBNJ Agreement not as another international treaty, but as a transformative tool that can unlock new opportunities for our nation and safeguard our shared ocean heritage for future generations. Ratifying this Agreement will solidify Kenya's position as a leader in ocean governance, enhance our standing on the global stage, and, most importantly, secure a healthy and prosperous future for our Blue Economy.

Hon. Chairman and Honourable Members, I now with your permission invite the technical team to a detailed presentation.

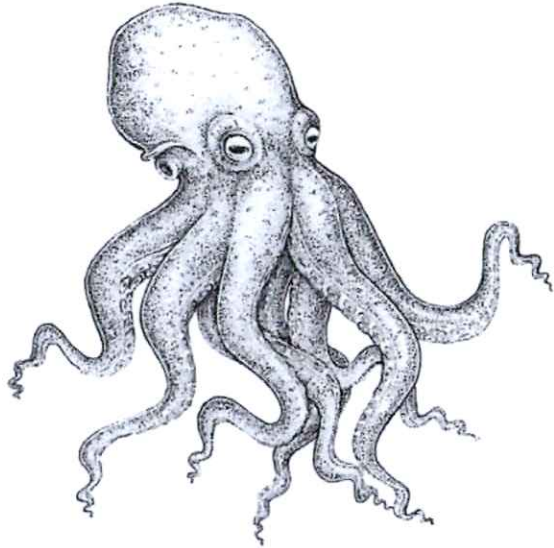
Thank you.

SENSITIZATION ON

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

AS A PRIMER FOR KENYA'S RATIFICATION

MDAs on BBNJ



Context

- BBNJ

A treaty established under United Nations Convention on the Law of The Sea that provides a legal framework for ocean governance primarily through the conservation and sustainable use of marine resources

Objectives

1. Provides rules and regulation for conservation and responsible use of marine resources
2. Offers modalities for the fair and equitable sharing of benefits accrued from utilization of marine resources
3. Aims to reduce harm and disruption that can be caused by activities in the ABNJ (E.I.A)



BBNJ Linkage with UNCLOS

UNCLOS

United Nations Convention on the Law Of The Sea (UNCLOS) dubbed as the ***Constitution of the Sea*** - ***provides the institutional and legal framework for maritime governance.***

UNCLOS designates maritime zones and confers rights and responsibilities to different entities with respect to each zone .
Maritime zones are broadly categorized into two areas, those;

- Within National Jurisdiction (Up to Exclusive Economic Zones)
- Beyond National Jurisdiction (ABNJ) (High Seas and the Area)

UNCLOS recognizes the resources in the ABNJ as the global commons and directs that their usage is for the benefit of ALL humankind





1982
UNCLOS

Non-Living Resources – Minerals

Living Resources – Fish and Other Biodiversity

Agreement relating to the
Implementation of Part XI of UNCLOS

1994

Examples (Polymetallic Nodules – Rich in
Manganese, Nickel and Cobalt)



Agreement relating to the conservation and
management of straddling fish stocks and highly
migratory fish stocks

1995

Highly Mobile Species e.g Tuna, Shark



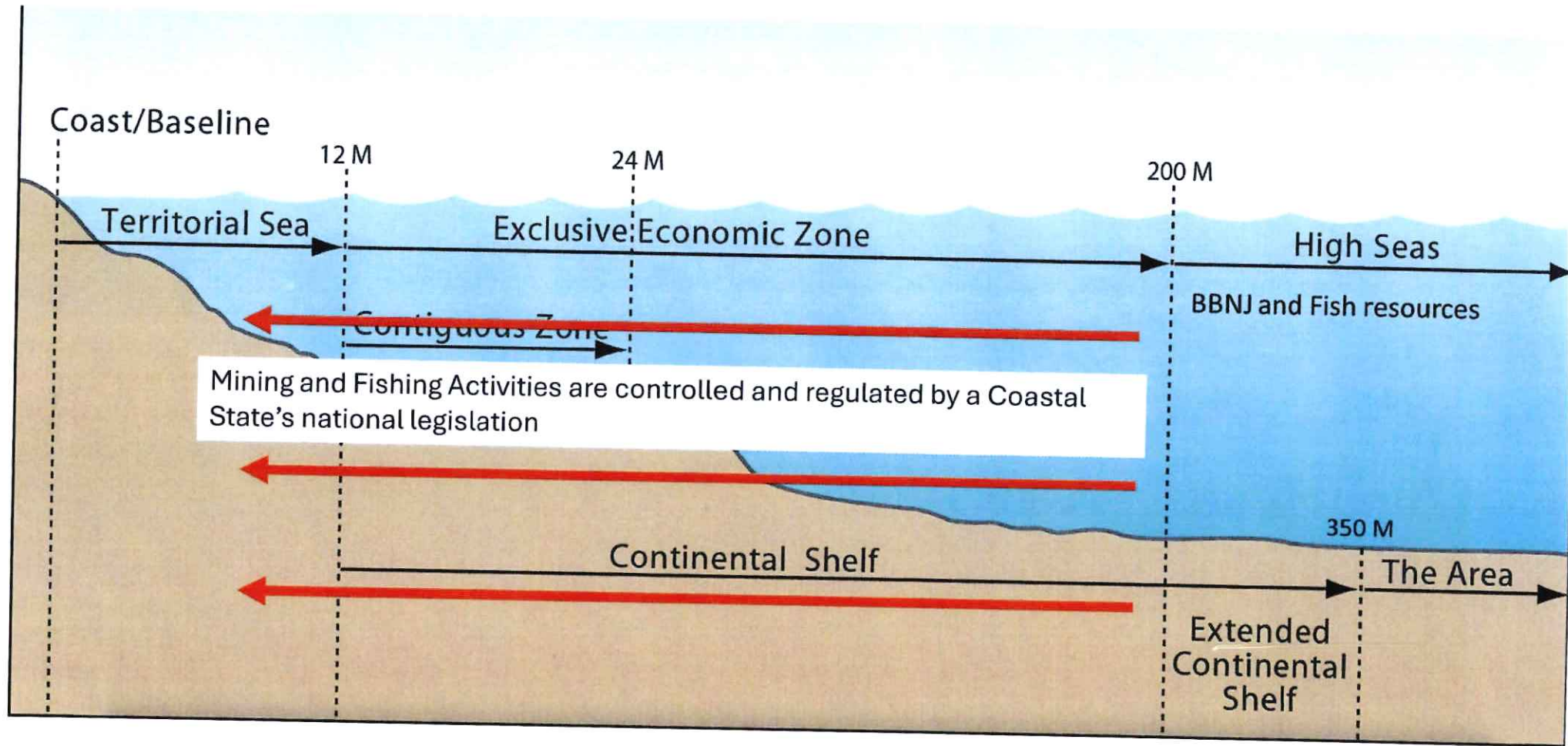
Agreement on BBNJ

2023

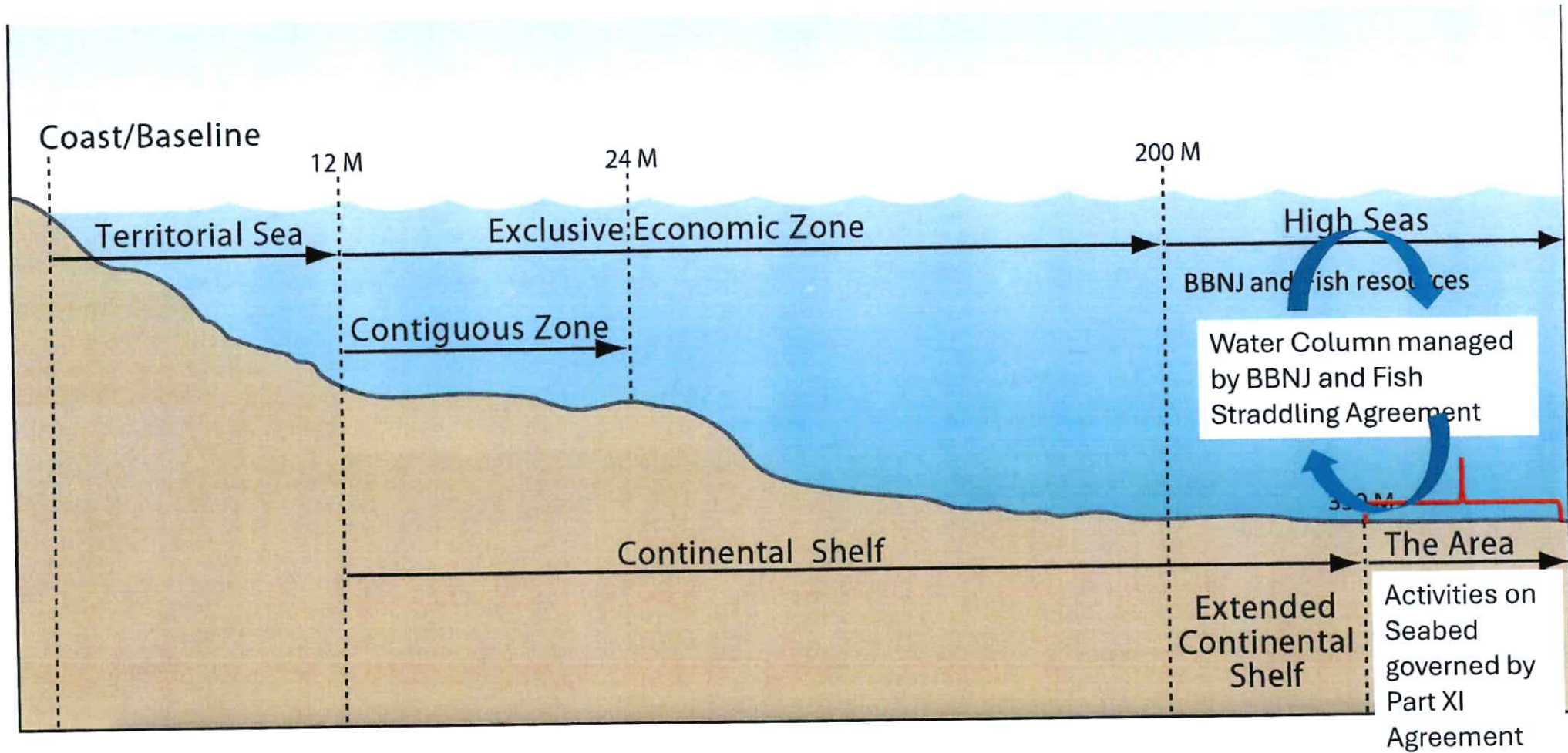
Sedentary species



Implementation of the Convention is buttressed by 3 treaty Agreements as well as Bodies



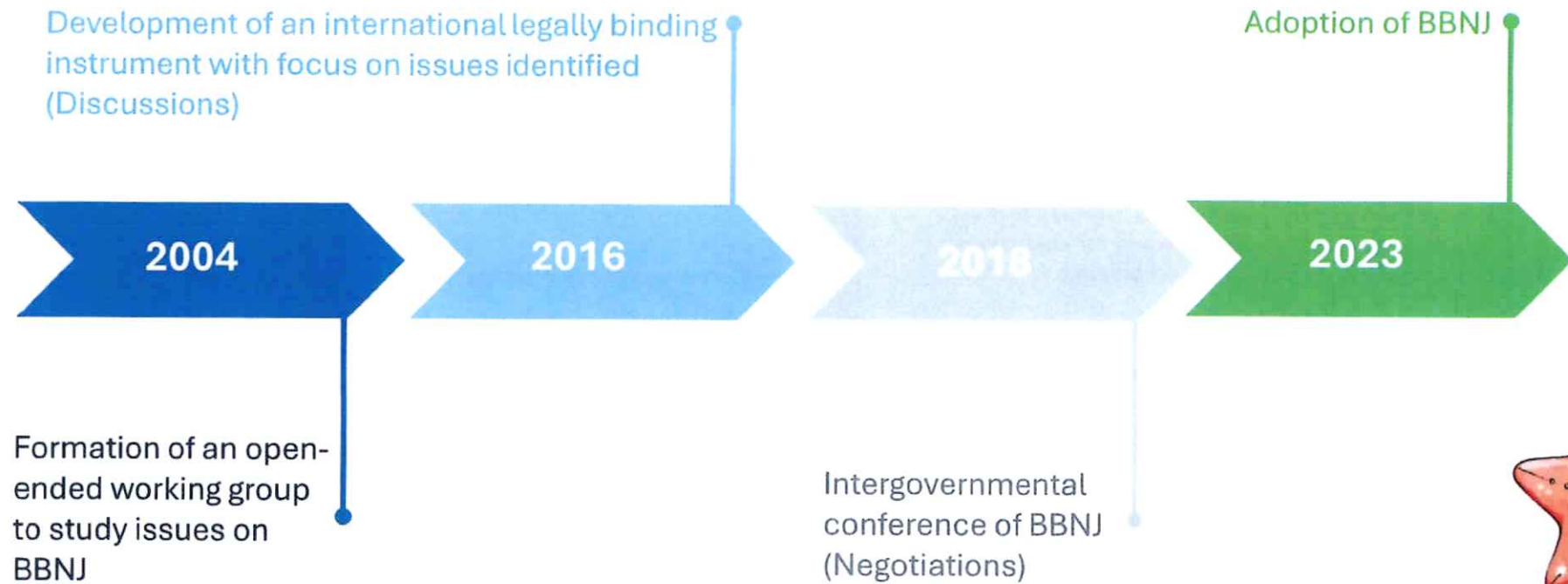
Maritime Zones



Maritime Zones

Genesis and Evolution of BBNJ

- What trigger the BBNJ conversation? - marine pollution and global warming over the past decades led to significant biodiversity losses.



Scientific data that informed formulating the bbnj agreement

- Presence of High Levels of Marine Biodiversity in ABNJ e.g in ecosystems such as hydrothermal vents, seamounts, abyssal plains)
- Accelerated Biodiversity Loss in ABNJ owing to anthropogenic activities such as overfishing and IUU (Illegal, Unreported and Unregulated) fishing, Climate change, Pollution, Unregulated bioprospecting
- . Gaps in the Legal Framework – i.e lack of a comprehensive and exhaustive legal regime for MGRs in ABNJ
- Scientific Consensus on Urgent Action
- Technological Advances Enabling Access

This scientific foundation led to the 2017 UN resolution to convene the Intergovernmental Conference, culminating in the adoption of the BBNJ Agreement in June 2023.



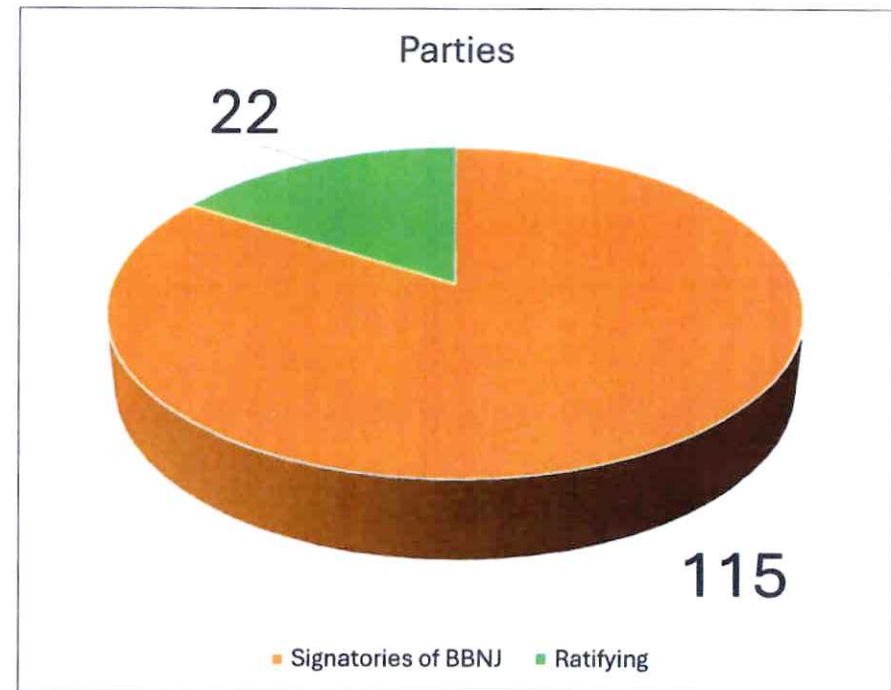
Status of BBNJ

Ongoing

- Preparation of Entry into Force of BBNJ by a commission composed of representatives of governments(not necessarily signatories), NGOs and UN-affiliated bodies

60

Parties required to ratify before BBNJ enters into force



Kenya adopted in 2024

Contents of BBNJ text

- Part 1 – Preamble, Introduction, General Provisions
- Part 2 – Marine Genetic Resources and Equitable Sharing of Benefits
- Part 3 – Area-Based Management Tools
- Part 4 – Environmental Impact Assessments
- Part 5 – Capacity Building and Transfer of Marine Technology
- Part 6 – Institutions and Organs under BBNJ
- Part 7 – Financial Resources
- Part 8 – Implementation and Compliance
- Part 9 – Settlement of Disputes
- Part 10 – Non-parties to the Agreement
- Part 11 – Good faith and Abuse of Rights
- Part 12 – Final Provisions



Critical issues in the BBNJ package



Marine Genetic Resources



Environmental Impact Assessment



Capacity Building and Transfer of Technology



Area Base Management

Critical issues in the BBNJ package - **MARINE GENETIC RESOURCES (MGR)**

- **Definition**

MGR – are material and derivative of marine plant, animal, microbial or other origin containing functional units of heredity of actual or potential value

Chemical compounds can be extracted and reproduced in the laboratory in mass for applications

- **Industrial Application**

Pharmaceuticals – MGRs are used to develop antibiotics, antivirals and pain relievers

Cosmetics – Creating skin care and health supplements

Food security – offer sustainable and diverse food sources for fisheries and aquaculture (consumed in large quantities)

Bio-remediation – microorganisms can be used as natural cleansers of contaminated environments

Agriculture - Improving crop yields, pest resistance, and nutritional content.

Bio Energy – are renewable energy source

NOTE

10 Countries collectively account for over 90% of MGR-related patents



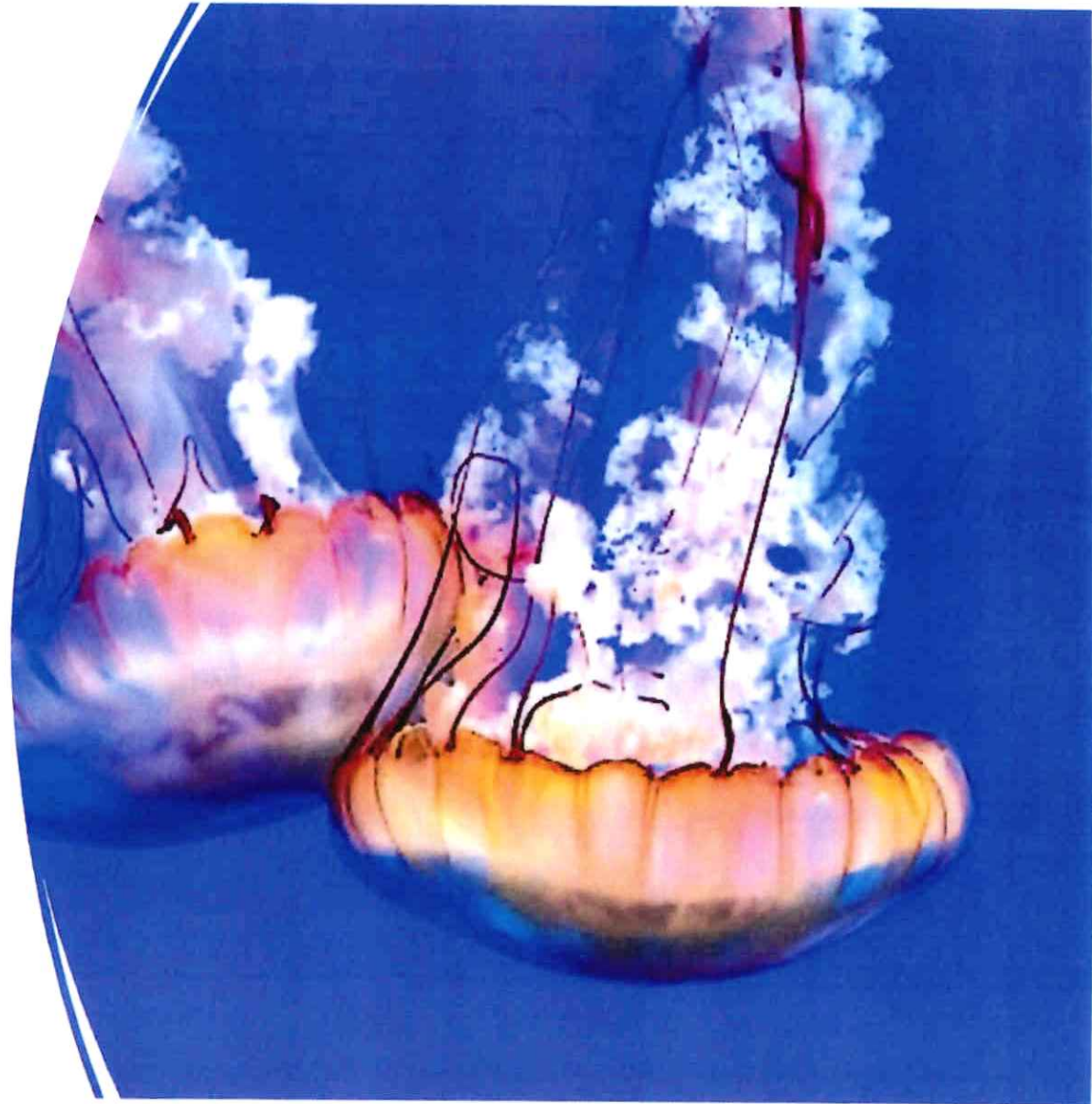
Critical issues in the BBNJ package - **AREA BASED MANAGEMENT TOOLS - ABMT**

Definition

ABMT – are approaches that enables the application of management measures to a specific area to achieve a desired outcome in most cases for conservation and protection. Can be short-lived or indefinite

- *(The areas enjoys higher protection than the surrounding area due to more stringent regulation of one or more or all human activities)*

ABMT are instrumental in curbing specific human activities (e.g. fisheries, shipping, or mining) and apply to cross-sectoral tools (e.g. such as marine protected areas, MPAs, and marine spatial planning, MSP).



Critical issues in the BBNJ package - **AREA BASED MANAGEMENT TOOLS - ABMT**

- **Objectives**

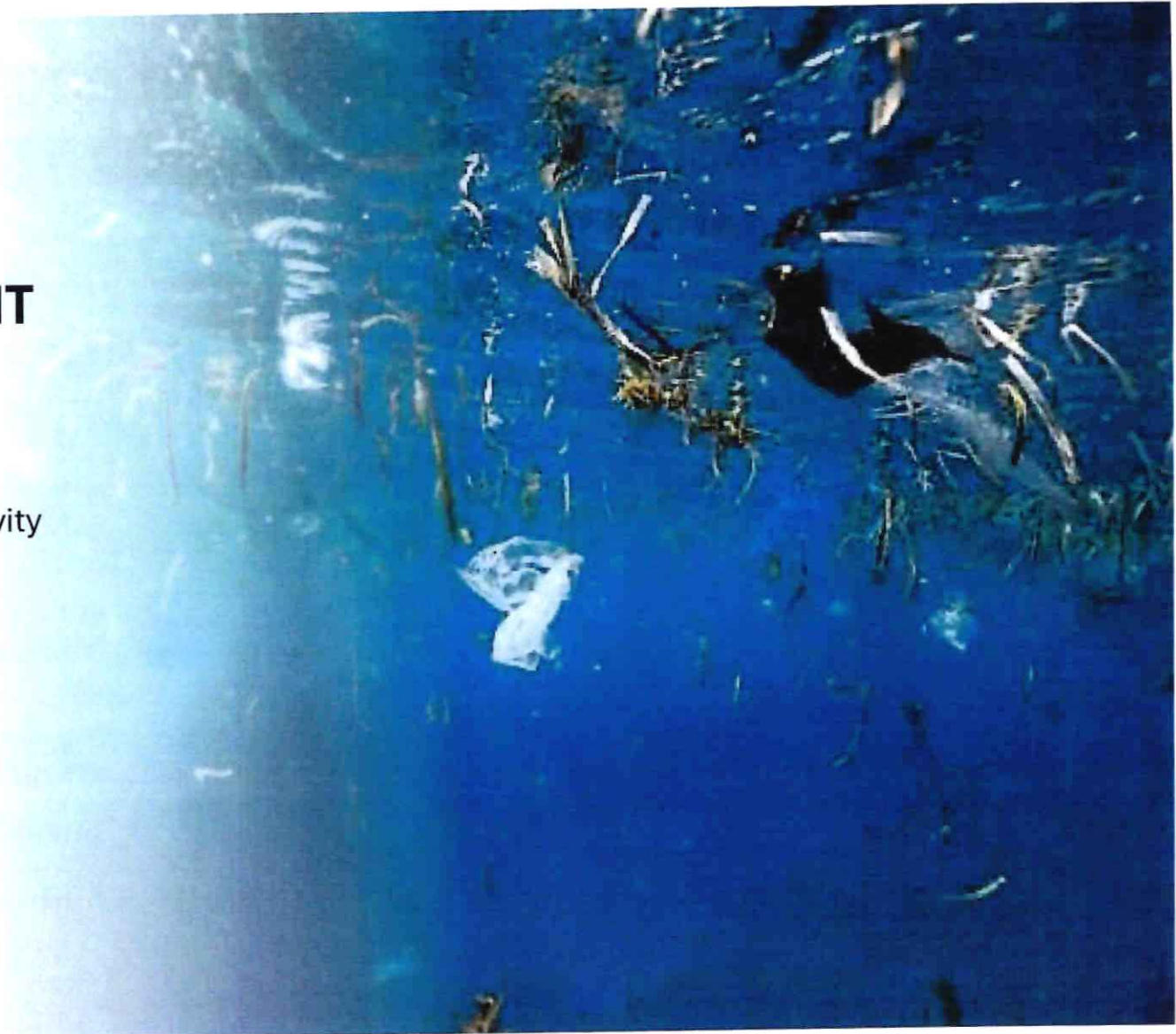
- Protection and preservation of the marine environment
- Conservation of marine biodiversity
- Protecting or safeguarding key ecosystem processes
- Sustainable use of components of marine biodiversity
- Creating scientific reference areas (base-line research)
- Safeguarding aesthetic or naturalness/wilderness values
- As 'buffer area' or 'insurance' (precautionary approach)
- Avoiding or resolving conflicting human activities

Critical issues in the BBNJ package - **ENVIRONMENTAL IMPACT ASSESMENT**

EIA – Is a systematic process to foresee and appraise on the potential environmental implications of a proposed activity to inform decision making.

EIA serves to propose either measures to mitigate the predicated harm to the environment or to provide alternative activities with less environmental footprint.

Under BBNJ, conducting EIA is mandatory



Critical issues in the BBNJ package - **CAPACITY BUILDING AND TRANSFER OF TECHNOLOGY**

WHAT IT ENTAILS?



Holistic process of enhancing and strengthening skills, abilities, institutions information, procedures, and resources.



BBNJ seeks to develop human resource, organizational capabilities while promoting cooperation and networks with emphasis on developing countries' needs

OBJECTIVES

- Assist Parties in implementing the Agreement, to achieve its objectives
- Enable inclusive, equitable and effective cooperation and participation in the activities
- Develop the marine scientific and technological capacity, including with respect to research,
- Increase, disseminate and share knowledge on BBNJ
- Support developing States Parties in achieving the objectives of the Agreement

INSTITUTIONAL ARRANGEMENT



Conference of Parties

Decision making body, adopts all decision through consensus

Secretariat

Provide administrative and logistical support to the COP and subsidiary bodies



Scientific and Technical Body



Capacity and Transfer of Technology Committee



Finance Committee



Access and Benefit Sharing Committee



Implementation and Compliance

Financial Mechanism of BBNJ

Fund Type	Contributors	Uses
Voluntary Trust Fund	Developing countries and interested entities eg NGOs	Facilitate the participation of representatives of developing states in BBNJ engagements
Special Fund	<ul style="list-style-type: none"> • Monetary benefits from the utilization of marine genetic resources • Assessed annual contributions by parties to the Agreement • Additional contributions from Parties 	<ul style="list-style-type: none"> <input type="checkbox"/> Fund capacity-building project <input type="checkbox"/> Assist developing States Parties in implementing this Agreement <input type="checkbox"/> Support conservation and sustainable use programmes by Indigenous Peoples
Global Environmental Facility	Donor countries through the World Bank	<ul style="list-style-type: none"> <input type="checkbox"/> Support public consultations at the national, subregional and regional levels; <input type="checkbox"/> Fund the undertaking of any other activities as decided by the Conference of the Parties.

Assessed Benefits of BBNJ to Kenya

1. Improved Ocean Health and Ecosystem Services
2. Promotion of scientific knowledge
3. Opportunities to meet the United Nations Sustainable Development Goals (SDGs)
4. Capacity Building for Kenyan professionals as well as strengthened Institutions
5. Access to financial and non-financial *goodies* garnered from usage of marine resources
6. Reductions of financial constraints through the funding model that eases burden on developing states
7. Positioning Kenya as a regional hub for BBNJ and Blue Economy matters
8. International opportunities for Kenyans for representation in the subsidiary bodies and institutions
9. Diplomatically advantageous since it will bolster global cooperation and partnership



REPUBLIC OF KENYA

**MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS JOINTLY
WITH THE NATIONAL TREASURY; MINISTRY OF FOREIGN AND DIASPORA
AFFAIRS; MINISTRY OF ENVIRONMENT, CLIMATE CHANGE AND
FORESTRY; AND THE OFFICE OF THE ATTORNEY GENERAL AND
DEPARTMENT OF JUSTICE**

**SUBMISSION OF MEMORANDUM TO THE DEPARTMENTAL COMMITTEE ON
BLUE ECONOMY, WATER AND IRRIGATION FOR CONSIDERATION AND
RATIFICATION 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 (BBNJ AGREEMENT)**

29TH MAY 2025

MEMORANDUM ON KENYA'S RATIFICATION FOR 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.

A. OBJECTIVES OF THE MEMORANDUM

The purpose of the Memorandum is to:

- a) Apprise the National Assembly Departmental Committee on Blue Economy, Water and Irrigation on the significance of the BBNJ Agreement.
- b) Seek parliamentary consideration and approval for Kenya to ratify the BBNJ Agreement in line with Section 8 of the Treaty Making and Ratification Act.

B. BACKGROUND

- a) 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) was adopted on 19 June 2023, in New York, USA by the Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction convened under the auspices of the United Nations General Assembly.
- b) The BBNJ Agreement became the third implementing agreement to the United Nations Convention on the Law of the Sea. These Agreements are as follows: United Nations Fish Stock Agreement for the Implementation of provision of the UNCLOS Relating to the Conservation and Management of Straddling Fish Stock and Highly Migratory Fish Stocks 1995 and 1994 Agreement Relating to the Implementation of the Part XI of UNCLOS.
- c) The Agreement was adopted following nearly twenty years of negotiations and discussions. Its adoption marked a historic achievement in efforts to ensure the health and resilience of ocean ecosystems, and to level the playing field in the capacity to participate in and benefit from activities in areas beyond national jurisdiction. The Africa Group, of which the Republic of Kenya is a member in particular, played a significant role in driving the conclusion of the BBNJ Agreement including the principle of the Common Heritage of Humankind which posits that the ocean areas beyond national jurisdiction and their resources are the collective property of all humanity, to be managed equitably and sustainably for the benefit of present and future generations, with particular consideration for the needs and interests of developing countries

- d) The Agreement addresses a package of issues under the overall objective of ensuring the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction for the present and in the long term, through effective implementation of the relevant provisions of the United Nations Convention on the Law of the Sea and further international cooperation and coordination. The BBNJ addresses the following main issues: marine genetic resources including a fair and equitable sharing of benefits, conservation measures such as Area Based Management Tools, Environmental Impact Assessment, Capacity Building and Knowledge transfer.
- e) All States and regional economic integration organizations may become parties to the BBNJ Agreement, whether they are parties to the United Nations Convention on the Law of the Sea or not. The Agreement also provides that the legal status of non-parties to the Convention is not affected by the Agreement.
- f) Thus far, 115 countries are signatories to the Agreement out of which 25 are african states. Twenty-two (22) countries have ratified including Seychelles, Mauritius, Malawi and Gabon, with many countries expected to ratify at the Special Treaty Event on 9 June 2025 and before the 80th UN General Assembly in September 2025. Kenya became a signatory on 24th September 2024, but is yet to ratify the Agreement.
- g) Approximately 10 countries are expected to ratify by end of May, and a further 5 to 10 countries could deposit their instrument of ratification at the United Nations Ocean Conference on 9th June 2025.
- h) The Agreement is not yet in force as it can only enter into force 120 days after the date of deposit of the sixtieth (60th) instrument of ratification, according to article 68 (1) of the Agreement.

C. ANALYSIS OF THE PROBLEM

- a) Areas Beyond National Jurisdiction (ABNJ) cover nearly two thirds of the World Ocean. They contain living and non-living resources. However, until the adoption of the BBNJ Agreement, there was no single instrument which comprehensively addresses the question of management and protection of marine biodiversity in areas outside national jurisdiction.
- b) While the UNCLOS provides a global framework for all maritime activities, including an overarching obligation to protect and preserve the marine environment, detailed guidance on how to conserve and sustainably use marine biodiversity in ABNJ, has proven insufficient to sustain marine biodiversity. With the management of the non-living resources catered for by the 1994 Agreement Relating to the Implementation of the Part XI of UNCLOS and Fisheries Resources through the 1995 Fish Stock Agreement, the BBNJ Agreement aims to help prevent and remedy the degradation of ABNJ biodiversity.

- c) UNCLOS which came into force in 1994 defined regions in the ocean where coastal states have national jurisdiction over natural resources namely the Exclusive Economic Zone (EEZ) which generally extends to 200 nautical miles from the territorial sea baseline.
- d) Prior to the BBNJ Agreement, there was no global mechanism to establish marine protected areas and other area-based management tools in areas beyond national jurisdiction. Regulation of this variety was limited to single sectors (like fishing) and covered small areas of the ocean.
- e) An increase in marine pollution and global warming over the past several decades led to significant biodiversity losses in the high seas. A steep increase in global greenhouse gas (GHG) emissions, causes more CO² to dissolve in the oceans, making the waters warmer and more acidic. These modifications in the ocean's chemistry interfere with the populations of vital marine species. According to the International Union for Conservation of Nature (IUCN), at least 41 percent of threatened marine species are impacted. These have cumulative and transboundary impacts on Areas Within National Jurisdiction.
- f) This led to a UN Resolution in 2004 for the formation of a working group on biodiversity matters. This subsequently led to the adoption of a legal framework which eventually led to the BBNJ Agreement.

D. OBJECTIVES OF THE AGREEMENT

The Agreement's overarching objective can be defined as "to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination."

In pursuance of this, further objectives of the Agreement, as linked to its substantive and non-substantive elements, are as follows:

- a) **Measures to establish Area Based Management Tools such as Marine Protected Areas (ABMTs):** The Agreement provides a mechanism to allow parties to establish protection measures, such as marine protected areas, in areas beyond national jurisdiction.
- b) **Access and Benefit Sharing of Marine Genetic Resources (MGRs):** Ensure fair and equitable sharing of benefits of Marine Genetic Resources (MGRs) from the high seas. This includes non-monetary benefits such as sharing of scientific data and the monetary benefits, which includes payments or contributions relating to the commercialization of the MGRs.
- c) **Capacity Build and Technology Transfer:** A key feature of the BBNJ Agreement is the emphasis on equity and recognition of special circumstances

and the needs of developing countries, including “coastal African States”. It thus proposes provisions for Capacity Building and Transfer of Marine Technology aimed at strengthening institutional and individual capacities of Developing Countries such as Kenya.

- d) **Environmental Impact Assessment (EIAs):** The Agreement obligates Parties to conduct Environmental Impact Assessment (EIAs) before any planned activities in the ABNJ. This is intended to assess potential harm to the marine environment and propose mitigation strategies.

The Agreement also includes a range of cross-cutting issues and the establishment of subsidiary bodies, such as the Science and Technical Body (STB), to oversee a range of issues including capacity building and transfer of marine technology, finance, and compliance.

Furthermore, a key feature of the BBNJ Agreement is enshrined within its Article 5, which emphasizes that the Agreement will not “undermine relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies and that promotes coherence and coordination with those instruments, frameworks and bodies.” As such, the Agreement seeks to foster a collaborative approach to ocean governance by aligning with and enhancing the effectiveness of these bodies, thereby promoting an integrated and holistic framework for the conservation and sustainable use of marine biodiversity beyond national jurisdiction

E. STATES OBLIGATIONS

Upon ratification of the Agreement, Kenya will be required to: -

- a) Have laws, regulations and/or administrative procedures in place to ensure that the objectives set out in the Agreement are implemented fully. For example, Kenya will need to enact legislation to: include marine biodiversity beyond National Jurisdiction, expand the institutional mandate for relevant agencies to include ABNJ matters, recognize marine species and ecosystems for ABNJ, extend the EIAs requirements to Kenyan entities operating in the ABNJ, policy frameworks.
- b) Submit proposals regarding the establishment of area-based management tools, including marine protected areas if it so wishes. These proposals will be reviewed by Scientific and Technical body and are subject to a stakeholder consultation process.
- c) Take measures to ensure that certain information in relation to the collection *in situ* marine genetic resources of areas beyond Kenya’s national jurisdiction is notified to the clearing-house mechanism. This Clearing House Mechanism is a centralized open-access platform, for such information-sharing purposes and to match capacity-building.

F. BENEFITS ACCRUING TO KENYA

The benefits that will accrue to Kenya by ratifying this agreement include:

- a) Biodiversity conservation: Adoption of conservation and management measures under the Agreement will protect, preserve, restore, and maintain biodiversity and ecosystems that will support Kenya's food security and other socioeconomic objectives.
- b) These measures are directly aligned with Kenya's national interests, including the preservation of marine biodiversity, the protection of ecosystem services, and the support of food security and broader socioeconomic development objectives.

It is important to emphasize that ecological processes in the high seas are not isolated from our Exclusive Economic Zone (EEZ). Scientific evidence confirms that activities in ABNJ such as marine pollution, overfishing, and climate-driven changes have transboundary impacts that extend into areas within national jurisdiction. For example, plastic and chemical pollutants introduced into the high seas are transported by ocean currents into Kenyan waters, affecting both biodiversity and human health. Similarly, the effects of climate change are shifting the distribution ranges of migratory and pelagic species, including tuna stocks that are vital to Kenya's economy and coastal livelihoods.

Furthermore, the depletion of species in the high seas due to unregulated exploitation can disrupt trophic interactions and diminish the resilience of ecosystems within national waters. This has direct implications for the sustainability of Kenya's fisheries and the well-being of coastal communities.

- c) Promotion of scientific knowledge: In addition to ongoing discussions on the mechanisms for monetary benefits from Marine Genetic Resources from areas beyond national jurisdiction, the BBNJ Agreement provisions extend to Marine Genetic Resources and Digital Sequence Information (DSI); this also includes MGR and DSI collected or generated before its entry into force, except if a State declares otherwise. Nevertheless, the Agreement allows African scientists access to old samples from marine scientific research and samples collected under the BBNJ. For Kenya, the BBNJ Agreement means an opportunity to get involved in research projects, and access samples, databases, repositories, and digital sequence information, not previously accessible.
- d) Recognition of financial constraints: The Agreement recognizes that the resources of the ocean beyond national jurisdiction are the common heritage of humankind. In furtherance of this principle, the Agreement aims to buffer the financial constraints on developing states including Kenya, as there is an obligation to fairly and equitably share monetary and non-monetary benefits from the commercialization of Marine Genetic Resources. Developed countries

are further required to make upfront payments to finance capacity building for implementing the Agreement upon entry into force.

- e) Opportunities to meet the United Nations Sustainable Development Goals (SDGs): The BBNJ Agreement opens up opportunities for Kenya to fight hunger and poverty and foster socio-economic development through greater access to ocean resources. It is equally noted that the African Union is supporting the BBNJ process, and this will allow us to equally drive Agenda 2063.
- f) Regulation of Illegal Unreported and Unregulated (IUU) fishing: Kenya has continuously reported on the rampant IUU fishing. It is to be noted that fishing companies in developed states overfish in the high seas' areas adjacent to Exclusive Economic Zones of coastal African States including Kenya. The BBNJ Agreement's focus on marine ecological connectivity and other measures will limit such unsustainable and unregulated illegal fishing. As part of the process of operationalization of the BBNJ Agreement, there is a strengthened focus on monitoring, control and surveillance (MCS). The BBNJ Agreement, through mechanisms like the CBTMT, as well as developing partnerships, will allow us to build interoperable skills that would serve us in good stead not only for efforts relating to Areas Beyond National Jurisdiction but also areas within national jurisdiction.
- g) Capacity building for substantive elements of the Agreement, including Environmental Impact Assessments (EIAs): The Agreement calls for assistance to developing countries to strengthen their capacity to prepare, conduct, and evaluate Environmental Impact Assessments. It will ensure that activities on the high seas are assessed to prevent, mitigate, and manage adverse environmental impacts and protect and preserve the marine environment. Significantly for Kenya, the Agreement addresses critical issues of transboundary harm and cumulative impacts of activities in the high seas that could be detrimental to marine biodiversity.
- h) International opportunities for Kenyans: The BBNJ Agreement has established five subsidiary bodies and an institution, the Clearing House Mechanism. The 5 responsible for the implementation of the Agreement. The 5 bodies are; the Access and Benefit-Sharing Committee, Scientific and Technical Body, Finance Committee, Implementation and Compliance Committee, Capacity building and transfer of technologies Committee and Secretariat. These bodies serve as opportunities through which Kenya can nominate persons to ensure that Kenya's interests can be advanced from the onset.
- i) Positioning Kenya as a regional hub for BBNJ and Blue Economy matters: The BBNJ Agreement has given some prominence to regional organizations to handle matters such as area-based management tools, marine protected areas as well as the use of EIA processes developed by such organizations. This provides an excellent opportunity for Kenya to serve as the regional hub for African countries on BBNJ and Blue Economy matters. For instance, discussions

on developing BBNJ Centres of Excellence are being initiated at continental level. This will unlock not only employment opportunities but will also attract funding for the development of marine-related technologies.

- j) Boosting Kenya's International Reputation: Signing and ratification of the Agreement will enhance Kenya's international reputation by demonstrating a commitment to environmental matters and ocean management. Noting that many countries, including countries in the region, are moving towards ratification, there is an urgency for Kenya to lead by example. This step will further solidify Kenya's role as a regional hub for ocean diplomacy and sustainable blue economy innovation.

In summary, by participating actively in the implementation of the BBNJ Agreement, Kenya stands to enhance the protection of its marine environment, strengthen the sustainability of its blue economy, and assert its leadership in regional and global ocean governance.

G. FINANCIAL IMPLICATIONS

- a) The implementation of the BBNJ Agreement will primarily be integrated into the ongoing mandates of existing Government Ministries, Departments, and Agencies, and therefore does not require the creation of new institutional structures at the national level. However, as a Party to the Agreement, Kenya might be expected to contribute to the operational budget of the institutions established under the Agreement, including the Secretariat and the Conference of the Parties. These assessed contributions are part of our obligations under international law and will likely follow the UN scale of assessments or a modified formula agreed by the Parties, which will be discussed at the 1st Conference of Parties of the BBNJ Agreement, further emphasizing the importance for countries like Kenya to be in the room to shape the structure of the assessed contributions.
- b) Importantly, the Agreement also provides for targeted support to developing countries, including Kenya, through technical assistance, capacity-building programmes, and the transfer of marine technology. These efforts are designed to ensure equitable participation and effective implementation by developing states, and may be financed through voluntary contributions or dedicated international funding mechanisms.

H. LEGAL IMPLICATIONS

- a) There are no legal implications from ratifying the Agreement which will require amendments of the Constitution.

- b) The Agreement is consistent with the Constitution and indeed promotes its principles under article 60(1)(e) relating to sound conservation and protection of ecologically sensitive areas, and article 69 (1) (a) (e) (f) (g) and (h) that relates to the state's obligations on sustainable, utilization, management, and conservation of the environment and natural resources, and ensuring the equitable sharing of the accruing benefits.
- c) Upon ratification of the Agreement, it will require the review of existing legislation relating to environmental protection, ocean management and biodiversity management for full implementation of the Agreement.

I. RECOMMENDATIONS TO THE COMMITTEE

In view of the benefits which Kenya is expected to enjoy, there is need for Kenya to ratify the BBNJ Agreement. The Committee is therefore requested to:

- a) Note the contents of this Memorandum; and
- b) Approve Kenya's ratification 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 (BBNJ Agreement) in line with section 8 of the Treaty Making and Ratification Act (Cap 4D) in its entirety without any reservations.

SIGNED..... DATE.....

Important documents and Annexures:

Annex 1: United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction

Annex 2: Correspondences

Annex 3: Executive (cabinet) Approval

Annex 4: Treaty Making and Ratification Act (Cap 4D)



EXECUTIVE OFFICE OF THE PRESIDENT
CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

Telegraphic Address
Telephone: +254-20-2227436
When replying please quote

CAB/GEN.3/1/1 VOL.XX/(47)

Ref. No.
and date

SECRET

STATE HOUSE
P.O. Box 40530-00100
Nairobi, Kenya

18th September, 2024
....., 20.....

Ms. Betsy M. Njagi

Principal Secretary
State Department for the Blue Economy & Fisheries
Ministry of Mining, Blue Economy & Maritime Affairs
Works Building
NAIROBI

Mr. Geoffrey E. Kaituko, ACIARB

Principal Secretary
State Department for Shipping & Maritime Affairs
Ministry of Mining, Blue Economy & Maritime Affairs
Works Building
NAIROBI

Eng. Festus K. Ng'eno

Principal Secretary
State Department for Environment & Climate Change
Ministry of Environment, Climate Change & Forestry
NAIROBI

Dr. Chris Kiptoo, PhD., CBS

Principal Secretary
The National Treasury
The National Treasury & Economic Planning
NAIROBI

Mr. James Muhati, CBS

Principal Secretary
State Department for Economic Planning
The National Treasury & Economic Planning
NAIROBI

Hon. Shadrack J. Mose

Solicitor- General
State Law Office
NAIROBI

SECRET

SECRET

Dear

KENYA'S SIGNATURE AND RATIFICATION 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

I refer to a Cabinet Memorandum jointly submitted by the Prime Cabinet Secretary and Cabinet Secretary for Foreign & Diaspora Affairs; the Cabinet Secretary for Mining, Blue Economy & Maritime Affairs; the Cabinet Secretary for the National Treasury & Economic Planning; the Cabinet Secretary for Environment, Climate Change & Forestry; and the Attorney-General seeking the **grant of Executive Approval**.

The objective of the Memorandum is to apprise Cabinet on the significance of the Agreement Under the United Nations Convention of the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity on Areas Beyond National Jurisdiction (BBNJ); and seek Cabinet approval for Kenya to sign and ratify the BBNJ Agreement.

I wish to inform you that **His Excellency the President** has considered the request and:-

- I. **Noted** the contents of the Memorandum;
- II. **Approved** the signing and ratification of the Agreement;
- III. **Directed** the Prime Cabinet Secretary and Cabinet Secretary for Foreign & Diaspora Affairs to sign and ratify the Agreement on behalf of the Republic of Kenya; and
- IV. **Directed** the Prime Cabinet Secretary and Cabinet Secretary for Foreign & Diaspora Affairs; the Cabinet Secretary for the National Treasury & Economic Planning; the Cabinet Secretary for Mining, Blue Economy & Maritime Affairs; the Cabinet Secretary for Environment, Climate Change & Forestry; and the Attorney-General to take appropriate action.

Please proceed and take appropriate action as **directed**.

Yours



FELIX K. KOSKEI, EGH
CHIEF OF STAFF &
HEAD OF THE PUBLIC SERVICE

SECRET

SECRET

Copy to:

Hon. Hassan Ali Joho, EGH
Ministry of Mining, Blue Economy &
Maritime Affairs
NAIROBI

Hon. CPA. John Mbadi Ony'ongo, EGH
Cabinet Secretary
The National Treasury & Economic Planning
NAIROBI

Hon. Aden B. Duale, EGH
Cabinet Secretary
Ministry of Environment,
Climate Change & Forestry
NAIROBI

Ms. Dorcas A. O. Oduor, SC, EBS
Attorney-General
State Law Office
NAIROBI

Mr. Jsoeph N. Busiega, MGH, MBS, ndc (K)
Chief of Staff
Office of the Prime Cabinet Secretary &
Cabinet Secretary
Ministry of Foreign & Diaspora Affairs
NAIROBI

Mr. Arthur A. Osiya, CBS
Principal Administrative Secretary
Executive Office of the President
NAIROBI

SECRET



F.

REPUBLIC OF KENYA
MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS
STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES
Office of the Principal Secretary

Email:ps@blueeconomy.go.ke
Telephone:+254 (20) 2718870

When replying please quote:

SHA Building
Ragati Road
P.O. Box 58187-00200
Nairobi

Our Ref: **MMBE&MA/SDBE&F/LEG/ VOL. 1(8)**

23rd May, 2025.

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
Parliament Building
Nairobi.

*Indicated
- file is
15/8/2025
Jm2
23/5/2025*

Dear

SUBMISSION OF MEMORANDUM ON RATIFICATION 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 (BBNJ AGREEMENT)

The above-captioned matter refers.

The Ministry of Mining, Blue Economy and Maritime Affairs through the State Department for the Blue Economy and Fisheries received an invitation to submit Memoranda on the United Nations Conventions on The Law of The Sea on The Conversation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement).

The Agreement applies to areas in the ocean beyond national jurisdiction and addresses numerous issues under the overall objective of ensuring the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction namely, the high seas and international sea bed, for the present and in the long term, through international cooperation and coordination. The Agreement shall boost Kenya's biodiversity conservation efforts as well as boosts its scientific research capacity in marine areas.

The State Department sought comments from the public and various stakeholders via a public notice in the MyGov and Daily Nation newspapers on 13th May and 15th May 2025

respectively. The State Department also wrote to all state departments seeking feedback on the same via a letter dated 14th May 2025.

Thus far, the State Department has received written submissions from stakeholders and the public, which will be tabled before the National Assembly Departmental Committee on the Blue Economy, Water and Irrigation at an opportune time. The deadline for feedback is on the 27th May, 2025.

Find enclosed a memorandum apprising the Committee on the BBNJ Agreement.

Submitted for your kind consideration.

Yours

Betsy M. Njagi, CBS

PRINCIPAL SECRETARY

Encls.

Copy to:

Hon. Hassan Ali Joho, EGH

Cabinet Secretary

Ministry of Mining, Blue Economy and Maritime Affairs

Works Building

Nairobi.



G.



REPUBLIC OF KENYA

SUBMISSION OF MEMORANDUM TO THE DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION FOR CONSIDERATION AND RATIFICATION 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 (BBNJ AGREEMENT).

FROM

**MINISTRY OF MINING, BLUE ECONOMY AND MARITIME
AFFAIRS
THROUGH THE STATE DEPARTMENT FOR THE BLUE ECONOMY
AND FISHERIES**

TO

THE CLERK OF THE NATIONAL ASSEMBLY

A. BACKGROUND

- 1) 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) was adopted on 19 June 2023, in New York, USA by the Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction convened under the auspices of the United Nations.
- 2) The Agreement addresses a package of issues under the overall objective of ensuring the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction for the present and in the long term, through effective implementation of the relevant provisions of the United Nations Convention on the Law of the Sea and further international cooperation and coordination. It sets out specific measures in respect of these issues, modalities to implement and monitor those measures, as well as institutional arrangements to support its implementation.
- 3) Thus far, 115 countries are signatories to the Agreement while 21 countries have ratified the Agreement. Kenya became a signatory on 24th September 2024, but is yet to ratify the Agreement.

B. OBJECTS OF THE AGREEMENT

- 4) The main objectives of the Agreement are to:
- 5) Conserve and ensure sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long-term, through effective implementation of the relevant provisions of the United Nations Convention on the Law of the Sea (UNCLOS) and further international cooperation and coordination.
- 6) Ensure fair and equitable sharing of benefits of Marine Genetic Resources (MGRs). Accordingly, benefits arising from activities involving MGRs and their associated 'digital sequence information' (for example, DNA data) which could be significant must be shared fairly and equitably among States. This includes not only the sharing of scientific data but also the sharing of financial gains through a financial mechanism established under the Agreement.
- 7) Build and develop of the capacity of Parties, particularly developing States Parties, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing

States, coastal African States, archipelagic States and developing middle-income countries, to carry out activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction.

- 8) Generate knowledge, scientific understanding and technological innovation, including through the development and conduct of marine scientific research, as fundamental contributions to the implementation of this Agreement.
- 9) Develop and transfer of marine technology in accordance with this Agreement.

C. ANALYSIS OF THE PROBLEM

- 10) All United Nations member states adopted the 2030 Agenda for Sustainable Development in 2015. One of the stated agendas is the Sustainable Development Goal (SDG) 14 which aims to protect and ensure the sustainable use of the oceans. SDG 14 urges member states to conserve and sustainably use the oceans, seas and marine resources for sustainable development.
- 11) UNCLOS which came into force in 1994 defined regions in the ocean where coastal states have national jurisdiction over natural resources namely the Exclusive Economic Zone (EEZ) which generally extends to 200 nautical miles from the territorial sea baseline.
- 12) There has been a lack of unified rules and regulations relating to the conservation of marine resources in areas beyond the EEZ, namely the high seas. The high seas constitute about half of the earth's entire surface and are a rich source of diverse biological and natural species. They also play a major role in climate stabilization. The increase in ocean pollution decreases the oceans' ability to regulate climate.
- 13) High Seas are also affected by anthropogenic pressures such as destructive fishing practices, pollution and climate change which, cumulatively, put the health and resilience of the ocean at risk.

D. SALIENT FEATURES OF THE AGREEMENT

- 14) The key provisions in the Agreement include:

- a) Equitable sharing of marine genetic resources.
- b) Designation of Marine Protected Areas (MPAs).
- c) Environmental impact assessments (EIAs).
- d) Capacity Building and the transfer of marine technology.

E. STATES OBLIGATIONS

- 15) Upon ratification of the Agreement, Kenya will be required to: -
- a) Have laws, regulations and/or administrative procedures in place to ensure that the objectives set out in the Agreement are implemented fully.
 - b) Ensure that an Environmental Impact Assessment is conducted of planned activities in its jurisdiction or control that may cause substantial pollution of or significant and harmful changes to the marine environment in areas beyond national jurisdiction.
 - c) Submit proposals regarding the establishment of area-based management tools, including marine protected areas, which shall include certain prescribed elements. These proposals will be reviewed by a newly established Scientific and Technical body and are subject to a stakeholder consultation process.
 - d) Share the non-monetary and monetary benefits from the utilization of marine genetic resources and digital sequence information.
 - e) Take measures to ensure that certain information in relation to the collection *in situ* marine genetic resources of areas beyond Kenya's national jurisdiction is notified to a newly established clearing-house mechanism. This Clearing House Mechanism is a centralized open-access platform, for such information-sharing purposes and to match capacity-building.

F. BENEFITS ACCRUING TO KENYA

- 16) The benefits that will accrue to Kenya by ratifying this agreement include:
- a) Biodiversity conservation
 - b) Promotion of scientific knowledge
 - c) Reduction of financial constraints

- d) Opportunities to meet the United Nations Sustainable Development Goals (SDGs).
- e) Regulation of Illegal Unreported and Unregulated (IUU) fishing
- f) Capacity building for Environmental Impact Assessments (EIAs)
- g) International opportunities for Kenyans
- h) Positioning Kenya as a regional hub for BBNJ and Blue Economy matters.
- i) Boosting Kenya's International Reputation.

G. LEGAL IMPLICATIONS

- 17) There are no legal implications from ratifying the Agreement which will require amendments of the Constitution, or enactment of new legislation.
- 18) The Agreement is consistent with the Constitution and indeed promotes its principles under article 60(1)(e) relating to sound conservation and protection of ecologically sensitive areas, and article 69 (1) (a) (e) (f) (g) and (h) that relates to the state's obligations on sustainable, utilization, management, and conservation of the environment and natural resources, and ensuring the equitable sharing of the accruing benefits.
- 19) Upon ratification of the Agreement, it will require the review of existing legislation relating to environmental protection, ocean management and biodiversity management for full implementation of the Agreement.

H. WAY FORWARD

- 20) In view of the numerous benefits which Kenya is expected to enjoy, there is need for Kenya to ratify the BBNJ Agreement.



REPUBLIC OF KENYA

**MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS
STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES**

OFFICE OF THE PRINCIPAL SECRETARY

Email: ps@blueeconomy.go.ke
Telephone: 02-2723232

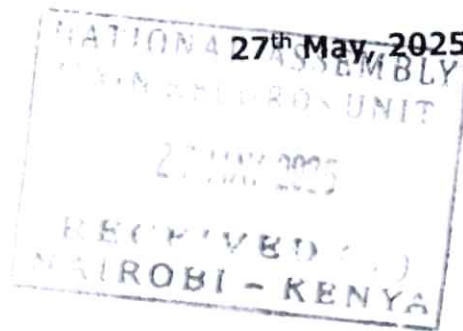
SHA Building
Ragati Road
P O. Box 58187- 00200
NAIROBI.

When replying please quote;

MMBE&MA/SDBEF/ADM/17/VOL. 3

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
Parliament Building
NAIROBI.

Attn: Departmental Committee on
Blue Economy, Water and Irrigation



SENSITIZATION OF THE NATIONAL ASSEMBLY COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION ON 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

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 was adopted on 19th June 2023, in New York, USA by the Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction convened under the auspices of the United Nations General Assembly. Kenya signed the Agreement on 24th September, 2024 on the sidelines of the United Nations General Assembly.

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

In compliance with the Constitution of Kenya 2010 and the Treaty Making and Ratification Act Cap 4D, the Ministry of Mining, Blue Economy and Maritime Affairs through State Department for the Blue Economy and Fisheries has scheduled a sensitization meeting to the Committee on Blue Economy, Water and Irrigation on **29th May, 2025** at **Serena Hotel** from **9:30 a.m.** to **1:00 p.m.**

The purpose of this letter therefore, is to invite the Committee to the sensitization meeting.



Davies M. Mukwabi, PhD
FOR: PRINCIPAL SECRETARY



REPUBLIC OF KENYA

**MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS
STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES**

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MMBE&MA/SDBEF/ADM/17/VOL. 3

27th May, 2025

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
Parliament Building
NAIROBI.

Attn: Departmental Committee on
Blue Economy, Water and Irrigation

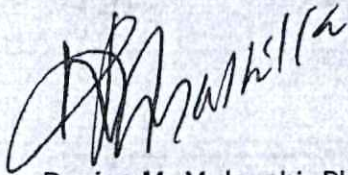
**SENSITIZATION OF THE NATIONAL ASSEMBLY COMMITTEE ON BLUE
ECONOMY, WATER AND IRRIGATION ON THE AGREEMENT UNDER THE
UNITED NATIONS CONVENTION ON THE LAW OF THE SEA ON THE
CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL
DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION (BBNJ)
AGREEMENT**

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The purpose of this letter therefore, is to invite the Committee to the sensitization meeting.



Davies M. Mukwabi, PhD
FOR: PRINCIPAL SECRETARY



**REPUBLIC OF KENYA
MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS
STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES**

OFFICE OF THE PRINCIPAL SECRETARY

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SHA Building
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NAIROBI

When replying please quote;

MMBE&MA/SDBEF/ADM/17/VOL.3

27th May, 2025

Innocent Kabenga

Regional Head - Land Systems &
Director Kenya Country Office
International Union for Conservation of Nature
NAIROBI

SENSITIZATION OF THE NATIONAL ASSEMBLY COMMITTEE ON BLUE ECONOMY, WATER, AND IRRIGATION ON 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

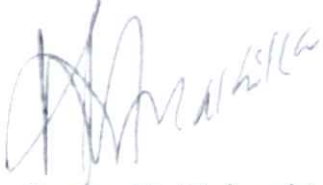
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The main objective of the Agreement is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions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

In compliance with the Constitution of Kenya 2010 and the Treaty Making and Ratification Act Cap 4D, the Ministry of Mining, Blue Economy and Maritime Affairs through the State Department for the Blue Economy and Fisheries has scheduled a sensitization meeting to the National Assembly Committee on Blue Economy, Water and Irrigation.

The sensitization meeting is part of the ratification process of having the Agreement approved by the National Assembly. The meeting is scheduled to take place on **29th May, 2025.**

The purpose of this letter therefore, is to request for your facilitation support for the sensitization meeting.

A handwritten signature in blue ink, appearing to read 'Davies M. Mukwabi', is written over the typed name below.

Davies M. Mukwabi, PhD

FOR: PRINCIPAL SECRETARY



I.

OFFICE OF THE CABINET SECRETARY

MFDA/SDFA/TCA/57 VOL.8 (35)

8th April, 2025

Mr. Samuel Njoroge

Clerk of the National Assembly

Parliament of Kenya

NAIROBI

Dear *Njoroge,*

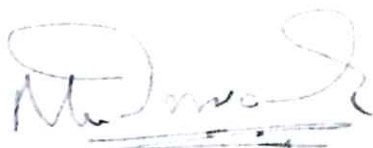
RE: CONSIDERATION OF THE RATIFICATION OF THE AGREEMENT UNDER THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA ON THE CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION (BBNJ)

Pursuant to the Treaty Making and Ratification Act, CAP 4D, the Ministry of Foreign and Diaspora Affairs is mandated to manage Kenya's International Agreements and Commitments including all procedures related to the mechanisms of initiation, signature, ratification, implementation, reporting of compliance and review of Agreements.

The Ministry of Foreign and Diaspora Affairs has prepared a Parliamentary memorandum on 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). The ratification of the BBNJ treaty was approved through an Executive approval from H.E the President on 18th September, 2024.

Pursuant to the above statutory provision, I hereby forward the Parliamentary memorandum for your consideration.

Yours *Sincerely,*



H.E DR. MUSALIA MUDAVADI, EGH
PRIME CABINET SECRETARY & CABINET SECRETARY
MINISTRY OF FOREIGN & DIASPORA AFFAIRS

Encl.

J.

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



**UNITED NATIONS
2023**

**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**

PREAMBLE

The Parties to this Agreement,

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

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

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

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

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

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

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

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

Recognizing the obligation set out in the Convention to assess, as far as practicable, the potential effects on the marine environment of activities under a State's jurisdiction or

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

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

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

Acknowledging that the generation of, access to and utilization of digital sequence information on marine genetic resources of areas beyond national jurisdiction, together with the fair and equitable sharing of benefits arising from its utilization, contribute to research and innovation and to the general objective of this Agreement,

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

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

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

Committed to achieving sustainable development,

Aspiring to achieve universal participation,

Have agreed as follows:

PART I GENERAL PROVISIONS

Article 1 Use of terms

For the purposes of this Agreement:

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

3. "Biotechnology" means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use.
4. "Collection in situ", in relation to marine genetic resources, means the collection or sampling of marine genetic resources in areas beyond national jurisdiction.
5. "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982.
6. "Cumulative impacts" means the combined and incremental impacts resulting from different activities, including known past and present and reasonably foreseeable activities, or from the repetition of similar activities over time, and the consequences of climate change, ocean acidification and related impacts.
7. "Environmental impact assessment" means a process to identify and evaluate the potential impacts of an activity to inform decision-making.
8. "Marine genetic resources" means any material of marine plant, animal, microbial or other origin containing functional units of heredity of actual or potential value.
9. "Marine protected area" means a geographically defined marine area that is designated and managed to achieve specific long-term biological diversity conservation objectives and may allow, where appropriate, sustainable use provided it is consistent with the conservation objectives.
10. "Marine technology" includes, inter alia, information and data, provided in a user-friendly format, on marine sciences and related marine operations and services; manuals, guidelines, criteria, standards and reference materials; sampling and methodology equipment; observation facilities and equipment for in situ and laboratory observations, analysis and experimentation; computer and computer software, including models and modelling techniques; related biotechnology; and expertise, knowledge, skills, technical, scientific and legal know-how and analytical methods related to the conservation and sustainable use of marine biological diversity.
11. "Party" means a State or regional economic integration organization that has consented to be bound by this Agreement and for which this Agreement is in force.
12. "Regional economic integration organization" means an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters governed by this Agreement and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, approve, accept or accede to this Agreement.
13. "Sustainable use" means the use of components of biological diversity in a way and at a rate that does not lead to a long-term decline of biological diversity, thereby

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

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

Article 2 General objective

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

Article 3 Scope of application

This Agreement applies to areas beyond national jurisdiction.

Article 4 Exceptions

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

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

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

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

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

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

Article 6 **Without prejudice**

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

Article 7 **General principles and approaches**

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

- (a) The polluter-pays principle;
- (b) The principle of the common heritage of humankind which is set out in the Convention;
- (c) The freedom of marine scientific research, together with other freedoms of the high seas;
- (d) The principle of equity and the fair and equitable sharing of benefits;
- (e) The precautionary principle or precautionary approach, as appropriate;
- (f) An ecosystem approach;
- (g) An integrated approach to ocean management;
- (h) An approach that builds ecosystem resilience, including to adverse effects of climate change and ocean acidification, and also maintains and restores ecosystem integrity, including the carbon cycling services that underpin the role of the ocean in climate;
- (i) The use of the best available science and scientific information;
- (j) The use of relevant traditional knowledge of Indigenous Peoples and local communities, where available;

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

(l) The non-transfer, directly or indirectly, of damage or hazards from one area to another and the non-transformation of one type of pollution into another in taking measures to prevent, reduce and control pollution of the marine environment;

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

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

Article 8 International cooperation

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

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

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

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

Article 9 Objectives

The objectives of this Part are:

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

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

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

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

Article 10 Application

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

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

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

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

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

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

1. Activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction may be carried out by all Parties, irrespective of their geographical location, and by natural or juridical persons under the jurisdiction of the Parties. Such activities shall be carried out in accordance with this Agreement.
2. Parties shall promote cooperation in all activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction.
3. Collection in situ of marine genetic resources of areas beyond national jurisdiction shall be carried out with due regard for the rights and legitimate interests of coastal States in areas within their national jurisdiction and with due regard for the interests of other States in areas beyond national jurisdiction, in accordance with the Convention. To this end, Parties shall endeavour to cooperate, as appropriate, including through specific modalities for the operation of the Clearing-House Mechanism determined under article 51, with a view to implementing this Agreement.
4. No State shall claim or exercise sovereignty or sovereign rights over marine genetic resources of areas beyond national jurisdiction. No such claim or exercise of sovereignty or sovereign rights shall be recognized.
5. Collection in situ of marine genetic resources of areas beyond national jurisdiction shall not constitute the legal basis for any claim to any part of the marine environment or its resources.
6. Activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction are in the interests of all States and for the benefit of all humanity, particularly for the benefit of advancing the scientific knowledge of humanity and promoting the conservation and sustainable use of marine biological diversity, taking into particular consideration the interests and needs of developing States.
7. Activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction shall be carried out exclusively for peaceful purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Where there is a material change to the information provided to the Clearing-House Mechanism prior to the planned collection, updated information shall be notified to the Clearing-House Mechanism within a reasonable period of time and no later than the start of collection in situ, when practicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 13

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

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

Article 14

Fair and equitable sharing of benefits

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

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

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

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

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

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

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

(f) Capacity-building, including by financing research programmes, and partnership opportunities, particularly directly relevant and substantial ones, for scientists and researchers in research projects, as well as dedicated initiatives, in particular for developing States, taking into account the special circumstances of small island developing States and of least developed countries;

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

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

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

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

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

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

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

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

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

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

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

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

(a) Milestone payments;

(b) Payments or contributions related to the commercialization of products, including payment of a percentage of the revenue from sales of products;

(c) A tiered fee, paid on a periodic basis, based on a diversified set of indicators measuring the aggregate level of activities by a Party;

(d) Other forms as decided by the Conference of the Parties, taking into account recommendations of the access and benefit-sharing committee.

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

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

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

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

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

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

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

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

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

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

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

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

- (d) Matters relating to this Part in relation to the Clearing-House Mechanism;
 - (e) Matters relating to this Part in relation to the financial mechanism established under article 52;
 - (f) Any other matters relating to this Part that the Conference of the Parties may request the access and benefit-sharing committee to address.
4. Each Party shall make available to the access and benefit-sharing committee, through the Clearing-House Mechanism, the information required under this Agreement, which shall include:
- (a) Legislative, administrative and policy measures on access and benefit-sharing;
 - (b) Contact details and other relevant information on national focal points;
 - (c) Other information required pursuant to the decisions taken by the Conference of the Parties.
5. The access and benefit-sharing committee may consult and facilitate the exchange of information with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies on activities under its mandate, including benefit-sharing, the use of digital sequence information on marine genetic resources, best practices, tools and methodologies, data governance and lessons learned.
6. The access and benefit-sharing committee may make recommendations to the Conference of the Parties in relation to information obtained under paragraph 5 above.

Article 16 **Monitoring and transparency**

1. Monitoring and transparency of activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction shall be achieved through notification to the Clearing-House Mechanism, through the use of "BBNJ" standardized batch identifiers in accordance with this Part and according to procedures adopted by the Conference of the Parties as recommended by the access and benefit-sharing committee.
2. Parties shall periodically submit reports to the access and benefit-sharing committee on their implementation of the provisions in this Part on activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction and the sharing of benefits therefrom, in accordance with this Part.
3. The access and benefit-sharing committee shall prepare a report based on the information received through the Clearing-House Mechanism and make it available to

Parties, which may submit comments. The access and benefit-sharing committee shall submit the report, including comments received, for the consideration of the Conference of the Parties. The Conference of the Parties, taking into account the recommendation of the access and benefit-sharing committee, may determine appropriate guidelines for the implementation of this article, which shall take into account the national capabilities and circumstances of Parties.

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

Article 17
Objectives

The objectives of this Part are to:

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

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

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

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

(e) Support developing States Parties, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States, coastal African States, archipelagic States and developing middle-income countries, taking into account the special circumstances of small island developing States, through capacity-building and the development and transfer of marine technology in developing, implementing, monitoring, managing and enforcing area-based management tools, including marine protected areas.

Article 18
Area of application

The establishment of area-based management tools, including marine protected areas, shall not include any areas within national jurisdiction and shall not be relied upon as a basis for asserting or denying any claims to sovereignty, sovereign rights or

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

Article 19 **Proposals**

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

2. Parties shall collaborate and consult, as appropriate, with relevant stakeholders, including States and global, regional, subregional and sectoral bodies, as well as civil society, the scientific community, the private sector, Indigenous Peoples and local communities, for the development of proposals, as set out in this Part.

3. Proposals shall be formulated on the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, taking into account the precautionary approach and an ecosystem approach.

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 20

Publicity and preliminary review of proposals

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

Article 21

Consultations on and assessment of proposals

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

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

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

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

1. The Conference of the Parties, on the basis of the final proposal and the draft management plan, taking into account the contributions and scientific input received during the consultation process established under this Part, and the scientific advice and recommendations of the Scientific and Technical Body:
 - (a) Shall take decisions on the establishment of area-based management tools, including marine protected areas, and related measures;
 - (b) May take decisions on measures compatible with those adopted by relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, in cooperation and coordination with those instruments, frameworks and bodies;
 - (c) May, where proposed measures are within the competences of other global, regional, subregional or sectoral bodies, make recommendations to Parties to this Agreement and to global, regional, subregional and sectoral bodies to promote the adoption

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

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

3. The Conference of the Parties shall make arrangements for regular consultations to enhance cooperation and coordination with and among relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies with regard to area-based management tools, including marine protected areas, as well as coordination with regard to related measures adopted under such instruments and frameworks and by such bodies.

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

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

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

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

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

Article 23 **Decision-making**

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

on its implementation of paragraph 6 above, to inform the monitoring and review under article 26.

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

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

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

Article 24 **Emergency measures**

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

2. Measures adopted under this article shall be considered necessary only if, following consultation with relevant legal instruments or frameworks or relevant global, regional, subregional or sectoral bodies, the serious or irreversible harm cannot be managed in a timely manner through the application of the other articles of this Agreement or by a relevant legal instrument or framework or a relevant global, regional, subregional or sectoral body.

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

4. The measures shall terminate two years following their entry into force or shall be terminated earlier by the Conference of the Parties upon being replaced by area-based management tools, including marine protected areas, and related measures established in

accordance with this Part, or by measures adopted by a relevant legal instrument or framework or relevant global, regional, subregional or sectoral body, or by a decision of the Conference of the Parties when the circumstances that necessitated the measure cease to exist.

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

Article 25 **Implementation**

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

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

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

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

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

6. A Party that is not a party to or a participant in a relevant legal instrument or framework, or a member of a relevant global, regional, subregional or sectoral body, and that does not otherwise agree to apply the measures established under such instruments and frameworks and by such bodies shall not be discharged from the obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

Article 26
Monitoring and review

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

PART IV
ENVIRONMENTAL IMPACT ASSESSMENTS

Article 27
Objectives

The objectives of this Part are to:

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

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

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

(d) Provide for strategic environmental assessments;

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

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

Article 28

Obligation to conduct environmental impact assessments

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

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

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

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

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

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

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

1. Parties shall promote the use of environmental impact assessments and the adoption and implementation of the standards and/or guidelines developed under article 38 in relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies of which they are members.
2. The Conference of the Parties shall develop mechanisms under this Part for the Scientific and Technical Body to collaborate with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies that regulate activities in areas beyond national jurisdiction or protect the marine environment.
3. When developing or updating standards or guidelines for the conduct of environmental impact assessments of activities in areas beyond national jurisdiction by Parties to this Agreement under article 38, the Scientific and Technical Body shall, as appropriate, collaborate with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.
4. It is not necessary to conduct a screening or an environmental impact assessment of a planned activity in areas beyond national jurisdiction, provided that the Party with jurisdiction or control over the planned activity determines:
 - (a) That the potential impacts of the planned activity or category of activity have been assessed in accordance with the requirements of other relevant legal instruments or frameworks or by relevant global, regional, subregional or sectoral bodies;
 - (b) That:
 - (i) the assessment already undertaken for the planned activity is equivalent to the one required under this Part, and the results of the assessment are taken into account; or
 - (ii) the regulations or standards of the relevant legal instruments or frameworks or relevant global, regional, subregional or sectoral bodies arising from the assessment were designed to prevent, mitigate or manage potential impacts below the threshold for environmental impact assessments under this Part, and they have been complied with.
5. When an environmental impact assessment for a planned activity in areas beyond national jurisdiction has been conducted under a relevant legal instrument or framework or a relevant global, regional, subregional or sectoral body, the Party concerned shall ensure that the environmental impact assessment report is published through the Clearing-House Mechanism.

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

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

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

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

- (i) A description of the planned activity, including its purpose, location, duration and intensity; and
- (ii) An initial analysis of the potential impacts, including consideration of cumulative impacts and, as appropriate, alternatives to the planned activity;

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

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

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

(b) The duration of the activity;

(c) The location of the activity;

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

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

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

(g) Other relevant ecological or biological criteria.

Article 31

Process for environmental impact assessments

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

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

(i) If a Party determines that an environmental impact assessment is not required for a planned activity under its jurisdiction or control, it shall make relevant information, including under article 30, paragraph 1 (a), publicly available through the Clearing-House Mechanism under this Agreement;

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

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

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

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

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

(b) *Scoping.* Parties shall ensure that key environmental and any associated impacts, such as economic, social, cultural and human health impacts, including potential cumulative impacts and impacts in areas within national jurisdiction, as well as alternatives to the planned activity, if any, to be included in the environmental impact assessments that shall be conducted under this Part, are identified. The scope shall be defined by using the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities;

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

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

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

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

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

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

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

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

Article 32
Public notification and consultation

1. Parties shall ensure timely public notification of a planned activity, including by publication through the Clearing-House Mechanism and through the secretariat, and planned and effective time-bound opportunities, as far as practicable, for participation by all States, in particular adjacent coastal States and any other States adjacent to the activity when they are potentially most affected States, and stakeholders in the environmental impact assessment process. Notification and opportunities for participation, including through the submission of comments, shall take place throughout the environmental impact assessment process, as appropriate, including when identifying the scope of an environmental impact assessment under article 31, paragraph 1 (b), and when a draft environmental impact assessment report has been prepared under article 33, before a decision is made as to whether to authorize the activity.

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

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

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

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

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

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

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

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

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

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

Article 33 **Environmental impact assessment reports**

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

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

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

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

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

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

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

Article 34 **Decision-making**

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

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

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

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

Article 35 **Monitoring of impacts of authorized activities**

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

Article 36
Reporting on impacts of authorized activities

1. Parties, whether acting individually or collectively, shall periodically report on the impacts of the authorized activity and the results of the monitoring required under article 35.
2. Monitoring reports shall be made public, including through the Clearing-House Mechanism, and the Scientific and Technical Body may consider and evaluate the monitoring reports.
3. Monitoring reports shall be considered by the Scientific and Technical Body, on the basis of relevant practices, procedures and knowledge under this Agreement, for the purpose of developing guidelines on the monitoring of impacts of authorized activities, including the identification of best practices.

Article 37
Review of authorized activities and their impacts

1. Parties shall ensure that the impacts of the authorized activity monitored pursuant to article 35 are reviewed.
2. Should the Party with jurisdiction or control over the activity identify significant adverse impacts that either were not foreseen in the environmental impact assessment, in nature or severity, or that arise from a breach of any of the conditions set out in the approval of the activity, the Party shall review its decision authorizing the activity, notify the Conference of the Parties, other Parties and the public, including through the Clearing-House Mechanism, and:
 - (a) Require that measures be proposed and implemented to prevent, mitigate and/or manage those impacts or take any other necessary action and/or halt the activity, as appropriate; and
 - (b) Evaluate, in a timely manner, any measures implemented or actions taken under subparagraph (a) above.
3. On the basis of the reports received under article 36, the Scientific and Technical Body may notify the Party that authorized the activity if it considers that the activity may have significant adverse impacts that were either not foreseen in the environmental impact assessment or that arise from a breach of any conditions of approval of the authorized activity and, as appropriate, may make recommendations to the Party.
4. (a) On the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, a Party may register its concerns, with the Party that authorized the activity and with the Scientific and Technical Body, that the authorized activity may have

significant adverse impacts that were either not foreseen in the environmental impact assessment, in nature or severity, or that arise from a breach of any conditions of approval of the authorized activity;

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

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

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

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

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

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

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

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

Article 38

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

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

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

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

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

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

(e) The required content of environmental impact assessment reports and published information used in the screening process pursuant to article 33, including best practices;

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

(g) The conduct of strategic environmental assessments.

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

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

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

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

Article 39 **Strategic environmental assessments**

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

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

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

4. The Conference of the Parties shall develop guidance on the conduct of each category of strategic environmental assessment described in this article.

PART V
CAPACITY-BUILDING AND THE TRANSFER OF
MARINE TECHNOLOGY

Article 40
Objectives

The objectives of this Part are to:

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

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

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

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

(e) More specifically, support developing States Parties, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States, coastal African States, archipelagic States and developing middle-income countries, through capacity-building and the development and transfer of marine technology under this Agreement, in achieving the objectives relating to:

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

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

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

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

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

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

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

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

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

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

3. Capacity-building and the transfer of marine technology should be a country-driven, transparent, effective and iterative process that is participatory, cross-cutting and gender-responsive. It shall build upon, as appropriate, and not duplicate existing programmes and be guided by lessons learned, including those from capacity-building and transfer of marine technology activities under relevant legal instruments and frameworks and relevant global,

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

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

Article 43

Additional modalities for the transfer of marine technology

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 45
Monitoring and review

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

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

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

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

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

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

(e) Making recommendations for follow-up activities, including on how capacity-building and the transfer of marine technology could be further enhanced to allow developing States Parties, taking into account the special circumstances of small island developing States and of least developed countries, to strengthen their implementation of the Agreement in order to achieve its objectives.

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

Article 46
Capacity-building and transfer of marine technology committee

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

PART VI
INSTITUTIONAL ARRANGEMENTS

Article 47
Conference of the Parties

1. A Conference of the Parties is hereby established.
2. The first meeting of the Conference of the Parties shall be convened by the Secretary-General of the United Nations no later than one year after the entry into force of this Agreement. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference of the Parties. Extraordinary meetings of the Conference of the Parties may be held at other times, in accordance with the rules of procedure.
3. The Conference of the Parties shall ordinarily meet at the seat of the secretariat or at United Nations Headquarters.
4. The Conference of the Parties shall by consensus adopt, at its first meeting, rules of procedure for itself and its subsidiary bodies, financial rules governing its funding and the funding of the secretariat and any subsidiary bodies and, thereafter, rules of procedure and financial rules for any further subsidiary body that it may establish. Until such time as the rules of procedure have been adopted, the rules of procedure of the intergovernmental conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction shall apply.
5. The Conference of the Parties shall make every effort to adopt decisions and recommendations by consensus. Except as otherwise provided in this Agreement, if all

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

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

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

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

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

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

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

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

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

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

Article 48
Transparency

1. The Conference of the Parties shall promote transparency in decision-making processes and other activities carried out under this Agreement.
2. All meetings of the Conference of the Parties and its subsidiary bodies shall be open to observers participating in accordance with the rules of procedure unless otherwise decided by the Conference of the Parties. The Conference of the Parties shall publish and maintain a public record of its decisions.
3. The Conference of the Parties shall promote transparency in the implementation of this Agreement, including through the public dissemination of information and the facilitation of the participation of, and consultation with, relevant global, regional, subregional and sectoral bodies, Indigenous Peoples and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders, as appropriate and in accordance with the provisions of this Agreement.
4. Representatives of States not party to this Agreement, relevant global, regional, subregional and sectoral bodies, Indigenous Peoples and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders with an interest in matters pertaining to the Conference of the Parties may request to participate as observers in the meetings of the Conference of the Parties and of its subsidiary bodies. The rules of procedure of the Conference of the Parties shall provide for modalities for such participation and shall not be unduly restrictive in this respect. The rules of procedure shall also provide for such representatives to have timely access to all relevant information.

Article 49
Scientific and Technical Body

1. A Scientific and Technical Body is hereby established.
2. The Scientific and Technical Body shall be composed of members serving in their expert capacity and in the best interest of the Agreement, nominated by Parties and elected by the Conference of the Parties, with suitable qualifications, taking into account the need for multidisciplinary expertise, including relevant scientific and technical expertise and expertise in relevant traditional knowledge of Indigenous Peoples and local communities, gender balance and equitable geographical representation. The terms of reference and modalities for the operation of the Scientific and Technical Body, including its selection process and the terms of members' mandates, shall be determined by the Conference of the Parties at its first meeting.
3. The Scientific and Technical Body may draw on appropriate advice emanating from relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, as well as from other scientists and experts, as may be required.

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

Article 50 **Secretariat**

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

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

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

4. The secretariat shall:

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

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

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

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

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

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

Article 51 **Clearing-House Mechanism**

1. A Clearing-House Mechanism is hereby established.
2. The Clearing-House Mechanism shall consist primarily of an open-access platform. The specific modalities for the operation of the Clearing-House Mechanism shall be determined by the Conference of the Parties.
3. The Clearing-House Mechanism shall:
 - (a) Serve as a centralized platform to enable Parties to access, provide and disseminate information with respect to activities taking place pursuant to the provisions of this Agreement, including information relating to:
 - (i) Marine genetic resources of areas beyond national jurisdiction, as set out in Part II of this Agreement;
 - (ii) The establishment and implementation of area-based management tools, including marine protected areas;
 - (iii) Environmental impact assessments;
 - (iv) Requests for capacity-building and the transfer of marine technology and opportunities with respect thereto, including research collaboration and training opportunities, information on sources and availability of technological information and data for the transfer of marine technology, opportunities for facilitated access to marine technology and the availability of funding;
 - (b) Facilitate the matching of capacity-building needs with the support available and with providers for the transfer of marine technology, including governmental, non-governmental or private entities interested in participating as donors in the transfer of marine technology, and facilitate access to related know-how and expertise;
 - (c) Provide links to relevant global, regional, subregional, national and sectoral clearing-house mechanisms and other gene banks, repositories and databases, including those pertaining to relevant traditional knowledge of Indigenous Peoples and local communities, and promote, where possible, links with publicly available private and non-governmental platforms for the exchange of information;
 - (d) Build on global, regional and subregional clearing-house institutions, where applicable, when establishing regional and subregional mechanisms under the global mechanism;

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

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

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

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

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

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

PART VII FINANCIAL RESOURCES AND MECHANISM

Article 52 Funding

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

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

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

4. The mechanism shall include:

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

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

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

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

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

(c) The Global Environment Facility trust fund.

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

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

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

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

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

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

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

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

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

9. For the purposes of this Agreement, the mechanism shall function under the authority, where appropriate, and guidance of the Conference of the Parties and shall be accountable thereto. The Conference of the Parties shall provide guidance on overall strategies, policies, programme priorities and eligibility for access to and utilization of financial resources.

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

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

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

13. In the light of capacity constraints, Parties shall encourage international organizations to grant preferential treatment to, and consider the specific needs and special requirements of developing States Parties, in particular the least developed countries, landlocked developing countries and small island developing States, and taking into account the special circumstances of small island developing States and of least developed countries, in the allocation of appropriate funds and technical assistance and the utilization

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

14. The Conference of the Parties shall establish a finance committee on financial resources. It shall be composed of members possessing appropriate qualifications and expertise, taking into account gender balance and equitable geographical distribution. The terms of reference and modalities for the operation of the committee shall be decided by the Conference of the Parties. The committee shall periodically report and make recommendations on the identification and mobilization of funds under the mechanism. It shall also collect information and report on funding under other mechanisms and instruments contributing directly or indirectly to the achievement of the objectives of this Agreement. In addition to the considerations provided in this article, the committee shall consider, *inter alia*:

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

(b) The availability and timely disbursement of funds;

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

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

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

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

PART VIII IMPLEMENTATION AND COMPLIANCE

Article 53 Implementation

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

Article 54
Monitoring of implementation

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

Article 55
Implementation and Compliance Committee

1. An Implementation and Compliance Committee to facilitate and consider the implementation of and promote compliance with the provisions of this Agreement is hereby established. The Implementation and Compliance Committee shall be facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive.
2. The Implementation and Compliance Committee shall consist of members possessing appropriate qualifications and experience nominated by Parties and elected by the Conference of the Parties, with due consideration given to gender balance and equitable geographical representation.
3. The Implementation and Compliance Committee shall operate under the modalities and rules of procedure adopted by the Conference of the Parties at its first meeting. The Implementation and Compliance Committee shall consider issues of implementation and compliance at the individual and systemic levels, inter alia, and report periodically and make recommendations, as appropriate while cognizant of respective national circumstances, to the Conference of the Parties.
4. In the course of its work, the Implementation and Compliance Committee may draw on appropriate information from bodies established under this Agreement, as well as relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, as may be required.

PART IX
SETTLEMENT OF DISPUTES

Article 56
Prevention of disputes

Parties shall cooperate in order to prevent disputes.

Article 57
Obligation to settle disputes by peaceful means

Parties have the obligation to settle their disputes concerning the interpretation or application of this Agreement by negotiation, inquiry, mediation, conciliation, arbitration,

judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

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

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

Article 59
Disputes of a technical nature

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

Article 60
Procedures for the settlement of disputes

1. Disputes concerning the interpretation or application of this Agreement shall be settled in accordance with the provisions for the settlement of disputes provided for in Part XV of the Convention.
2. The provisions of Part XV of and Annexes V, VI, VII and VIII to the Convention shall be deemed to be replicated for the purpose of the settlement of disputes involving a Party to this Agreement that is not a Party to the Convention.
3. Any procedure accepted by a Party to this Agreement that is also a Party to the Convention pursuant to article 287 of the Convention shall apply to the settlement of disputes under this Part, unless that Party, when signing, ratifying, approving, accepting or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to article 287 of the Convention for the settlement of disputes under this Part.
4. Any declaration made by a Party to this Agreement that is also a Party to the Convention pursuant to article 298 of the Convention shall apply to the settlement of disputes under this Part, unless that Party, when signing, ratifying, approving, accepting or acceding to this Agreement, or at any time thereafter, has made a different declaration pursuant to article 298 of the Convention for the settlement of disputes under this Part.
5. Pursuant to paragraph 2 above, a Party to this Agreement that is not a Party to the Convention, when signing, ratifying, approving, accepting or acceding to this Agreement,

or at any time thereafter, shall be free to choose, by means of a written declaration, submitted to the depositary, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Agreement:

- (a) The International Tribunal for the Law of the Sea;
- (b) The International Court of Justice;
- (c) An Annex VII arbitral tribunal;
- (d) An Annex VIII special arbitral tribunal for one or more of the categories of disputes specified in said Annex.

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

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

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

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

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

Article 61
Provisional arrangements

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

PART X
NON-PARTIES TO THIS AGREEMENT

Article 62
Non-parties to this Agreement

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

PART XI
GOOD FAITH AND ABUSE OF RIGHTS

Article 63
Good faith and abuse of rights

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

PART XII
FINAL PROVISIONS

Article 64
Right to vote

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

Article 65
Signature

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

Article 66
Ratification, approval, acceptance and accession

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

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

1. Any regional economic integration organization that becomes a Party to this Agreement without any of its member States being a Party shall be bound by all the obligations under this Agreement. In the case of such organizations, one or more of whose member States is a Party to this Agreement, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Agreement. In such cases, the organization and the member States shall not be entitled to exercise rights under this Agreement concurrently.

2. In its instrument of ratification, approval, acceptance or accession, a regional economic integration organization shall declare the extent of its competence in respect of the matters governed by this Agreement. Any such organization shall also inform the depositary, who shall in turn inform the Parties, of any relevant modification of the extent of its competence.

Article 68
Entry into force

1. This Agreement shall enter into force 120 days after the date of deposit of the sixtieth instrument of ratification, approval, acceptance or accession.

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

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

3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by the member States of that organization.

Article 69 **Provisional application**

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

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

Article 70 **Reservations and exceptions**

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

Article 71 **Declarations and statements**

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

Article 72 **Amendment**

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

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

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

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

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

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

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

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

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

Article 73 **Denunciation**

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

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

Article 74
Annexes

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

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

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

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

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

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

Article 75
Depositary

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

Article 76
Authentic texts

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

ANNEX I

Indicative criteria for identification of areas

- (a) Uniqueness;
- (b) Rarity;
- (c) Special importance for the life history stages of species;
- (d) Special importance of the species found therein;
- (e) The importance for threatened, endangered or declining species or habitats;
- (f) Vulnerability, including to climate change and ocean acidification;
- (g) Fragility;
- (h) Sensitivity;
- (i) Biological diversity and productivity;
- (j) Representativeness;
- (k) Dependency;
- (l) Naturalness;
- (m) Ecological connectivity;
- (n) Important ecological processes occurring therein;
- (o) Economic and social factors;
- (p) Cultural factors;
- (q) Cumulative and transboundary impacts;
- (r) Slow recovery and resilience;
- (s) Adequacy and viability;
- (t) Replication;
- (u) Sustainability of reproduction;
- (v) Existence of conservation and management measures.

ANNEX II

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

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

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

- (iii) The acquisition of the equipment necessary to support and further develop research and development capabilities, including in data management, in the context of activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction, measures such as area-based management tools, including marine protected areas, and the conduct of environmental impact assessments;
- (d) The development and strengthening of institutional capacity and national regulatory frameworks or mechanisms, including:
 - (i) Governance, policy and legal frameworks and mechanisms;
 - (ii) Assistance in the development, implementation and enforcement of national legislative, administrative or policy measures, including associated regulatory, scientific and technical requirements at the national, subregional or regional level;
 - (iii) Technical support for the implementation of the provisions of this Agreement, including for data monitoring and reporting;
 - (iv) Capacity to translate information and data into effective and efficient policies, including by facilitating access to and the acquisition of knowledge necessary to inform decision makers in developing States Parties;
 - (v) The establishment or strengthening of the institutional capacities of relevant national and regional organizations and institutions;
 - (vi) The establishment of national and regional scientific centres, including as data repositories;
 - (vii) The development of regional centres of excellence;
 - (viii) The development of regional centres for skills development;
 - (ix) Increasing cooperative links between regional institutions, for example, North-South and South-South collaboration and collaboration among regional seas organizations and regional fisheries management organizations;
- (e) The development and strengthening of human and financial management resource capabilities and of technical expertise through exchanges, research collaboration, technical support, education and training and the transfer of marine technology, such as:
 - (i) Collaboration and cooperation in marine science, including through data collection, technical exchange, scientific research projects and programmes, and the development of joint scientific research projects in cooperation with institutions in developing States;

- (ii) Education and training in:
 - a. The natural and social sciences, both basic and applied, to develop scientific and research capacity;
 - b. Technology, and the application of marine science and technology, to develop scientific and research capacities;
 - c. Policy and governance;
 - d. The relevance and application of traditional knowledge;
- (iii) The exchange of experts, including experts on traditional knowledge;
- (iv) The provision of funding for the development of human resources and technical expertise, including through:
 - a. The provision of scholarships or other grants for representatives of small island developing States Parties in workshops, training programmes or other relevant programmes to develop their specific capacities;
 - b. The provision of financial and technical expertise and resources, in particular for small island developing States, concerning environmental impact assessments;
- (v) The establishment of a networking mechanism among trained human resources;
- (f) The development and sharing of manuals, guidelines and standards, including:
 - (i) Criteria and reference materials;
 - (ii) Technology standards and rules;
 - (iii) A repository for manuals and relevant information to share knowledge and capacity on how to conduct environmental impact assessments, lessons learned and best practices;
 - (g) The development of technical, scientific and research and development programmes, including biotechnological research activities.

**MKATABA WA MKUTANO WA UMOJA WA MATAIFA
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MATUMIZI ENDELEVU YA VIUMBE WA AINA MBALI MBALI WA BAHARI
KATIKA MAENEO YALIYO NJE YA MAMLAKA YA TAIFA**



UNITED NATIONS

UMOJA WA MATAIFA

2023

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**MKATABA WA MKUTANO WA UMOJA WA MATAIFA
KUHUSU SHERIA YA BAHARI YA HIFADHI NA
MATUMIZI ENDELEU YA KIBIOLOGIA (AINA MBALI MBALI YA VIUMBE) BAHARINI
KATIKA MAENEO YALIYO NJE YA MAMLAKA YA TAIFA**

UTANGULIZI

Wanachama wa Mkataba huu,

Kumbukumbu ya masharti husika ya Mkataba wa Umoja wa Mataifa wa Sheria ya Bahari ya tarehe 10 Desemba 1982, ikiwa ni pamoja na wajibu wa kulinda na kuhifadhi mazingira ya baharini,

Kusisitiza haja ya kuheshimu usawa wa haki, wajibu na maslahi yaliyowekwa katika Mkataba,

Kutambua hitaji la kushughulikia, kwa njia ya madhubuti na ya ushirika,

uadhirikaji wa anuwai ya kibiolojia na uharibifu wa mifumo ikolojia ya bahari, kwa sababu, haswa, na ya athari tabia nchi kwa mifumo ikolojia ya baharini, kama vile ongezeko la joto na utoaji wa oksijeni kwa bahari, pia kama tindikali ya bahari, uchafuzi wa mazingira, ikiwa ni pamoja na uchafuzi wa plastiki, na matumizi yasiyo endelevu,

Kuzingatia hitaji la utawala wa kina wa kimataifa kuhusu Mkataba wa kushughulikia vyema uhifadhi na matumizi endelevu ya bioanuwai ya baharini katika maeneo nje ya mamlaka ya kitaifa (ABNJ),

Kwa kutambua umuhimu wa kuchangia katika utambuzi wa haki na usawa utaratibu wa kiuchumi wa kimataifa unaozingatia maslahi na mahitaji ya binadamu kwa ujumla na, hasa, maslahi maalum na mahitaji ya kuendeleza Mataifa, yawe ya pwani au yasiyo na bahari,

Kwa kutambua pia kwamba msaada kwa Nchi Wanachama zinazoendelea kupitia kujenga uwezo na maendeleo na uhamisho wa teknolojia ya baharini ni mambo muhimu kwa kufikiwa kwa malengo ya uhifadhi na matumizi endelevu ya kiblolojia ya baharini anuwai ya maeneo nje ya mamlaka ya kitaifa,

Likikumbukwa Azimio la Umoja wa Mataifa kuhusu Haki za Watu wa Asili,

Kwa kuthibitisha kwamba hakuna chochote katika Mkataba huu kitakachofanuliwa kama kupungua aukusitisha haki zilizopo za Watu wa Kiasili, ikiwa ni pamoja na kama ilivyoainishwa katika Azimio la Umoja wa Mataifa kuhusu Haki za Watu wa Kiasili, ama la, kama inafaa, katika jumuiya,

Kwa kutambua wajibu uliowekwa katika Mkataba wa kutathmini, kadiri inavyowezekana, athari zinazoweza kuwa kwa mazingira ya bahari ya shughuli chini ya mamlaka ya serikali au kudhibiti wakati Serikali ina sababu za kuridhisha za kuamini kuwa shughuli kama hizo zinaweza kusababisha uchafuzi mkubwa wa mazingira au mabadiliko makubwa na yenye madhara kwa mazingira ya baharini,

Kwa kuzingatia wajibu uliowekwa katika Mkataba wa kuchukua hatua zote zinazohitajika ili kuhakikisha kuwa uchafuzi wa mazingira unaotokana na matukio au shughuli hausambai zaidi ya maeneo hayo pale ambapo haki za uhuru zinatekelezwa kwa mujibu wa Mkataba,

Kuridhia kuwa wasimamizi wa bahari katika maeneo yaliyo nje ya mamlaka ya kitaifa kwa niaba ya vizazi vya sasa na vijavyo kwa kulinda, kutunza na kuhakikisha uwajibikaji katika matumizi ya mazingira ya baharini, kudumisha uadilifu wa mifumo ikolojia ya bahari na kuhifadhi thamani ya asili ya anuwai ya kibiolojia ya maeneo yaliyo nje ya mamlaka ya kitaifa,

Kukiri kwamba uzalishaji, ufikiaji na utumiaji wa mlolongo wa dijiti habari kuhusu rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa, kwa pamoja na mgao wa haki na usawa wa manufaa yanayotokana na matumizi yake, changia utafiti na uvumbuzi na kwa lengo la jumla la Mkataba huu,

Kuheshimu mamlaka, uadilifu wa eneo na uhuru wa kisiasa wa Mataifa yote,

Kukumbuka kuwa hali ya kisheria ya wasio washiriki wa Mkataba au makubaliano mieengine yoyote yanayohusiana na mikataba inaongozwa na kanuni za sheria ya mikataba,

Ikikumbukwa pia kwamba, kama ilivyoainishwa katika Mkataba, Mataifa yanawajibika kwa kutimiza wajibu wao wa kimataifa kuhusu ulinzi na uhifadhi wa mazingira ya baharini na yanaweza kuwajibika kwa mujibu wa sheria za kimataifa,

Kujitolea kufikia maendeleo endelevu,

Kulenga kufikia ushiriki wa watu wote,

Wamekubali kama ifuatavyo:

K.

**MKATABA WA MKUTANO WA UMOJA WA MATAIFA
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MATUMIZI ENDELEVU YA VIUMBE WA AINA MBALI MBALI WA BAHARI
KATIKA MAENEO YALIYO NJE YA MAMLAKA YA TAIFA**



UNITED NATIONS

UMOJA WA MATAIFA

2023

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MKATABA WA MKUTANO WA UMOJA WA MATAIFA
KUHUSU SHERIA YA BAHARI YA HIFADHI NA
MATUMIZI ENDELEU YA KIBIOLOGIA (AINA MBALI MBALI YA VIUMBE) BAHARINI
KATIKA MAENEO YALIYO NJE YA MAMLAKA YA TAIFA

UTANGULIZI

Wanachama wa Mkataba huu,

Kumbukumbu ya masharti husika ya Mkataba wa Umoja wa Mataifa wa Sheria ya Bahari ya tarehe 10 Desemba 1982, ikiwa ni pamoja na wajibu wa kulinda na kuhifadhi mazingira ya baharini,

Kusisitiza haja ya kuheshimu usawa wa haki, wajibu na maslahi yaliyowekwa katika Mkataba,

Kutambua hitaji la kushughulikia, kwa njia ya madhubuti na ya ushirika,

uadhirikaji wa anuwai ya kibiolojia na uharibifu wa mifumo ikolojia ya bahari, kwa sababu, haswa, na ya athari tabia nchi kwa mifumo ikolojia ya baharini, kama vile ongezeko la joto na utoaji wa oksijeni kwa bahari, pia kama tindikali ya bahari, uchafuzi wa mazingira, ikiwa ni pamoja na uchafuzi wa plastiki, na matumizi yasiyo endelevu,

Kuzingatia hitaji la utawala wa kina wa kimataifa kuhusu Mkataba wa kushughulikia vyema uhifadhi na matumizi endelevu ya bioanuwai ya baharini katika maeneo nje ya mamlaka ya kitaifa (ABNJ),

Kwa kutambua umuhimu wa kuchangia katika utambuzi wa haki na usawa utaratibu wa kiuchumi wa kimataifa unaozingatia maslahi na mahitaji ya binadamu kwa ujumla na, hasa, maslahi maalum na mahitaji ya kuendeleza Mataifa, yawe ya pwani au yasiyo na bahari,

Kwa kutambua pia kwamba msaada kwa Nchi Wanachama zinazoendelea kupitia kujenga uwezo na maendeleo na uhamisho wa teknolojia ya baharini ni mambo muhimu kwa kufikiwa kwa malengo ya uhifadhi na matumizi endelevu ya kiblolojia ya baharini anuwai ya maeneo nje ya mamlaka ya kitaifa,

Likikumbukwa Azimio la Umoja wa Mataifa kuhusu Haki za Watu wa Asili,

Kwa kuthibitisha kwamba hakuna chochote katika Mkataba huu kitakachofanuliwa kama kupungua aukusitisha haki zilizopo za Watu wa Kiasili, ikiwa ni pamoja na kama ilivyoainishwa katika Azimio la Umoja wa Mataifa kuhusu Haki za Watu wa Kiasili, ama la, kama inafaa, katika jumuiya,

Kwa kutambua wajibu uliowekwa katika Mkataba wa kutathmini, kadiri inavyowezekana, athari zinazoweza kuwa kwa mazingira ya bahari ya shughuli chini ya mamlaka ya serikali au kudhibiti wakati Serikali ina sababu za kuridhisha za kuamini kuwa shughuli kama hizo zinaweza kusababisha uchafuzi mkubwa wa mazingira au mabadiliko makubwa na yenye madhara kwa mazingira ya baharini,

Kwa kuzingatia wajibu uliowekwa katika Mkataba wa kuchukua hatua zote zinazohitajika ili kuhakikisha kuwa uchafuzi wa mazingira unaotokana na matukio au shughuli hausambai zaidi ya maeneo hayo pale ambapo haki za uhuru zinatekelezwa kwa mujibu wa Mkataba,

Kuridhia kuwa wasimamizi wa bahari katika maeneo yaliyo nje ya mamlaka ya kitaifa kwa niaba ya vizazi vya sasa na vijavyo kwa kulinda, kutunza na kuhakikisha uwajibikaji katika matumizi ya mazingira ya baharini, kudumisha uadilifu wa mifumo ikolojia ya bahari na kuhifadhi thamani ya asili ya anuwai ya kibiolojia ya maeneo yaliyo nje ya mamlaka ya kitaifa,

Kukiri kwamba uzalishaji, ufikiaji na utumiaji wa mlolongo wa dijiti habari kuhusu rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa, kwa pamoja na mgao wa haki na usawa wa manufaa yanayotokana na matumizi yake, changia utafiti na uvumbuzi na kwa lengo la jumla la Mkataba huu,

Kuheshimu mamlaka, uadilifu wa eneo na uhuru wa kisiasa wa Mataifa yote,

Kukumbuka kuwa hali ya kisheria ya wasio washiriki wa Mkataba au makubaliano mieengine yoyote yanayohusiana na mikataba inaongozwa na kanuni za sheria ya mikataba,

Ikikumbukwa pia kwamba, kama ilivyoainishwa katika Mkataba, Mataifa yanawajibika kwa kutimiza wajibu wao wa kimataifa kuhusu ulinzi na uhifadhi wa mazingira ya baharini na yanaweza kuwajibika kwa mujibu wa sheria za kimataifa,

Kujitolea kufikia maendeleo endelevu,

Kulenga kufikia ushiriki wa watu wote,

Wamekubali kama ifuatavyo:

SEHEMU YA I
MASHARTI YA JUMLA
Kipengee cha 1
Matumizi ya Istilahi

Kwa madhumuni ya Mkataba huu:

1. "Zana ya usimamizi wa eneo" maana yake ni chombo, ikijumuisha eneo la ulinzi wa baharini, kwa ajili ya eneo lililoainishwa kijiografia ambapo sekta moja au kadhaa au shughuli zinazotumika kusimamiwa kwa nia ya kufikia malengo mahususi ya uhifadhi na matumizi endelevu kwa mujibu wa Mkataba huu.
2. "Maeneo yaliyo nje ya mamlaka ya kitaifa" inamaanisha bahari kuu na eneo lake
3. "Bioteknolojia" maana yake ni matumizi yoyote ya kiteknolojia yanayotumia mifumo ya kibiolojia, viumbe hai, au chochote cha asilia yake, kutengeneza au kurekebisha bidhaa au michakato ya matumizi maalum.
4. "Mkusanyiko katika eneo asilia", kuhusiana na rasilimali za kijenetiki za baharini, inamaanisha mkusanyiko au sampuli za rasilimali za kijenetiki za baharini katika maeneo yaliyo nje ya mamlaka ya kitaifa.
5. "Mkataba" maana yake ni Mkataba wa Umoja wa Mataifa wa Sheria ya Bahari wa Tarehe 10 Desemba mwaka wa 1982.
6. "Athari limbikizi" inamaanisha athari zilizojumuishwa na za nyongeza zinazotokana na shughuli mbalimbali, ikiwa ni pamoja na shughuli zinazojulikana za zamani na za sasa na zinazoonekana kwa njia inayofaa; au kutokana na kurudiwa kwa shughuli zinazofanana kwa muda, na matokeo ya tabianchi, asidi ya bahari na athari zinazohusiana.
7. "Tathmini ya athari kwa mazingira" ina maana mchakato wa kutambua na kukadiria athari zinazoweza kutokea za shughuli fulani ili kutoa taarifa ya maamuzi thabiti.

8. "Rasilimali za kijenetiki za baharini" maana yake ni nyenzo yoyote ya mimea ya baharini, wanyama, viumbe vidogo au asili nyingine iliyo na vitengo vya utendaji vya urithi wa thamani halisi au inayoweza kuwa.

9. "Eneo la hifadhi ya baharini" maana yake ni eneo la baharini lililoainishwa kijiografia ambalo limeteuliwa na kusimamiwa ili kufikia malengo ya uhifadhi maalum wa muda mrefu wa anuwai ya kibaolojia na linaweza kuruhusu, inapofaa, matumizi endelevu ya mradi yanayouiana na malengo ya uhifadhi.

10. "Teknolojia ya baharini" inajumuisha, pamoja na mambo mengine, taarifa na data, iliyotolewa katika muundo unaomfaa mtumiaji, kuhusu sayansi ya baharini na shughuli na huduma zinazohusiana za baharini; vitabu vya kiada, miongozo, vigezo, viwango na nyenzo za kumbukumbu; sampuli na vifaa vya mbinu; vifaa vya uchunguzi na vifaa maalum vya uchunguzi katika eneo la asilia na kwenye maabara, uchambuzi na majaribio; kompyuta (tarakilishi) na programu yake, ikiwa ni pamoja na mifano na mbinu za modeli; bioteknolojia inayohusiana; na utaalamu, maarifa, ujuzi, ufundi, ujuzi wa kisayansi na sheria na mbinu za uchambuzi zinazohusiana na uhifadhi na matumizi endelevu ya bioanuwai za baharini.

11. "Chama" maana yake ni shirika la muungano wa kiuchumi la Serikali au la kikanda ambalo lina ilmewajibika katika Mkataba huu na ambao ni Mkataba unaotekelezwa.

12. "Shirika la ujumuishaji wa uchumi wa kikanda" maana yake ni shirika linaloundwa na Nchi huru za eneo fulani ambalo Nchi wanachama wake zimehamishia uwezo kuhusiana na masuala yanayosimamiwa na Mkataba huu na ambayo yameidhinishwa ipasavyo, (katika) kwa mujibu wa taratibu zake za ndani, kutia saina, kuridhia, kupitisha, kukubali au kukubaliana na hili kubaliano.

13. "Matumizi endelevu" maana yake ni matumizi ya vipengele vya anuwai ya kibiolojia kwa njia na kwa kiwango ambacho hakileti kupungua kwa muda mrefu kwa anuwai ya kibiolojia, kwa hivyo kudumisha uwezo wake wa kukidhi mahitaji na matarajio ya sasa na ya vizazi vijavyo.

14. "Matumizi ya rasilimali za kijenetiki za baharini" maana yake ni kufanya utafiti na maendeleo kuhusu muundo wa kijenetiki na/au biokemikali ya rasilimali za kijenetiki za baharini, ikijumuisha kupitia matumizi ya teknolojia ya kibioteknolojia, kama ilivyofanuliwa katika aya ya 3 hapo juu.

Kipengee cha 2

Lengo la jumla

Madhumuni ya Mkataba huu ni kuhakikisha uhifadhi na matumizi endelevu ya anuwai ya kibiojolojia ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa, kwa sasa na kwa muda mrefu, kupitia utekelezaji bora wa masharti husika ya Mkataba na ushirikiano zaidi wa kimataifa na uratibu.

Kipengee cha 3

Upeo wa matumizi

Makubaliano haya yanatumika kwa maeneo yaliyo nje ya mamlaka ya kitaifa.

Kipengee cha 4

Vighairi

Makubaliano haya hayatumiki kwa meli yoyote ya kivita, ndege ya kijeshi au msaidizi wa jeshi la majini. Isipokuwa kwa Sehemu ya II, Makubaliano haya hayatumiki kwa vyombo vingine au ndege zinazomilikiwa au zinazoendeshwa na Chama na kutumika, kwa wakati huo, kwa huduma za serikali tu zisizo za kibiashara. Hata hivyo, kila Chama kitahakikisha, kwa kupitishwa kwa hatua zinazofaa si kudhoofisha utendakazi au uwezo wa uendeshaji wa vyombo hivyo au ndege zinazomilikiwa au zinayoendeshwa nayo, kwamba vyombo hivyo au ndege zinafanya kazi kwa njia thabiti, kwa kadri inavyokubalika na iwezekanavyo, na Mkataba huu.

Kipengee cha 5

**Uhusiano kati ya Mkataba huu na Mkataba baina ya
vyombo vya kisheria na mifumo husika na kimataifa husika,
vyombo vya kikanda, kikanda-ndogo na kisékta**

1. Makubaliano haya yatafasiriwa na kutumika katika muktadha wa na kwa namna sambamba na Mkataba. Hakuna chochote katika Mkataba huu kitakachoathiri haki, mamlaka na majukumu ya Nchi chini ya Mkataba, ikiwa ni pamoja na kuhusiana na eneo la kipekee la kiuchumi na rafu ya bara ndani na zaidi ya maili 200 za baharini.
 2. Makubaliano haya yatafasiriwa na kutumika kwa namna ambayo haidhoofishi vyombo na mifumo ya kisheria husika na ya kimataifa, kikanda, kikanda ndogo, vyombo vya kanda na kisékta ambavyo vinakuza uwiano na uratibu na vyombo hivyo, mifumo na vyombo husika.
- 5 -
3. Hali ya kisheria ya wasio washiriki wa Mkataba au makubaliano mengine yoyote yanayohusiana na vyombo hivyo hayaathiriwi na Mkataba huu.

Kipengee cha 6

Bila upendeleo

Mkataba huu, ikijumuisha uamuzi au mapendekezo yoyote ya Mkutano wa Wanachama au chombo chake chochote tanzu, na vitendo vyovyote, hatua au shughuli zinazochukuliwa kwa msingi wake, utakuwa bila ya kuathiri, na hautategemewa kama msingi kwa kudai au kukataa madai yoyote ya, uhuru, haki za uhuru au mamlaka, ikiwa ni pamoja na kuhusiana na migogoro yoyote inayohusiana nayo.

Kipengee cha 7

Kanuni na mbinu za jumla

Ili kufikia malengo ya Mkatoba huu, Vyama vitaongozwa na kanuni na mbinu zifuatazo:

- (a) Kanuni ya mchafuzi-mlipaji;
- (b) Kanuni ya urithi wa pamoja wa wanadamu ambayo imeelezwa katika Mkatoba;
- (c) Uhuru wa utafiti wa kisayansi wa baharini, pamoja na uhuru mwingine wa bahari kuu;
- (d) Kanuni ya usawa na mgawo wa haki na usawa wa faida;
- (e) Kanuni ya tahadhari au mbinu ya tahadhari, inavyofaa;
- (f) mkakati wa kusimamia ardhi, maji na rasilimali hai kwa njia ambayo inakuza uhifadhi na matumizi endelevu, huku ukizingatia pia mahitaji ya binadamu na mazingira.
- (g) Mbinu jumuishi ya usimamizi wa bahari;
- (h) Mbinu inayojenga ustahimilivu wa mfumo ikolojia, ikijumuisha athari mbaya za tabianchi na tindikali ya bahari, na pia kudumisha na kurejesha mfumo wa ikolojia adilifu, ikiwa ni pamoja na huduma za mzunguko wa hewa kaa ambazo zinasimamia jukumu la bahari katika hali ya hewa;
- (i) Matumizi ya sayansi bora zaidi iliyopo na taarifa husika za kisayansi;
- (j) Matumizi ya maarifa husika ya jadi ya Watu wa Asili na wanajamii wa eneo husika, inapopatikana;
- (k) Heshima, ukuzaji na uzingatiaji wajibu wao husika, ifaavyo, zinazohusiana na haki za Watu wa Kiasili au, inavyofaa, za wanajamii wakati wa kuchukua hatua kushughulikia uhifadhi na matumizi endelevu ya baharini uanuwai wa kibiolojia wa maeneo yaliyo nje ya mamlaka ya kitaifa;
- (l) Kutohamisha, moja kwa moja au kwa njia isiyo ya moja kwa moja, ya uharibifu au hatari kutoka eneo moja hadi nyingine na kutobadilishwa kwa aina moja ya uchafuzi wa mazingira kuwa nyingine katika kuchukua hatua za kuzuia, kupunguza na kudhibiti uchafuzi wa mazingira ya baharini;
- (m) Utambuzi kamili wa hali maalum ya nchi za visiwa vidogo vinavyoendelea na nchi zilizoendelea kidogo;
- (n) Kutambua maslahi maalum na mahitaji yanchi zinazoendeleo zisizo na bandari.

Kipengee cha 8

Ushirikiano wa kimataifa

1. Wanachama watashirikiana chini ya Mkataba huu kwa uhifadhi na uendelevu wa matumizi ya anuwai ya kibiolojia ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa, ikijumuisha kupitia kuimarisha na kuboresha ushirikiano na kukuza ushirikiano kati ya vyombo husika vya kisheria na mifumo husika ya kimataifa, kikanda, kikanda ndogo na bodi ya kisekta katika kufikia malengo ya Mkataba huu.
2. Wanachama watajitahidi kukuza, kama inafaa, malengo ya Mkataba huu wakati wa kushiriki katika kufanya maamuzi chini ya vyombo vingine vya kisheria, mifumo, au bodi za kimataifa, kikanda, kikanda ndogo au kisekta.
3. Wanachama watakuza ushirikiano wa kimataifa katika utafiti wa kisayansi wa baharini na katika maendeleo na uhamisho wa teknolojia ya baharini kulingana na Mkataba wa kuunga mkono malengo ya Mkataba huu

SEHEMU YA II

RASILIMALI ZA JENI ZA BAHARI, PAMOJA NA

UGAWAJI WA FAIDA KWA HAKI NA USAWA

Kipengee cha 9

Malengo

Malengo ya Sehemu hii ni:

- (a) Ugawaji wa haki na usawa wa manufaa yanayotokana na shughuli kwa heshima kwa rasilimali za kijenetiki za baharini na taarifa za mlolongo wa kidijitali kuhusu rasilimali za kijenetiki za baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa kwa uhifadhi na matumizi endelevu ya baharini uanuwai wa kibiolojia wa maeneo yaliyo nje ya mamlaka ya kitaifa;

(b) Kujenga na kuendeleza uwezo wa Vyama, hasa Nchi Wanachama zinazoendelea, hususan nchi zilizoendelea kidogo, nchi zinazoendelea zisizo na bandari, Nchi zenye uhaba wa kijiografia, nchi za visiwa vidogo vinavyoendelea, nchi za pwani za Afrika, Nchi za visiwa na nchi zinazoendelea za kipato cha kati, ili kutekeleza shughuli zinazohusiana na rasilimali za kijenetiki za baharini na mlolongo wa dijiti habari kuhusu rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa;

(c) Uzalishaji wa maarifa, ufahamu wa kisayansi na kiteknolojia uvumbuzi, pamoja na maendeleo na uendeshaji wa utafiti wa kisayansi wa baharini, kama michango ya kimsingi katika utekelezaji wa Mkataba huu;

(d) Ukuzaji na uhamisho wa teknolojia ya baharini kwa mujibu wa haya Makubaliano.

Kipengee cha 10

Matumizi

1. Masharti ya Mkataba huu yatatumika kwa shughuli zinazohusiana na baharini rasilimali za kijenetiki na taarifa za mlolongo wa kidijitali kwenye rasilimali za kijenetiki za baharini za maeneo zaidi ya mamlaka ya kitaifa iliyokusanywa na kuzalishwa baada ya kuanza kutumika kwa huu Makubaliano kwa Chama husika. Utekelezaji wa masharti ya Mkataba huu utaenea hadi kwenye matumizi ya rasilimali za kijenetiki za baharini na taarifa za mfuatano wa kidijitali kuhusu rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa yaliyokusanywa au kuzalishwa kabla ya kuanza kutumika, isipokuwa kama Mhusika atafanya ubaguzi kwa maandishi chini ya kipengee cha 70 wakati kutia saini, kuthibitisha, kuidhinisha, kukubali au kuridhia na Mkataba huu.

2. Masharti ya Sehemu hii hayatatumika kwa:

(a) Uvuvi unaodhibitiwa chini ya sheria husika za kimataifa na shughuli zinazohusiana na uvuvi; au

(b) Samaki au rasilimali nyingine hai za baharini zinazojulikana kuwa zinauiana katika uvuvi na shughuli zinazohusiana na uvuvi kutoka maeneo yaliyo nje ya mamlaka ya kitaifa, isipokuwa pale ambapo samaki hao au rasilimali nyingine hai za baharini zinadhhibitiwa kama matumizi chini ya Sehemu hii.

3. Majukumu katika Sehemu hii hayatatumika kwa shughuli za kijeshi za Chama, ikijumuisha shughuli za kijeshi na vyombo vya serikali na ndege zinazohusika katika huduma zisizo za kibiashara.

Wajibu katika Sehemu hii kuhusu matumizi ya rasilimali za kijenetiki za baharini na taarifa za mfuatano wa kidijitali kuhusu rasilimali za kijenetiki za baharini za maeneo ya mamlaka zaidi ya kitaifa yatatumika kwa shughuli zisizo za kijeshi za Chama.

Kipengee cha 11

Shughuli zinazohusiana na rasilimali za kijenetiki za baharini za maeneo nje ya mamlaka ya kitaifa

1. Shughuli zinazohusiana na rasilimali za kijenetiki za (vinasaba vya) baharini na taarifa za mfuatano wa kidijitali kuhusu rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa zinaweza kufanywa na Vyama vyote, bila kujali eneo lao la kijiografia, na watu wa asili au wanao tambulika kisheria chini ya mamlaka ya Vyama. Shughuli za aina hiyo zitafanyika kwa mujibu wa haya Makubaliano.
2. Vyama vitakuza ushirikiano katika shughuli zote zinazo husiana na vinasaba vya baharini rasilimali na taarifa za mlolongo wa kidijitali kuhusu rasilimali za kijenetiki za baharini za maeneo yalio nje ya mamlaka ya kitaifa.
3. Ukusanyaji wa rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa itatekelezwa kwa kuzingatia haki na maslahi halali ya Mataifa ya pwani katika maeneo yaliyo ndani ya mamlaka yao ya kitaifa na kwa kuzingatia maslahi ya Mataifa mengine katika maeneo yaliyo nje ya mamlaka ya kitaifa, kwa mujibu wa Mkataba. Kwa hmantiki hiyo, Vyama vitajitahidi kushirikiana, inavyofaa, ikijumuisha kupitia taratibu maalum za uendeshaji wa Utaratibu wa (Kusafisha Nyumba) kuwaunganisha wanaotoa na wanaohitaji bidhaa, taarifa au huduma fulani chini ya kipengee cha 51, kwa nia ya kutekeleza Mkataba huu.
4. Hakuna Taifa litadai au kutumia mamlaka au haki za uhuru kuhusu rasilimali za vinasaba vya baharini maeneo nje ya mamlaka ya kitaifa. Hakuna dai kama hilo au utumiaji wa uhuru au haki za uhuru zitatambuliwa.

5. Ukusanyaji wa rasilimali za kijenetiki (vinasaba) za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa hautakuwa msingi wa kisheria wa madai yoyote kwa sehemu yoyote ya mazingira ya baharini au rasilimali zake.

6. Shughuli zinazohusiana na rasilimali za kijenetiki (vinasaba) za baharini na taarifa za mfuatano wa kidijitali kuhusu rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa ni kwa maslahi ya Mataifa yote na kwa manufaa ya wanadamu wote, hasa kwa manufaa ya kuendeleza maarifa ya kisayansi ya ubinadamu na kukuza uhifadhi na matumizi endelevu ya viumbe hai wa baharini, kwa kuzingatia hasa maslahi na mahitaji ya Nchi zinazoendelea.

7. Shughuli zinazohusiana na rasilimali za kijenetiki (vinasaba) za baharini na taarifa za mfuatano wa kidijitali kuhusu rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa zitatekelezwa kwa madhumuni ya amani pekee.

Kipengee cha 12

Arifa kuhusu shughuli zinazohusiana na rasilimali za kijenetiki za baharini na taarifa za mfuatano wa kidijitali kuhusu rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa

1. Wanachama watachukua hatua zinazohitajika za kisheria, kiutawala au kiseria

kuhakikisha kuwa taarifa inaarifiwa kwa utaratibu wa kuwaunganisha wanaozitoa na wanaohitaji kwa mujibu wa Sehemu hii.

2. Taarifa zifuatazo zitaarifiwa kwa Utaratibu wa kuwaunganisha wanaozitoa na wanaozihitaji ndani ya miezi sita au mapema iwezekanavyo kabla ya ukusanyaji wa rasilimali za kijenetiki za baharini maeneo yaliyo nje ya mamlaka ya kitaifa:

(a) Asili na malengo ambayo ukusanyaji unafanywa, ikiwa ni pamoja na, ipasavyo, programu zozote ambazo ni sehemu yake;

(b) Mada ya utafiti au, kama inajulikana, rasilimali za kinasaba za baharini kulengwa au kukusanywa, na madhumuni ambayo rasilimali hizo zitakusanywa;

(c) Maeneo ya kijiografia ambayo ukusanyaji utafanyika;

(d) Muhtasari wa mbinu na njia zitakazotumika kukusanya, ikijumuisha jina, tani (uzito), aina na darasa la vyombo, vifaa vya kisayansi na/au mbinu za masomo zitakazotumika;

(e) Taarifa kuhusu michango mingine yoyote inayoelekezwa kwa programu kuu zilizopendekezwa;

(f) Tarehe inayotarajiwa ya kuonekana kwa mara ya kwanza na kuondoka kwa mwisho kwa vyombo vya utafiti, au kupelekwa kwa vifaa na kuondolewa kwake, kama inavyostahili;

(g) Majina ya taasisi inayofadhili na mtu anayesimamia mradi;

(h) Fursa kwa wanasayansi wa Nchi zote, hususan wanasayansi kutoka Nchi zinazoendelea, ambazo zitajumuishwa au kuhusishwa na mradi;

(i) Kiwango ambacho kinachukuliwa kuwa Nchi zinazoweza kuhitaji na kuomba msaada wa kiufundi, hasa Nchi zinazoendelea, zinapaswa kuwa na uwezo wa kushiriki au kuwakilishwa katika mradi;

(j) Mpango wa usimamizi wa data uliotayarishwa kulingana na data iliyo wazi na inayowajibika Katika utawala, kwa kuzingatia mfumo wa sasa ya kimataifa.

3. Baada ya taarifa iliyorejelewa katika aya ya 2 hapo juu, Utaratibu wa kuwaunganisha wanaozalisha bidhaa na wanaozihitaji itazalisha kiotomatiki bechi sanifu ya "BBNJ" inayotambulika.

4. Pale ambapo kuna mabadiliko ya nyenzo kwa taarifa iliyotolewa kwa Utaratibu wa kuwaunganisha wanaotoa na wanaohitaji hitaji taarifa kabla ya mkusanyiko uliopangwa, habari iliyosasishwa itaarifiwa kwa Utaratibu huu wa kuunganisha ndani ya muda unaofaa kabla ya kuanza ukusanyaji katika katika eneo husika, inapowezekana.

5. Wanachama watahakikisha kwamba taarifa zifuatazo, pamoja na kitambulisho cha bechi sanifu cha "ABNJ", kimearifiwa kwa utaratibu wa kuunganisha taarifa pindi tu inapatikana, lakini sio zaidi ya mwaka mmoja kutoka kwa mkusanyiko katika maeneo halisi ya raslimani za kijenetiki (vinasaba) baharini katika maeneo nje ya mamlaka ya kitaifa:

(a) Hifadhi au hifadhidata ambapo taarifa za mfuatano wa kidijitali baharini rasilimali za kijenetiki zimewekwa au zitawekwa;

(b) Ambapo rasilimali zote za kijeni (vinasaba) za baharini zilizokusanywa mahali zilipo au zitakapowekwa

au uliofanyika;

(c) Ripoti inayoelezea eneo la kijiografia kutoka kwa rasilimali za kijenetiki za baharini zilikusanywa, ikijumuisha taarifa juu ya latitudo, longitudo na kina cha mkusanyiko, na, kwa kiwango kinachopatikana, matokeo kutoka kwa shughuli iliyofanywa;

(d) Usasisho wowote muhimu kwa mpango wa usimamizi wa data uliotolewa chini aya ya (2) (j) hapo juu.

6. Wanachama watahakikisha kwamba sampuli za rasilimali za kijenetiki za baharini na mlolongo wa habari za kidijitali za rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa ambayo yamehifadhiwa katika hazina au hifadhidata zilizo chini ya mamlaka yao zinaweza kutambuliwa kuwa zinatoka katika maeneo nje ya mamlaka ya kitaifa, kwa mujibu wa mazoezi ya sasa ya kimataifa na kiwango kinachowezekana.

7. Wanachama watahakikisha kuwa hazina, kwa kiwango kinachowezekana, na hifadhidata chini mamlaka yao hutayarisha, kwa misingi ya kila baada ya miaka miwili, ripoti ya jumla ya upatikanaji wa baharini rasilimali za kijenetiki na taarifa za mfuatano wa dijiti zilizounganishwa na "ABNJ" zao zilizosanifishwa kitambulisho cha kundi, na kufanya ripoti ipatikane kwa kamati ya ufikiaji na ugavi wa faida iliyoanzishwa chini ya kipengee cha 15.

8. Ambapo rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa, na ambapo kunawezekana, habari za mlolongo wa dijiti kwenye rasilimali kama hizo zinaweza kutumika, ikijumuisha biashara, na watu wa asili au wa kisheria chini ya mamlaka yao, Wanachama itahakikisha kwamba taarifa zifuatazo, ikijumuisha kundi sanifu la "BBNJ"

kitambulisho, kikipatikana, kijulishwe kwa kutumia utaratibu wa kuunganisha taarifa mara tu habari inapatikana:

(a) Pale ambapo matokeo ya matumizi, kama vile machapisho, hati miliki zilizo tolewa, ikiwa inapatikana na kwa kiwango kinachoweza kuwa, na bidhaa zilizotengenezwa, zinazoweza kupatikana;

(b) Inapatikana, maelezo ya taarifa ya baada ya mkusanyiko kwa utaratibu wa kuunganisha habari zinazo husiana na rasilimali za kijeni (vinasaba) za baharini ambazo zilikuwa na mada ya matumizi;

(c) Pale ambapo sampuli ya awali ambayo ni somo la matumizi inashikiliwa;

(d) Mbinu zinazokusudiwa kupata rasilimali za kijenetiki za baharini na mlolongo wa taarifa za kidijitali kuhusu rasilimali za kijenetiki za baharini zinazotumiwa, na usimamizi wa data kuzingatia mpango barabara wa usimamizi;

(e) Mara baada ya kuwasilishwa, taarifa, ikiwa inapatikana, kuhusu mauzo ya bidhaa husika na maendeleo yoyote zaidi.

Kipengee cha 13

Maarifa ya jadi ya Watu wa Asili na wenyeji

jamii zinazohusiana na rasilimali za kijenetiki za baharini katika maeneo

nje ya mamlaka ya kitaifa

Vyama vitachukua hatua za kisheria, kiutawala au kiseria, pale inapofaa na

inavyofaa, kwa lengo la kuhakikisha kwamba maarifa ya jadi yanahusishwa na rasilimali za kijenetiki baharini katika maeneo yaliyo nje ya mamlaka ya kitaifa ambayo yanashikiliwa na wenyeji na jumuiya za wenyeji zitafikiwa tu kwa ridhaa ya bure, ya awali na ya taarifa au idhini na ushirikishwaji wa Watu hawa wa Asili na jumuiya za wenyeji. Ufikiaji wa maarifa hayo ya jadi yanaweza kuwezesha na Utaratibu wa Kusafisha Nyumba. Ufikiaji na matumizi ya maarifa hayo ya jadi yatakuwa kwa masharti yaliyokubaliwa.

Kipengee cha 14

Kugawana faida kwa haki na kwa usawa

1. Faida zinazotokana na shughuli zinazohusiana na rasilimali za kijenetiki za baharini na taarifa za mfuatano wa kidijitali kuhusu rasilimali za kijenetiki za baharini za maeneo zaidi ya kitaifa mamlaka itashirikiwa kwa njia ya haki na usawa kwa mujibu wa Sehemu hii na kuchangia katika uhifadhi na matumizi endelevu ya anuwai ya kibayolojia ya baharini ya maeneo nje ya mamlaka ya kitaifa.

2. Faida zisizo za fedha zitashirikiwa kwa mujibu wa Mkataba huu katika aina ya, pamoja na mengine:

(a) Upatikanaji wa sampuli na mkusanyo ya sampuli kwa mujibu wa sasa mazoezi ya kimataifa;

(b) Upatikanaji wa taarifa za mlolongo wa kidijitali kwa mujibu wa sasa mazoezi ya kimataifa;

(c) Ufikiaji wazi wa kupatikana, kufikika, kuingiliana na kutumika tena (FAIR) data ya kisayansi kwa mujibu wa mazoezi ya sasa ya kimataifa na wazi na kuwajibika usimamizi wa data;

(d) Taarifa zilizomo kwenye arifa, pamoja na "BBNJ" zilizosanifishwa vitambulishi vya kundi, vilivyotolewa kwa mujibu wa kipengee cha 12, katika kutafutwa kwa umma na fomu zinazoweza kupatikana;

(e) Uhawilishaji wa teknolojia ya baharini kwa kuzingatia taratibu husika zinazotolewa chini ya Sehemu ya V ya Mkataba huu;

(f) Kujenga uwezo, ikijumuisha kufadhili programu za utafiti, na fursa za ushirikiano, hasa zinazofaa moja kwa moja na ni muhimu, kwa wanasayansi na watafiti katika miradi ya utafiti, pamoja na mipango ya kujitolea, hasa kwa Nchi zinazoendelea, kwa kuzingatia hali maalum ya mataifa ya visiwa vidogo vinavyoendelea na nchi zilizoendelea kiwango kidogo mno;

(g) Kuongezeka kwa ushirikiano wa kiufundi na kisayansi, hasa na wanasayansi kutoka na taasisi za kisayansi katika Nchi zinazoendelea;

(h) Aina zingine za faida kama zitakavyoamuliwa na Mkutano wa Wanachama, kuchukua kwa kuzingatia mapendekezo ya kamati ya ufikiaji na ugavi wa faida iliyoanzishwa chini ya kipengee cha 15.

3. Vyama vitachukua hatua muhimu za kisheria, kiutawala au kisera

kuhakikisha kwamba rasilimali za kijenetiki za baharini na taarifa za mlolongo wa kidijitali juu ya vinasaba vya baharini rasilimali za maeneo yaliyo nje ya mamlaka ya kitaifa, pamoja na "BBNJ" yao iliyosanifiwa vitambulishi vya kundi, vinavyotegemea kutumiwa na watu asilia au wa kisheria chini yao mamlaka huwekwa katika hazina na hifadhidata zinazoweza kufikiwa na umma, hutunzwa ama kitaifa au kimataifa, si zaidi ya miaka mitatu tangu kuanza kwa vile matumizi, au mara tu yanapopatikana, kwa kuzingatia desturi za sasa za kimataifa.

4. Upatikanaji wa rasilimali za kijenetiki za baharini na taarifa za mlolongo wa kidijitali kwenye bahari rasilimali za kijenetiki za maeneo yaliyo nje ya mamlaka ya kitaifa katika hazina na hifadhidata chini ya mamlaka ya Chama inaweza kuwa chini ya masharti yanayokubalika, kama ifuatavyo:

(a) Haja ya kuhifadhi uadilifu wa kimwili wa rasilimali za kijeni (vinasaba) za baharini;

(b) Gharama zinazofaa zinazohusiana na kutunza benki ya jeni (vinasaba) husika, hifadhi ya kibayolojia au hifadhidata ambamo sampuli, data au taarifa inashikiliwa;

(c) Gharama zinazofaa zinazohusiana na kutoa ufikiaji wa vinasaba vya baharini rasilimali, data au habari;

(d) Masharti mengine yanayofaa kulingana na malengo ya Mkataba huu; na fursa za ufikiaji huo kwa masharti ya haki na yanayofaa zaidi, ikijumuisha kwenye masharti ya masharti nafuu na upendeleo, yanaweza kutolewa kwa watafiti na utafiti taasisi kutoka Nchi zinazoendelea.

5. Faida za kifedha kutokana na matumizi ya rasilimali za kijenetiki za baharini na dijitali mlolongo wa habari juu ya rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa, ikijumuisha biashara, itagawanywa kwa haki na usawa, kupitia fedha utaratibu ulioanzishwa chini ya kipengee cha 52, kwa ajili ya uhifadhi na matumizi endelevu ya baharini anuwai ya kibaolojia ya maeneo yaliyo nje ya mamlaka ya kitaifa.

6. Baada ya kuanza kutumika kwa Makubaliano haya, Vyama vilivyotengenezwa vitafanya kila mwaka michango kwa hazina maalum iliyorejelewa katika kipengee cha 52. Kiwango cha mchango wa Chama itakuwa asilimia 50 ya mchango uliotathminiwa wa Chama katika bajeti iliyopitishwa na Bunge Mkutano wa Wanachama chini ya kipengee cha 47, aya ya 6 (e). Malipo hayo yataendelea hadi uamuzi utakapochukuliwa na Mkutano wa Wanachama chini ya aya ya 7 hapa chini.

7. Mkutano wa Wanachama utaamua juu ya njia za kugawana faida za kifedha kutokana na matumizi ya rasilimali za kijenetiki za baharini na mlolongo wa kidijitali habari juu ya rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa, ikizingatiwa zingatia mapendekezo ya kamati ya ufikiaji na ugavi wa faida iliyoanzishwa chini ya kipengee cha 15. Iwapo juhudi zote za kufikia muafaka zimekamilika, uamuzi utakuwa iliyopitishwa na robo tatu ya wingi wa Vyama vilivyopo na kupiga kura. Malipo hayo yatafanyika ifanywe kupitia mfuko maalum ulioanzishwa chini ya kipengee cha 52. Mbinu hizo zinaweza kujumuisha zifuatazo:

(a) Malipo muhimu;

(b) Malipo au michango inayohusiana na uuzaji wa bidhaa, ikiwa ni pamoja na malipo ya asilimia ya mapato kutokana na mauzo ya bidhaa;

(c) Ada iliyopangwa, inayolipwa mara kwa mara, kulingana na seti mbalimbali za viashirio kupima kiwango cha jumla cha shughuli na Chama;

(d) Fomu nyingine kama zitakavyoamuliwa na Mkutano wa Wanachama, kwa kuzingatia mapendekezo ya kamati ya upatikanaji na ugawanaji faida.

8. Chama kinaweza kutoa tamko wakati Mkutano wa Wanachama unapitisha taratibu zinazoeleza kuwa taratibu hizo hazitatumika kwa Chama hicho kwa muda wa hadi miaka minne, ili kuruhusu muda wa utekelezaji muhimu. Chama kinachofanya tamko hilo litaendelea kufanya malipo yaliyoainishwa katika aya ya 6 hapo juu hadi mbinu mpya kuanza kutumika.

9. Katika kuamua juu ya utaratibu wa kugawana faida za fedha kutokana na matumizi ya taarifa za mfuatano wa kidijitali kuhusu rasilimali za kijenetiki za baharini za maeneo zaidi ya kitaifa mamlaka chini ya aya ya 7 hapo juu, Mkutano wa Wanachama utazingatia mapendekezo ya kamati ya upatikanaji na ugavi wa faida, kwa kutambua kwamba hayo mbinu zinapaswa kuunga mkono na kubadilika kwa ufikiaji na zana zingine za kugawana faida.

10. Mkutano wa Wanachama, kwa kuzingatia mapendekezo ya ufikiaji na kamati ya ugawanaji faida iliyoanzishwa chini ya kipengee cha 15, itapitia na kutathmini, juu ya a msingi wa kila miaka miwili, faida za kifedha kutokana na matumizi ya rasilimali za kijenetiki za baharini na taarifa za mfuatano wa kidijitali kuhusu rasilimali za kijenetiki za baharini za maeneo zaidi ya kitaifa mamlaka. Mapitio ya kwanza yatafanyika kabla ya miaka mitano baada ya kuingia nguvu ya Mkataba huu. Tathmini itajumuisha kuzingatia michango ya kila mwaka iliyotajwa katika aya ya 6 hapo juu.

11. Wanachama watachukua hatua zinazohitajika za kisheria, kiutawala au kisera, kama inafaa, kwa lengo la kuhakikisha kuwa faida zinazotokana na shughuli zinazohusiana na rasilimali za kijenetiki za baharini na taarifa za mlolongo wa kidijitali kuhusu rasilimali za kijenetiki za baharini za maeneo yaliyo nje ya mamlaka ya kitaifa na watu asilia au wenye mamlaka chini ya mamlaka yao zinashirikiwa kwa mujibu wa Mkataba huu.

Kipengee cha 15

Kamati ya upatikanaji na ugawanaji faida

1. Kamati ya ufikiaji na ugavi wa faida inaundwa. Itakuwa kutumika, inter alia, kama njia ya kuanzisha miongozo ya kugawana faida, kwa mujibu wa Kipengee cha 14, kinachotoa uwazi na kuhakikisha ushiriki wa haki na usawa wa zote mbili faida za fedha na zisizo za fedha.

2. Kamati ya upatikanaji na ugawanaji faida itaundwa na wajumbe 15 kuwa na sifa zinazofaa katika fani zinazohusiana, ili kuhakikisha zoezi linalofaa wa majukumu ya kamati. Wanachama watapendekezwa na Vyama na kuchaguliwa na Mkutano wa Wanachama, kwa kuzingatia usawa wa kijinsia na usawa usambazaji wa kijiografia na kutoa uwakilishi kwenye kamati kutoka Nchi zinazoendelea, zikiwemo kutoka nchi zilizoendelea kidogo, kutoka katika visiwa vidogo Nchi zinazoendelea na kutoka nchi zinazoendelea zisizo na bandari. Hadidu za rejea na utaratibu wa uendeshaji wa kamati utaamuliwa na Mkutano wa Vyama.

3. Kamati inaweza kutoa mapendekezo kwa Mkutano wa Wanachama kuhusu mambo yanayohusiana na Sehemu hii, ikijumuisha mambo yafuatayo:
 - (a) Miongozo au kanuni za maadili kwa shughuli zinazohusiana na vinasaba vya baharini rasilimali na taarifa za mlolongo wa kidijitali juu ya rasilimali za kijenetiki za baharini za maeneo zaidi ya hapo mamlaka ya kitaifa kwa mujibu wa Sehemu hii;
 - (b) Hatua za kutekeleza maamuzi yaliyochukuliwa kwa mujibu wa Sehemu hii;
 - (c) Viwango au taratibu za kugawana faida za fedha kwa mujibu wa kipengee cha 14;

 - (d) Mambo yanayohusiana na Sehemu hii kuhusiana na Utaratibu wa ubadilishanaji habari na utaalam;

(e) Mambo yanayohusiana na Sehemu hii kuhusiana na utaratibu wa kifedha ulioanzishwa chini ya kipengee cha 52;

(f) Mambo mengine yoyote yanayohusiana na Sehemu hii ambayo Mkutano wa Wanachama unaweza omba kamati ya ufikiaji na ugavi wa faida kushughulikia.

4. Kila Mhusika atatoa fursa kwa kamati ya ufikiaji na ugavi wa faida, kupitia Utaratibu wa Kusafisha Nyumba, taarifa zinazohitajika chini ya Mkataba huu, ambayo itajumuisha:

(a) Hatua za kisheria, kiutawala na kisera kuhusu ufikiaji na ugavi wa faida;

(b) Maelezo ya mawasiliano na taarifa nyingine muhimu kuhusu maeneo muhimu ya kitaifa;

(c) Taarifa nyingine zinazohitajika kwa mujibu wa maamuzi yaliyochukuliwa na Mkutano wa Vyama.

5. Kamati ya ufikiaji na ugavi wa faida inaweza kushauriana na kuwezesha ubadilishanaji wa habari na vyombo vya kisheria na mifumo muhimu na muhimu ya kimataifa, mashirika ya kikanda, kanda na kisekta kuhusu shughuli chini ya mamlaka yake, ikiwa ni pamoja na kugawana faida, matumizi ya taarifa za mfuatano wa kidijitali juu ya rasilimali za kijenetiki za baharini, mbinu bora, zana na mbinu, usimamizi wa data na mafunzo tuliyojifunza.

6. Kamati ya ufikiaji na ugawaji faida inaweza kutoa mapendekezo kwa Mkutano wa Wanachama kuhusiana na taarifa zilizopatikana chini ya aya ya 5 hapo juu.

Kipengee cha 16

Ufuatiliaji na uangavu (Uwazi)

1. Ufuatiliaji na uwazi wa shughuli zinazohusiana na rasilimali za kijenetiki za baharini na taarifa za mfuatano wa kidijitali kuhusu rasilimali za kijenetiki za baharini za maeneo zaidi ya kitaifa

mamlaka yatapatikana kupitia taarifa kwa Utaratibu wa Kusafisha Nyumba,

kupitia matumizi ya vitambulishi vya bechi sanifu vya "BBNJ" kwa mujibu wa Sehemu hii na kwa mujibu wa taratibu zilizopitishwa na Mkutano wa Wanachama kama ilivyopendekezwa na kamati ya upatikanaji na ugawanaji faida.

2. Wanachama watawasilisha ripoti mara kwa mara kwa kamati ya ufikiaji na ugavi wa faida juu ya utekelezaji wao wa masharti katika Sehemu hii ya shughuli zinazohusiana na baharini rasilimali za kijenetiki na taarifa za mlolongo wa kidijitali kwenye rasilimali za kijenetiki za baharini za maeneo zaidi ya mamlaka ya kitaifa na ugawaji wa faida kutoka humo, kwa mujibu wa hili Sehemu.

3. Kamati ya ufikiaji na ugawanaji faida itatayarisha ripoti kulingana na taarifa iliyopokelewa kupitia Utaratibu wa Kusafisha Nyumba na kuifanya ipatikane kwa Vyama, ambavyo vinaweza kuwasilisha maoni. Kamati ya upatikanaji na ugawanaji faida italazimika kuwasilisha ripoti, ikijumuisha maoni yaliyopokelewa, kwa ajili ya kuzingatia Mkutano wa Vyama. Mkutano wa Wanachama, kwa kuzingatia mapendekezo ya kamati ya upatikanaji na ugawanaji faida, inaweza kuamua miongozo ifaayo kwa ajili ya utekelezaji wa ibara hii, ambayo itazingatia uwezo wa kitaifa na mazingira ya Vyama.

SEHEMU YA III

HATUA KAMA USIMAMIZI WA ENEO

ZANA, PAMOJA NA MAENEO YA ULINZI YA BAHARI

Kipengee cha 17

Malengo

Malengo ya Sehemu hii ni:

- (a) Kuhifadhi na kutumia kwa njia endelevu maeneo yanayohitaji ulinzi, ikijumuisha kupitia uanzishwaji wa mfumo wa kina wa zana za usimamizi wa eneo, pamoja na uwakilishi wa ikolojia na mitandao iliyounganishwa vizuri ya maeneo yaliyohifadhiwa ya baharini;
- (b) Kuimarisha ushirikiano na uratibu katika matumizi ya usimamizi wa eneo zana, ikiwa ni pamoja na maeneo ya baharini yaliyohifadhiwa, kati ya Mataifa, vyombo vya kisheria vinavyohusika na

mifumo na vyombo husika vya kimataifa, kikanda, kikanda na kisékta;

(c) Kulinda, kuhifadhi, kurejesha na kudumisha anuwai ya kibayolojia na mifumo ikolojia;

ikiwa ni pamoja na kwa nia ya kuongeza tija na afya zao, na kuimarisha ustahimilivu

kwa matatizo, ikiwa ni pamoja na yale yanayohusiana na mabadiliko ya hali ya hewa, asidi ya bahari na baharini

uchafuzi wa mazingira;

(d) Kusaidia usalama wa chakula na malengo mengine ya kijamii na kiuchumi, yakiwemo

ulinzi wa maadili ya kitamaduni;

(e) Kusaidia Nchi Wanachama zinazoendelea, hasa nchi zilizoendelea kidogo,

nchi zinazoendelea zisizo na bandari, Nchi zenye uhaba wa kijiografia, kisiwa kidogo

nchi zinazoendelea, nchi za pwani za Afrika, nchi za visiwa na nchi zinazoendelea za kipato cha kati, kwa kuzingatia hali maalum za visiwa vidogo vinavyoendelea.

Mataifa, kupitia kujenga uwezo na maendeleo na uhamisho wa teknolojia ya baharini

katika kuendeleza, kutekeleza, kufuatilia, kusimamia na kutekeleza kwa kuzingatia maeneo

zana za usimamizi, ikiwa ni pamoja na maeneo yaliyohifadhiwa ya baharini.

Kipengee cha 18

Eneo la matumizi

Uanzishaji wa zana za usimamizi wa eneo, pamoja na ulinzi wa baharini

maeneo, hayatajumuisha maeneo yoyote ndani ya mamlaka ya kitaifa na hayatategemewa

kama msingi wa kudai au kukataa madai yoyote ya ukuu, haki za uhuru au

mamlaka, ikiwa ni pamoja na kuhusiana na migogoro yoyote inayohusiana nayo. Mkutano wa

Wanachama hawatazingatia mapendekezo ya uamuzi wa uanzishwaji wa eneo kama hilo

zana za usimamizi, ikiwa ni pamoja na maeneo yaliyohifadhiwa ya baharini, na kwa hali yoyote hakuna mapendekezo kama hayo

kufasiriwa kama kutambuliwa au kutotambuliwa kwa madai yoyote ya ukuu, uhuru.

haki au mamlaka.

Kipengee cha 19

Mapendekezo

1. Mapendekezo kuhusu uanzishwaji wa zana za usimamizi wa eneo, ikiwa ni pamoja na maeneo ya baharini yaliyohifadhiwa, chini ya Sehemu hii yatawasilishwa na Vyama, kibinafsi au kwa pamoja, kwa sekretarieti.

2. Wanachama watashirikiana na kushauriana, inapofaa, na washikadau husika; ikijumuisha Mataifa na mashirika ya kimataifa, kikanda, kikanda na kisekta, pamoja na mashirika ya kiraia jamii, jumuiya ya kisayansi, sekta binafsi, Watu wa Asili na wenyeji jamii, kwa ajili ya maendeleo ya mapendekezo, kama ilivyoainishwa katika Sehemu hii.

3. Mapendekezo yataundwa kwa misingi ya sayansi na kisayansi bora zaidi habari na, inapopatikana, maarifa ya jadi ya watu asilia na jumuiya za wenyeji, kwa kuzingatia mbinu ya tahadhari na mfumo ikolojia mbinu.

4. Mapendekezo kuhusu maeneo yaliyoainishwa yatajumuishwa mambo muhimu yafuatayo:
 - (a) Maelezo ya kijiografia au anga ya eneo ambalo ni somo la pendekezo kwa kurejelea vigezo elekezi vilivyoainishwa katika Kiambatisho cha I;
 - (b) Taarifa kuhusu vigezo vyovyote vilivyoainishwa katika Kiambatisho cha I, pamoja na vigezo vyovyote ambayo inaweza kuendelezwa zaidi na kurekebishwa kwa mujibu wa aya ya 5 hapa chini kutumika katika kutambua eneo;
 - (c) Shughuli za kibinadamu katika eneo hilo, ikijumuisha matumizi ya Wenyeji na wenyeji jamii, na athari zao zinazoweza, ikiwa zipo;
 - (d) Maelezo ya hali ya mazingira ya baharini na uanuwai wa kibayolojia katika eneo lililotambuliwa;
 - (e) Maelezo ya uhifadhi na, inapofaa, matumizi endelevu

malengo ambayo yanafaa kutumika kwa eneo hilo;

(f) Rasimu ya mpango wa usimamizi unaojumuisha hatua zilizopendekezwa na kuainisha mapendekezo ya ufuatiliaji, utafiti na mapitio ya shughuli ili kufikia malengo yaliyoainishwa;

(g) Muda wa eneo lililopendekezwa na hatua, ikiwa zipo;

(h) Taarifa juu ya mashauriano yoyote yaliyofanywa na Mataifa, ikiwa ni pamoja na jirani majimbo ya pwani na/au mashirika husika ya kimataifa, kikanda, kikanda na kisekta, kama yapo;

(i) Taarifa juu ya zana za usimamizi wa eneo, ikiwa ni pamoja na ulinzi wa baharini maeneo, yanayotekelezwa chini ya vyombo na mifumo husika ya kisheria na kimataifa husika, vyombo vya kikanda, kikanda na kisekta;

(j) Maoni husika ya kisayansi na, inapopatikana, maarifa ya jadi ya Wenyeji na jumuiya za wenyeji.

5. Vigezo elekezi vya utambuzi wa maeneo hayo vitajumuisha, kama inafaa, yale iliyoainishwa katika Kiambatisho I na inaweza kuendelezwa zaidi na kurekebishwa inapohitajika na Bodi ya Kisayansi na Kiufundi ili kuzingatia na kupitishwa na Mkutano wa Vyama.

6. Mahitaji zaidi kuhusu yaliyomo katika mapendekezo, ikiwa ni pamoja na taratibu kwa matumizi ya vigezo elekezi kama ilivyoainishwa katika aya ya 5 hapo juu, na mwongozo wa mapendekezo yaliyoainishwa katika aya ya 4 (b) hapo juu yatafafanuliwa na Kisayansi na Bodi ya Kiufundi, inapohitajika, kwa kuzingatia na kupitishwa na Mkutano wa Vyama.

Kipengee cha 20

Utangazaji na mapitio ya awali ya mapendekezo

Baada ya kupokea pendekezo kwa maandishi, sekretarieti itatoa pendekezo hilo

inapatikana kwa umma na kuisambaza kwa Shirika la Kisayansi na Kiufundi kwa utangulizi

hakiki. Madhumuni ya ukaguzi ni kuhakikisha kuwa pendekezo lina habari

inavyohitajika chini ya kipengee cha 19, ikijumuisha vigezo elekezi vilivyofafanuliwa katika Sehemu hii na katika Kiambatisho cha I.

Matokeo ya mapitio hayo yatatolewa kwa umma na yatawasilishwa kwa kupendekezwa na sekretarieti. Mshauri atapeleka tena pendekezo hilo kwa sekretarieti, baada ya kuzingatia mapitio ya awali ya Shirika la Kisayansi na Kiufundi. Sekretarieti itajulisha Wanachama na kutoa pendekezo hilo lililotumwa tena hadharani inapatikana na kuwezesha mashauriano kwa mujibu wa kipengee cha 21.

Kipengee cha 21

Mashauriano na tathmini ya mapendekezo

1. Mashauriano juu ya mapendekezo yaliyowasilishwa chini ya kipengee cha 19 yatakuwa ya pamoja, ya uwazi na wazi kwa washikadau wote husika, ikijumuisha Majimbo na kimataifa, kikanda, kikanda na mashirika ya kisekta, pamoja na mashirika ya kiraia, jumuiya ya kisayansi, Watu wa Asili na jumuiya za mitaa.

2. Sekretarieti itawezesha mashauriano na kukusanya maoni kama ifuatavyo:

(a) Mataifa, hususan Majimbo ya pwani yaliyo karibu, yataarifiwa na kualikwa wasilisha, pamoja na mengine:

(i) Maoni juu ya ubora na upeo wa kijiografia wa pendekezo;

(ii) Ingizo lingine lolote muhimu la kisayansi;

(iii) Taarifa kuhusu hatua au shughuli zozote zilizopo karibu au maeneo yanayohusiana ndani ya mamlaka ya kitaifa na nje ya mamlaka ya kitaifa;

(iv) Maoni kuhusu athari zinazoweza za pendekezo kwa maeneo ya kitaifa mamlaka;

(v) Taarifa nyingine yoyote muhimu;

(b) Vyombo vya sheria na mifumo na mifumo husika ya kimataifa,

vyombo vya kikanda, kikanda na kisekta vitajulishwa na kualikwa kuwasilisha, pamoja na mambo mengine:

- (i) Maoni juu ya umuhimu wa pendekezo;
- (ii) Ingizo lingine lolote muhimu la kisayansi;
- (iii) Taarifa kuhusu hatua zozote zilizopo zilizopitishwa na chombo hicho, mfumo au chombo cha eneo husika au kwa maeneo ya karibu;
- (iv) Maoni kuhusu vipengele vyovyote vya hatua na vipengele vingine vya rasimu mpango wa usimamizi ulioainishwa katika pendekezo ambalo liko ndani ya uwezo huo mwili;
- (v) Maoni kuhusu hatua zozote za ziada zinazohusika uwezo wa chombo hicho, mfumo au chombo hicho;
- (vi) Taarifa nyingine yoyote muhimu;

(c) Wenyeji na jumuiya za wenyeji zenye mila husika maarifa, jumuiya ya kisayansi, jumuiya za kiraia na wadau wengine husika wataalikwa kuwasilisha, pamoja na mambo mengine:

- (i) Maoni kuhusu umuhimu wa pendekezo;
- (ii) Ingizo lingine lolote muhimu la kisayansi;
- (iii) Maarifa yoyote ya kimapokeo yanayofaa ya Watu wa Asili na wenyeji jumuiya;
- (iv) Taarifa nyingine yoyote muhimu.

3. Michango iliyopokelewa kwa mujibu wa aya ya 2 hapo juu itatolewa kwa umma inayopatikana na sekretarieti.

4. Katika hali ambapo kipimo kilichopendekezwa kinaathiri maeneo ambayo yamezungukwa kabisa maeneo ya kipekee ya kiuchumi ya Nchi, watetezi watawajibika ifwatavyo:

- (a) Kufanya mashauriano yaliyolengwa na ya haraka, ikijumuisha taarifa ya awali, na Mataifa hayo;

(b) Kuzingatia maoni na maoni ya Nchi hizo kuhusu hatua iliyopendekezwa na kutoa majibu yaliyoandikwa hasa yanayoshughulikia maoni na maoni hayo na, inapobidi, rekebisha kipimo kilichopendekezwa ipasavyo.

5. Mshauri atazingatia michango iliyopokelewa wakati wa mashauriano kipindi, pamoja na maoni na taarifa kutoka kwa Taasisi ya Kisayansi na Kiufundi, na, kama inafaa, kurekebisha pendekezo ipasavyo au kujibu michango ya msingi haijaonyeshwa kwenye pendekezo.

6. Kipindi cha mashauriano kitalingana na muda.

7. Pendekezo lililorekebisha litawasilishwa kwa Taasisi ya Kisayansi na Kiufundi, ambayo itatathmini pendekezo na kutoa mapendekezo kwa Mkutano wa Wanachama.

8. Mbinu za mchakato wa mashauriano na tathmini, ikijumuisha muda, itafafanuliwa zaidi na Taasisi ya Kisayansi na Kiufundi, kama inavyohitajika, mwanzoni mkutano, kwa kuzingatia na kupitishwa na Mkutano wa Wanachama, kuzingatia zingatia hali maalum za nchi za visiwa vidogo zinazoendelea.

Kipengee cha 22

Uanzishaji wa zana za usimamizi wa eneo, yakiwemo maeneo ya hifadhi ya baharini

1. Mkutano wa Wanachama, kwa misingi ya pendekezo la mwisho na rasimu mpango wa usimamizi, kwa kuzingatia michango na mchango wa kisayansi uliopokelewa wakati mchakato wa mashauriano ulioanzishwa chini ya Sehemu hii, na ushauri wa kisayansi na mapendekezo ya Taasisi ya Kisayansi na Kiufundi:

(a) Atachukua maamuzi juu ya uanzishwaji wa zana za usimamizi wa eneo, ikijumuisha maeneo yaliyohifadhiwa ya baharini, na hatua zinazohusiana;

(b) Inaweza kuchukua maamuzi juu ya hatua zinazolingana na zile zilizopitishwa na husika vyombo vya kisheria na mifumo na husika kimataifa, kikanda, kikanda na kisekta miili, kwa ushirikiano na uratibu na vyombo, mifumo na miili hiyo;

(c) Mwezi wa Mei, pale ambapo hatua zinazopendekezwa ziko ndani ya uwezo wa mashirika mengine ya kimataifa, vyombo vya kikanda, kikanda au kisekta, hutoa mapendekezo kwa Wanachama kwa hili Makubaliano na mashirika ya kimataifa, kikanda, kikanda na kisekta ili kukuza uasili huo ya hatua husika kupitia vyombo, mifumo na vyombo hivyo, kwa mujibu wa mamlaka zao.

2. Katika kufanya maamuzi chini ya ibara hii, Mkutano wa Wanachama utaheshimu uwezo wa, na si kudhoofisha, vyombo na mifumo ya kisheria husika na mashirika husika ya kimataifa, kikanda, kikanda na kisekta.

3. Mkutano wa Wanachama utafanya mipango ya mashauriano ya mara kwa mara kwa kuimarisha ushirikiano na uratibu na na miongoni mwa vyombo vya kisheria vinavyohusika na mifumo na vyombo husika vya kimataifa, kikanda, kikanda na kisekta kuhusiana na zana za usimamizi wa eneo, ikiwa ni pamoja na maeneo ya hifadhi ya baharini, pamoja na uratibu kuhusu hatua zinazohusiana zilizopitishwa chini ya vyombo na mifumo hiyo na kwa vyombo hivyo.

4. Pale ambapo kufikiwa kwa malengo na utekelezaji wa Sehemu hii hivyo inahitaji, kuendeleza ushirikiano wa kimataifa na uratibu kuhusiana na uhifadhi na matumizi endelevu ya bioanuwai ya baharini ya maeneo zaidi ya kitaifa

mamlaka, Mkutano wa Wanachama unaweza kuzingatia na, kwa kuzingatia aya ya 1 na 2 hapo juu, inaweza kuamua, inavyofaa, kutengeneza utaratibu kuhusu eneo lililopo zana za usimamizi, ikiwa ni pamoja na maeneo yaliyohifadhiwa ya baharini, iliyopitishwa na vyombo vya kisheria vinavyohusika na mifumo au mashirika husika ya kimataifa, kikanda, kikanda au kisekta.

5. Maamuzi na mapendekezo yaliyopitishwa na Mkutano wa Wanachama katika kwa mujibu wa Sehemu hii haitadhoofisha ufanisi wa hatua zilizochukuliwa heshima ya maeneo yaliyo ndani ya mamlaka ya kitaifa na itafanywa kwa kuzingatia haki hizo na majukumu ya Nchi zote, kwa mujibu wa Mkataba. Katika kesi ambapo hatua iliyopendekezwa chini ya Sehemu hii itaathiri au inaweza kutarajiwa kuathiri maji ya juu juu ya chini ya bahari na chini ya ardhi ya maeneo ya nyambizi ambayo juu yake ni pwani Nchi inatekeleza haki za uhuru kwa mujibu wa Mkataba, hatua hizo zitatumika kuzingatia haki za kujitawala za Mataifa hayo ya pwani. Mashauriano yatakuwa iliyochukuliwa kwa ajili hiyo, kwa mujibu wa masharti ya Sehemu hii.

6. Katika hali ambapo chombo cha usimamizi wa eneo, ikiwa ni pamoja na eneo la ulinzi wa baharini, iliyoanzishwa chini ya Sehemu hii baadaye inaangukia, ama kikamilifu au kwa sehemu, ndani ya kitaifa mamlaka ya Jimbo la pwani, sehemu iliyo ndani ya mamlaka ya kitaifa itakoma mara moja kuwa katika nguvu. Sehemu iliyosalia katika maeneo nje ya mamlaka ya kitaifa itasalia kutumika hadi Mkutano wa Wanachama, katika mkutano wake unaofuata, uhakiki na kuamua kama kurekebisha au kubatilisha zana ya usimamizi wa eneo, ikijumuisha eneo lililohifadhiwa la baharini, kama muhimu.

7. Baada ya kuanzishwa, au marekebisho ya uwezo wa, kisheria husika chombo au mfumo au chombo husika cha kimataifa, kikanda, kikanda au kisekta, yoyote zana ya usimamizi wa eneo, ikijumuisha eneo lililohifadhiwa la baharini, au hatua zinazohusiana

iliyopitishwa na Mkutano wa Wanachama chini ya Sehemu hii ambayo baadaye iko ndani ya uwezo wa chombo hicho, mfumo au chombo, ama kikamilifu au kwa sehemu, utabaki inatumika hadi Mkutano wa Wanachama uhakiki na kuamua, kwa ushirikiano wa karibu na uratibu na chombo hicho, mfumo au chombo hicho, kudumisha, kurekebisha au kubatilisha zana ya usimamizi wa eneo, ikijumuisha eneo lililohifadhiwa la baharini, na hatua zinazohusiana, kama inafaa

Kipengee cha 23

Kufanya maamuzi

1. Kama kanuni ya jumla, maamuzi na mapendekezo chini ya Sehemu hii yatachukuliwa kwa makubaliano.
2. Iwapo hakuna mwafaka utakaofikiwa, maamuzi na mapendekezo chini ya Sehemu hii yatafanyika ikichukuliwa na robo tatu ya Vyama vilivyokuwepo na kupiga kura, ambapo kabla ya Mkutano wa Vyama utaamua, kwa wingi wa theluthi mbili ya Vyama vilivyopo na kupiga kura kwamba juhudi zote za kufikia muafaka zimekamilika.
3. Maamuzi yaliyochukuliwa chini ya Sehemu hii yataanza kutumika siku 120 baada ya mkutano wa Mkutano wa Vyama ambavyo vilichukuliwa na utakuwa wa lazima kwa Vyama vyote.
4. Katika muda wa siku 120 zilizoainishwa katika aya ya 3 hapo juu, Chama chochote kinaweza, kwa taarifa kwa maandishi kwa sekretarieti, fanya pingamizi kuhusiana na uamuzi iliyopitishwa chini ya Sehemu hii, na uamuzi huo hautakuwa wa lazima kwa Chama hicho. Pingamizi uamuzi unaweza kuondolewa wakati wowote kwa taarifa iliyoandikwa kwa sekretarieti na, kwa hiyo, uamuzi utakuwa wa lazima kwa Chama hicho siku 90 kufuatia tarehe ya

taarifa inayosema kwamba pingamizi limeondolewa.

5. Upande unaotoa pingamizi chini ya aya ya 4 hapo juu utatoa kwa sekretarieti, kwa maandishi, wakati wa kufanya pingamizi lake, maelezo ya misingi kwa pingamizi lake, ambalo litazingatia moja au zaidi ya sababu zifuatazo:

(a) Uamuzi huo hauendani na Makubaliano haya au haki na wajibu wa Mhusika anayepinga kwa mujibu wa Mkataba;

(b) Uamuzi huo bila uhalali unabagua kwa namna au kwa hakika dhidi ya Chama kinachopinga;

(c) Chama hakiwezi kutekeleza kwa vitendo uamuzi huo wakati wa uamuzi pingamizi baada ya kufanya juhudi zote zinazofaa kufanya hivyo.

6. Upande unaotoa pingamizi chini ya aya ya 4 hapo juu, kwa kiasi hicho inayotekelezeka, kupitisha hatua au mbinu mbadala ambazo ni sawa na uamuzi ambao imeupinga na haitachukua hatua wala kuchukua hatua ambazo zingefanya kudhoofisha ufanisi wa uamuzi ambao imepinga isipokuwa hatua kama hizo au hatua ni muhimu kwa utekelezaji wa haki na wajibu wa Mhusika anayepinga kwa mujibu wa Mkataba.

7. Mpinzani ataripoti kwenye mkutano wa kawaida wa Mkutano wa Wanachama kufuatia arifa yake chini ya aya ya 4 hapo juu, na mara kwa mara baada ya hapo, juu ya utekelezaji wake wa aya ya 6 hapo juu, kutoa taarifa ya ufuatiliaji na mapitio chini ya kipengee cha 26.

8. Pingamizi kwa uamuzi uliofanywa kwa mujibu wa aya ya 4 hapo juu inaweza tu kuwa upya ikiwa Chama kinachopinga kinaona bado ni muhimu, kila baada ya miaka mitatu baada ya kuingia katika nguvu ya uamuzi huo, kwa taarifa iliyoandikwa kwa sekretarieti. Arifa kama hiyo iliyoandikwa itajumuisha maelezo ya sababu za pingamizi lake la awali.

9. Ikiwa hakuna taarifa ya upyaji kwa mujibu wa aya ya 8 hapo juu inapokewa, pingamizi itazingatiwa kuwa imeondolewa kiotomatiki na, baada ya hapo, uamuzi utakuwa wa lazima kwa Chama hicho siku 120 baada ya pingamizi hilo kuondolewa moja kwa moja. Sekretarieti itafanya kujulisha Chama siku 60 kabla ya tarehe ambayo pingamizi litakuwa moja kwa moja kuondolewa.

10. Maamuzi ya Mkutano wa Vyama vilivyopitishwa chini ya Sehemu hii, na pingamizi kwa maamuzi hayo, yatatolewa hadharani na sekretarieti na itakuwa kupitishwa kwa Majimbo yote na vyombo vya kisheria na mifumo muhimu na muhimu ya kimataifa, vyombo vya kikanda, kikanda na kisekta.

Kipengee cha 24

Hatua za dharura

1. Mkutano wa Wanachama utachukua maamuzi ya kuchukua hatua katika maeneo zaidi mamlaka ya kitaifa, kutumika kwa dharura, ikiwa ni lazima, wakati wa asili jambo au maafa yanayosababishwa na binadamu yamesababisha, au yanawezekana kusababisha, makubwa au

madhara yasiyoweza kurekebishwa kwa anuwai ya kibayolojia ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa, kwa

hakikisha kwamba madhara makubwa au yasiyoweza kutenduliwa hayazidishi.

2. Hatua zilizopitishwa chini ya kipengee hiki zitazingatiwa kuwa muhimu tu ikiwa, kufuata mashauriano na vyombo vya kisheria au mifumo husika au kimataifa, kikanda, vyombo vya kanda au kisekta, madhara makubwa au yasiyoweza kutenduliwa hayawezi kudhibitiwa katika a

kwa wakati kwa kutumia vifungu vingine vya Mkataba huu au kwa a

chombo husika cha kisheria au mfumo au chombo husika cha kimataifa, kikanda, kikanda au chombo cha kisekta.

3. Hatua zilizopitishwa kwa msingi wa dharura zitazingatia bora zaidi sayansi na taarifa za kisayansi na, inapopatikana, maarifa ya jadi ya Watu wa kiasili na jumuiya za wenyeji na itazingatia tahadhari hiyo mbinu. Hatua kama hizo zinaweza kupendekezwa na Wanachama au kupendekezwa na Wanasayansi na Bodi ya Kiufundi na inaweza kupitishwa kati ya vipindi. Hatua zitakuwa za muda na lazima iangaliwe upya kwa uamuzi katika mkutano unaofuata wa Mkutano wa Wanachama kufuatia kupitishwa kwao.

4. Hatua hizo zitaisha miaka miwili kufuatia kuanza kutumika au zitakuwa uliokatishwa mapema na Mkutano wa Wanachama baada ya kubadilishwa na wa eneo zana za usimamizi, ikijumuisha maeneo yaliyohifadhiwa ya baharini, na hatua zinazohusiana zilizoanzishwa kwa mujibu wa Sehemu hii, au kwa hatua zilizopitishwa na chombo husika cha kisheria au mfumo au chombo husika cha kimataifa, kikanda, kikanda au kisekta, au kwa uamuzi wa Mkutano wa Wanachama wakati hali zilizolazimu hatua hiyo zitakapokoma kuwepo.

5. Taratibu na mwongozo wa uanzishwaji wa hatua za dharura, ikiwa ni pamoja na taratibu za mashauriano, zitaifanuliwa na Taasisi ya Kisayansi na Kiufundi, kama muhimu, kwa kuzingatiwa na kupitishwa na Mkutano wa Wanachama mapema kabisa fursa. Taratibu hizo zitakuwa shirikishi na za uwazi.

Kipengee cha 25

Utekelezaji

1. Wanachama watahakikisha kuwa shughuli zilizo chini ya mamlaka yao au udhibiti zinafanyika katika maeneo yaliyo nje ya mamlaka ya kitaifa hufanywa kwa kufuatana na maamuzi yaliyopitishwa chini ya Sehemu hii.

2. Hakuna chochote katika Makubaliano haya kitakachozuia Mshirika kuchukua masharti magumu zaidi

hatua kwa wananchi na vyombo vyake au kuhusu shughuli chini yake

mamlaka au udhibiti pamoja na yale yaliyopitishwa chini ya Sehemu hii, kwa mujibu wa sheria za kimataifa na kuunga mkono malengo ya Mkataba.

3. Utekelezaji wa hatua zilizopitishwa chini ya Sehemu hii haupaswi kulazimisha a mzigo usio na uwiano kwa Vyama ambavyo ni visiwa vidogo vinavyoendelea au kwa uchache zaidi nchi zilizoendelea, moja kwa moja au kwa njia isiyo ya moja kwa moja.

4. Wanachama wataendeleza, kama inafaa, kupitishwa kwa hatua ndani ya sheria husika vyombo na mifumo na vyombo husika vya kimataifa, kikanda, kikanda na kisekta ambao wao ni wanachama, kusaidia utekelezaji wa maamuzi na mapendekezo yaliyotolewa na Mkutano wa Wanachama chini ya Sehemu hii.

5. Wanachama watahimiza mataifa ambayo yana haki ya kuwa Wanachama wa hili Makubaliano, haswa wale ambao shughuli zao, vyombo vya habari au raia wanafanya kazi katika eneo ambalo

ni somo la zana iliyoanzishwa ya usimamizi wa eneo, ikijumuisha ulinzi wa baharini

eneo, kupitisha hatua zinazounga mkono maamuzi na mapendekezo ya Mkutano

wa Vyama juu ya zana za usimamizi wa eneo, pamoja na maeneo ya hifadhi ya baharini,

iliyoanzishwa chini ya Sehemu hii.

6. Chama ambacho si mshiriki au mshiriki katika chombo husika cha kisheria au mfumo, au mwanachama wa chombo husika cha kimataifa, kikanda, kikanda au kisekta, na

ambayo haikubaliani vinginevyo kutumia hatua zilizowekwa chini ya hati hizo na mifumo na vyombo hivyo havitaondolewa katika wajibu wa kushirikiana, kwa mujibu wa Mkataba na Mkataba huu, katika uhifadhi na uendelevu matumizi ya anuwai ya kibayolojia ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa.

Kipengee cha 26

Ufuatiliaji na ukaguzi

1. Wanachama, kibinafsi au kwa pamoja, wataripoti kwa Mkutano wa Wanachama kuhusu utekelezaji wa zana za usimamizi wa maeneo, ikiwa ni pamoja na maeneo ya hifadhi ya baharini; iliyoanzishwa chini ya Sehemu hii na hatua zinazohusiana. Ripoti kama hizo, pamoja na habari na mapitio yaliyorejelewa katika aya ya 2 na 3 hapa chini, mtawalia, yatafanywa hadharani inayopatikana na sekretarieti.

2. Vyombo na mifumo ya kisheria husika na kimataifa, kikanda, vyombo vya kanda na kisekta vitaalikwa kutoa taarifa kwenye Mkutano wa Vyama kuhusu utekelezaji wa hatua walizochukua ili kufanikisha malengo ya zana za usimamizi wa eneo, ikiwa ni pamoja na maeneo ya hifadhi ya baharini, imara chini ya Sehemu hii.

3. Zana za usimamizi wa eneo, ikiwa ni pamoja na maeneo ya hifadhi ya baharini, yaliyoanzishwa chini ya

Sehemu hii, ikijumuisha hatua zinazohusiana, itafuatiliwa na kuangaliwa mara kwa mara na Taasisi ya Kisayansi na Kiufundi, kwa kuzingatia ripoti na taarifa zilizorejelewa katika aya ya 1 na 2 hapo juu, kwa mtiririko huo.

4. Katika mapitio yaliyorejelewa katika aya ya 3 hapo juu, Taasisi ya Kisayansi na Kiufundi itatathmini ufanisi wa zana za usimamizi wa eneo, ikiwa ni pamoja na ulinzi wa baharini maeneo yaliyoanzishwa chini ya Sehemu hii, ikijumuisha hatua zinazohusiana na maendeleo yaliyofikiwa

kufikia malengo yao, na kutoa ushauri na mapendekezo kwa Mkutano wa Vyama.

5. Kufuatia mapitio, Mkutano wa Wanachama, kama ni lazima, utachukua maamuzi au mapendekezo juu ya marekebisho, upanuzi au ubatilishaji wa msingi wa eneo zana za usimamizi, ikijumuisha maeneo ya baharini yaliyohifadhiwa, na hatua zozote zinazohusiana zilizopitishwa na Mkutano wa Wanachama, kwa msingi wa sayansi na kisayansi bora zaidi habari na, inapopatikana, maarifa ya jadi ya watu asilia na jumuiya za wenyeji, kwa kuzingatia mbinu ya tahadhari na mfumo ikolojia mbinu.

SEHEMU YA IV
TATHMINI ZA ATHARI ZA MAZINGIRA
Kipengee cha 27

Malengo

Malengo ya Sehemu hii ni:

- (a) Kutekeleza masharti ya Mkataba wa athari za mazingira tathmini kwa maeneo yaliyo nje ya mamlaka ya kitaifa kwa kuanzisha michakato, vizingiti na mahitaji mengine ya kufanya na kuripoti tathmini na Vyama;
- (b) Kuhakikisha kwamba shughuli zinazohusika na Sehemu hii zinatathminiwa na kuendesha kwa kuzuia, kupunguza na kudhibiti athari mbaya kwa madhumuni ya kulinda na kuhifadhi mazingira ya baharini;

(c) Kusaidia uzingatiaji wa athari limbikizi na athari katika maeneo yaliyo ndani mamlaka ya kitaifa;

(d) Kutoa tathmini za kimkakati za mazingira;

(e) Kufikia mfumo madhubuti wa tathmini ya athari za mazingira kwa shughuli katika maeneo yaliyo nje ya mamlaka ya kitaifa;

(f) Kujenga na kuimarisha uwezo wa Wanachama, hususan nchi zinazoendelea, haswa nchi zilizoendelea kidogo, nchi zinazoendelea zisizo na bandari, nchi zenye uhaba wa kijiografia, nchi zenye mkusanyiko wa visiwa vidogo vinavyoendelea, Mataifa ya Afrika yaliyo pwani, nchi za visiwa na nchi zinazoendelea za kipato cha kati, kuandaa, kufanya na kukadiria tathmini za athari za mazingira na tathmini za kimkakati za mazingira kuunga mkono malengo ya Mkataba huu.

Kipengee cha 28

Wajibu wa kufanya tathmini ya athari za mazingira

1. Wanachama watahakikisha kwamba athari zinazoweza kutokea katika mazingira ya baharini ya shughuli Ziliyopangwa chini ya mamlaka yao au udhibiti unaofanyika katika maeneo nje ya mamlaka ya kitaifa yanatathminiwa kama ilivyoainishwa katika Sehemu hii kabla ya kuidhinishwa.

2. Wakati Chama chenye mamlaka au udhibiti wa shughuli iliyopangwa ambayo inapaswa kutekelezwa katika maeneo ya baharini ndani ya mamlaka ya kitaifa huamua kwamba shughuli hiyo inaweza kusababisha uchafuzi mkubwa wa mazingira au mabadiliko makubwa na yenye madhara kwa mazingira ya baharini katika maeneo yaliyo nje ya mamlaka ya kitaifa, Chama hicho kitahakikisha kuwa kuna athari ya mazingira tathmini ya shughuli hiyo inafanywa kwa mujibu wa Sehemu hii au kwamba tathmini ya athari za mazingira inafanywa chini ya mchakato wa kitaifa wa Chama. Chama kufanya tathmini hiyo chini ya mchakato wake wa kitaifa kitazingatia yafwatayo:

(a) Kutoa taarifa muhimu kupitia utaratibu wa ubadilishanaji wa habari na utaalamu kati ya pande mbalimbali, kwa wakati ufao, wakati wa mchakato wa kitaifa;

(b) Kuhakikisha kwamba shughuli inafuatiliwa kwa njia inayolingana na

mahitaji ya mchakato wake wa kitaifa;

(c) Kuhakikisha kuwa ripoti za tathmini ya athari za mazingira na yoyote husika

ripoti za ufuatiliaji zinapatikana kupitia Utaratibu wa ubadilishanaji wa habari na utaalamu kati ya pande mbalimbali kama ilivyoainishwa

katika Mkataba huu.

3. Baada ya kupokea taarifa iliyorejelewa katika aya ya 2 (a) hapo juu, Chombo cha Sayansi na Kiufundi kinaweza kutoa maoni kwa Chama chenye mamlaka au udhibiti katika shughuli iliyopangwa.

Kipengee cha 29

**Uhusiano kati ya Mkataba huu na athari za mazingira
michakato ya tathmini chini ya vyombo husika vya kisheria na
mifumo husika ya kimataifa, kikanda, kikanda ndogo na
vyombo vya kisekta**

1. Wanachama watahimiza matumizi ya tathmini ya athari za mazingira na kupitishwa na utekelezaji wa viwango na/au miongozo iliyoandaliwa chini ya kipengee cha 38 katika vyombo na mifumo muhimu ya kisheria na kimataifa, kikanda, kikanda ndogo na vyombo vya kisekta ambavyo wao ni wanachama.

2. Mkutano wa Wanachama utatengeneza taratibu chini ya Sehemu hii kwa ajili ya Chombo cha Kisayansi na Kiufundi kushirikiana na vyombo husika vya kisheria na mifumo na vyombo husika vya kimataifa, kikanda, kikanda na kisekta vinavyosimamia shughuli katika maeneo nje ya mamlaka ya kitaifa au kulinda mazingira ya baharini.

3. Wakati wa kuunda au kusasisha viwango au miongozo ya uendeshaji wa tathmini ya athari za mazingira ya shughuli katika maeneo yaliyo nje ya mamlaka ya kitaifa kwa Wanachama wa Makubaliano haya chini ya kipengee cha 38, Taasisi ya Kisayansi na Kiufundi, kama inavyofaa, kushirikiana na vyombo vya kisheria na mifumo na vyombo husika vya kimataifa, kikanda, kikanda ndogo na kisekta.

4. Sio lazima kufanya uchunguzi au tathmini ya athari ya mazingira ya shughuli iliyopangwa katika maeneo yaliyo nje ya mamlaka ya kitaifa, mradi tu Chama kikiwa na mamlaka au udhibiti wa shughuli iliyopangwa huamua:

(a) Kwamba athari zinazoweza kuwa za shughuli iliyopangwa au aina ya shughuli zilizopimwa kwa mujibu wa matakwa ya vyombo vingine vya kisheria au mifumo au kwa kutumia vyombo husika vya kimataifa, kikanda, kikanda au kisekta;

(b) Hiyo:

(i) tathmini ambayo tayari imefanywa kwa shughuli iliyopangwa ni sawa na moja inayohitajika chini ya Sehemu hii, na matokeo ya tathmini yanazingatiwa; au

(ii) kanuni au viwango vya vyombo vya sheria husika au mifumo au kikundi husika cha kimataifa, kikanda, kikanda au kisekta inayotokana na tathmini iliundwa ili kuzuia, kupunguza au kudhibiti athari zinazoweza kutokea hapa chini kizingiti cha tathmini ya athari za mazingira chini ya Sehemu hii, na wameweza zimezingatiwa.

5. Wakati tathmini ya athari za mazingira kwa shughuli iliyopangwa katika maeneo zaidi mamlaka ya kitaifa yameendeshwa chini ya chombo husika cha kisheria au mfumo au

chombo husika cha kimataifa, kikanda, kikanda au kisekta, Chama kinachohusika kitahakikisha kwamba ripoti ya tathmini ya athari za mazingira inachapishwa kupitia utaratibu wa ubadilishanaji wa habari na utaalam kati ya pande mbalimbali.

6. Isipokuwa shughuli zilizopangwa zinazokidhi vigezo vilivyoainishwa katika aya ya 4 (b) (i) hapo juu zinaweza kufuatiliwa na kuhakikiwa chini ya chombo husika cha kisheria au mfumo au chombo husika cha kimataifa, kikanda, kikanda au kisekta, Vyama vitafuatilia na kukagua shughuli na kuhakikisha kuwa ripoti za ufuatiliaji na mapitio zinachapishwa kupitia Utaratibu wa Kusafisha Nyumba.

Kipengee cha 30

Vizingiti hatuwa za kufanya mazingira

tathmini ya athari

1. Wakati shughuli iliyopangwa inaweza kuwa na zaidi ya athari ndogo au ya mpito mazingira ya baharini, au athari za shughuli hazijulikani au hazieleweki vizuri, Chama chenye mamlaka au udhibiti wa shughuli kitafanya uchunguzi wa shughuli katika kipengee cha 31, kwa kutumia vipengele vilivyoainishwa katika aya ya 2 hapa chini, na:

(a) Mchujo utakuwa na maelezo ya kutosha kwa Chama kutathmini kama kuna sababu za kuridhisha za kuamini kuwa shughuli iliyopangwa inaweza kusababisha matokeo makubwa uchafuzi wa au mabadiliko makubwa na yenye madhara kwa mazingira ya baharini na itabidi

Kujumuisha yafwatwayo:

(i) Maelezo ya shughuli iliyopangwa, ikijumuisha madhumuni yake, eneo, muda na ukali; na

(ii) Uchambuzi wa awali wa athari zinazoweza kutokea, ikijumuisha kuzingatia athari za jumla na, kama inafaa, mbadala kwa shughuli iliyopangwa;

(b) Iwapo itaamuliwa kwa msingi wa mchujo kuwa Chama kina mantiki misingi ya kuamini kwamba shughuli inaweza kusababisha uchafuzi mkubwa wa au muhimu na mabadiliko mabaya kwa mazingira ya baharini, tathmini ya athari ya mazingira itakuwa unaofanywa kwa mujibu wa masharti ya Sehemu hii.

2. Wakati wa kuamua kama shughuli zilizopangwa chini ya mamlaka yao au udhibiti kufikia kiwango kilichowekwa katika aya ya 1 hapo juu, Wanachama watazingatia vipengele vifuatavyo visivyo na kikomo:

(a) Aina na teknolojia inayotumika kwa shughulihusika na namna inavyotumika

Katika utekelezaji;

(b) Muda wa shughuli;

(c) Eneo la shughuli;

(d) Sifa na mfumo ikolojia wa eneo (pamoja na maeneo ya umuhimu fulani wa kiikolojia au kibiolojia au ugumu wa mazingira);

(e) Athari zinazoweza kukidhi shughuli, ikijumuisha limbikizo athari linaloweza kuwa na athari zinazoweza kutokea katika maeneo yaliyo ndani ya mamlaka ya kitaifa;

(f) Kiwango ambacho athari za shughuli hazijulikani au kuelewekake ni hafifu;

(g) Vigezo vingine vinavyohusika vya kiikolojia au kibiolojia.

Kipengee cha 31

Mchakato wa Tathimini za athari za kimazingira.

1. Mataifa wanachama watahakikisha kuwa mchakato wa kufanya tathimini ya kimazingira kuambatana na kipengee hiki unajumuisha hatua zifuatazo:

a) *Uchunguzi.* Mataifa mwanachama watatafanya uchunguzi kwa wakati muafaka, kuamua kama tathimini za athari za kimazingira zinahitajika kwa shughuli iliyopangwa chini ya mamlaka au udhibiti wake kwa mujibu wa kipengee cha 30 na kufanya uamuzi wake kupatikana kwa umma.

i) Ikiwa taifa litaamua kwamba tathimini ya athari za kimazingira haihitajiki kwa ajili ya shughuli iliyopangwa chini ya mamlaka au udhibiti wake, itatoa taarifa muhimu, ikijumuisha chini ya kipengee cha 30, aya ya 1(a) inapatikana kwa umma kupitia mfumo wa ubadilishanaji chini ya makubaliano haya;

(ii) Katika msingi bora zaidi wa kupatikana kwa sayansi ama taarifa za kisayansi, maarifa ya kitamaduni yanayofaa ya watu wa asilia na jamii za eneo hilo, taifa linaweza kuandikisha maoni yake kuhusu athari zinazoweza kutokea kwa shughuli iliyopangwa ambapo uamuzi umefanywa kwa mujibu wa aya ndogo: (a) (i) pamoja na taifa ambalo lilifanya uamuzi na bodi ya kisayansi na kiufundi ndani ya siku 40 baada ya uchapishaji; (ii) Iwapo taifa lililosajili maoni limeeleza wasiwasi kuhusu uwezekani wa athari kwa shughuli iliyopangwa ambayo uamuzi ulifanywa, taifa ambalo lilifanya uamuzi litalazimika kuzingatia masuala kama hayo na litahakiki uamuzi wake.

(iii) kufuatia uzingatiaji wa masuala yaliosajiliwa na taifa chini ya aya ndogo (a) (ii) hapo juu, Bodi ya kisayansi na kiufundi itazingatia na kutathimini athari zinazoweza kutokea kwa shughuli iliyopangwa kwa msingi bora zaidi unaopatikana wa sayansi na taarifa za kisayansi na, panapopatikana, maarifa ya kitamaduni yanayofaa ya watu asilia na jamii za eneo hilo, kama inavyofaa, yanaweza kutoa mapendekezo kwa taifa lilofanya uamuzi baada ya kulipa fursa ya kujibu masuala yaliosajiliwa kwa kuzingatia majibu kama hayo.

(iv) taifa ambalo lilifanya uamuzi chini ya aya ndogo (a) (i) hapo juu, litazingatia mapendekezo yoyote ya Bodi ya kisayansi na kiufundi;

(v) usajili wa maoni na mapendekezo ya Bodi ya kisayansi na kiufundi yatawekwa wazi kwa umma, ikizingatiwa mfumo wa kubadilishana taarifa.

(b) *Mtazamo wa upeo.* Mataifa wanachama yatahakikisha kuwa athari kuu za kimazingira na zote zinazohusiana kama vile za kiuchumi, kijamii, kitamaduni na afya ya binadamu ikijumuisha athari limbikizi zinazoweza kutokea katika maeneo yaliyo chini ya mamlaka ya kitaifa pamoja na njia mbadala za shuhuli ziliyopangwa, ikiwa zipo zitakazojumuishwa katika tathimini za athari za mazingira ambazo zitafanywa chini ya sehemu hii, zimetambuliwa. Upeo utafafanuliwa kwa kutumia taarifa bora zaidi zinazopatikana za sayansi na kisayansi, inapopatikana, maarifa ya kitamaduni ya watu asili na jamii za eneo hilo.

(c) *Athari za utathmini na ukaguzi.* Mataifa Wanachama yatahakikisha kwamba athari za shughuli zilizopangwa ikiwa ni pamoja na limbikizi za athari katika maeneo yaliyo ndani ya mamlaka ya kitaifa, zinathiminiwa na kukaguliwa kwa kutumia taarifa bora zaidi za sayansi na kisayansi zinazopatikana na, yanapopatikana maarifa ya kitamaduni ya watu asilia na jamii za eneo hilo.

(d) Kuzuia, kupunguza na kudhibiti athari hasi zinazoweza kutokea. Mataifa yatahakikisha ya kwamba;

- (I) hatua ya kuzuia , kupunguza na kudhibiti athari hasi zinazoweza kutokea za shughuli zilizopangwa chini ya mamlaka ama udhibiti zinatambuliwa na kuchambuliwa ili kuepuka athari mbaya zaidi. Hatua kama hizo zinaweza kuzingatia mbinu mbadala kwa shughuli iliyopangwa chini ya mamlaka ama udhibiti wao.
- (II) (ii) Inapobidi , hatua hizi zinaweza kujumuishwa katika mpango wa usimamizi wa mazingira.

(a) Mataifa yatahakikisha taarifa kwa umma na mashauriano kwa mujibu wa kipengee cha 32.

(b) mataifa yatahakikisha matayarisho na uchapishaji wa ripoti ya athari ya ukaguzi wa mazingira kwa mujibu wa kipengee cha 33.

(2) Mataifa yanaweza kufanya tathimini ya pamoja ya athari za mazingira , haswa kwa shughuli zilizopangwa chini ya mamlaka au udhibiti wa nchi za visiwa vidogo zinazoendelea.

(3) Orodha ya wataalamu itaundwa chini ya Bodi ya kisayansi na kiufundi. mataifa wanachama yalio na na vikwazo vya uwezo wanaweza kuomba ushauri na usaidizi kutoka kwa wataalamu hao ili kufanya uchunguzi na utathimini na athari za tahimini ya kimazingirakwa shughuli iliyopangwa chini ya mamlaka yao ama udhibiti. Wataalamu hawawezi kuteuliwa kwa mwanachama mwenngine wa mchakazto wa tathimini ya athari ya mazingira ya shughuli hio hio . mwanachama ambae atakua ameomba ushauri na usaidizi atahakikisha kwamba athari za tathimini ya mazingira ziwasilishwa kwao kwa uhakiki na kufanyiwa maamuzi.

Kipengee cha 32

Taarifa za umma na mashauriano

1. Wanachama watahakikisha kuwa taarifa kwa umma kuhusu shughuli iliyopangwa kwa wakati unaofaa, ikijumuisha kwa kuchapishwa kupitia utaratibu wa mfumo wa kubadilishana na kupitia kwa sektretarieti na fursa zilizopangwa na zinazofaa kwa muda , kadri inavyowezekana , kwa ushiriki wa mataifa yote haswa majimbo ya pwani na majimbo mengine yoyote yalio karibu na shuhuli hio wakati yana uwezekano wa kutathimini mataifa yaliyoathiriwa zaidi na wadau katika mchakato wa mazingira .Arifa na fursa za kushiriki , ikiwa ni pamoja na kupitia uwasilishaji w amaoni, zitafanyika katika mchakato mzima wa tathimini ya athari za mazingira , inavyofaa , ikijumuisha wakati wa kutambua upeo wa tathimini ya athari za kimazingira chini ya kipengee cha 31 , kipengee cha 1 (b) na wakati wa rasimu ya ripoti ya tathimini ya athari ya mazingira imetayarishwa chini ya kipengee cha 33 kabla uamuazi kufanywa kuhusu kuidhinisha shughuli hiyo.

2, Nchi zinazoweza kuathiriwa zaidi zitaamuliwa kwa kuzingatia asili na athari zinazoweza kutokea kwa mazingira ya baharini ya shughuli iliyopangwa na itajumuisha :

(a) majimbo ya pwani ambayo yanatekeleza haki zao Mataifa ya pwani ambayo utumiaji wake wa haki za uhuru kwa lengo la kuchunguza , kutumia , kuhifadhi au kusimamia mali asili zinaweza kuaminiwa kuwa zimeathirika na shughuli hiyo.

(b) Mataifa ambayo yanatekeleza , katika eneo la shughuli iliyopangwa , shughuli za kibinadamu, ikiwemo shughuli za kiuchumi ambazo zinaweza kuaminiwa zimeathirika.

3. Wadau katika mchakato huu ni pamoja na watu wa asili na jamii za eneo hilo na maarifa ya kitamaduni yanayofaa , mashirika husika ya kimataifa, kikanda , taasisi za kikanda na kisekta , mashirika ya asasi za kijamii , jamii ya kisayansi na umma.

4. Taarifa na mashauriano kwa umma yatakuwa kwa mujibu wa kipengee cha 48, kipengee cha 3, yatajumuisha na kwa uwazi yatafanywa kwa wakati ufaao, na yatalengwa na kushughulikiwa inapohusisha nchi za visiwa vidogo vinavyoendelea.

5. Maoni muhimu yaliyopokelewa wakati wa mchakato wa mashauriano, ikijumuisha kutoka majimbo ya pwani yaliyo karibu na mataifa mengine yoyote na shughuli iliyopangwa wakati yana uwezekano mkubwa wa mataifa yaliyoathiriwa zaidi, yatazingatiwa na yatajibiwa au kushughulikiwa na wanachama. Pande zitazingatia mahsusi maoni kuhusu athari zinazoweza kutokea katika mamlaka yao na kutoa majibu kwa maandishi kama inavyopaswa, kwa kushuhulikia maoni kama hayo ikiwemo hatua zozote za ziada zilizodhamiriwa kushuhulikia athari zinazoweza kutokea .Wanachama wataweka hadharani maoni yaliyopokelewa na majibu au maelezo ya jinsi yalivyoshughulikiwa.

6. Pale ambapo shughuli iliyopangwa inaathiri maeneo ya bahari kuu ambayo yamezungukwa na maeneo ya kipekee ya kiuchumi ya nchi, wanachama watafanya ifwatavyo:

(a) watafanya mashauriano yaliyolengwa na ya haraka, ikiwemo arifa za awali na mataifa kama hayayaliyo jirani.

(b) watazingatia maoni ya mataifa Jirani kuhusu shughuli iliyopangwa na kutoa majibu kwa maandishi yanayoshughulikia maoni kama hayo na kama inafaa kurekebisha shughuli iliyopangwa ipasavyo.

7. wanachama watahakikisha upatikanaji wa habari zinazohusiana na athari za mchakato wa tathimini chini ya makubaliano haya . Licha ya hili, wanachama hawatahitajika kufichua habari za siri au za umiliki. Ukweli ni kwamba taarifa ya siri au ya umiliki ambayo imerekebishwa itaoneshwa katika hati za umma.

Kipengee cha 33

Ripoti za tathimini ya athari ya mazingira.

1. Wanachama watahakikisha matayarisho ya ripoti ya tathimini ya athari za mazingira kwa tathimini yoyote ile inafanyika kwa mujibu wa sehemu hii.

2. Ripoti ya tathimini ya athari za mazingira itajumuisha, kwa uchache taarifa ifuatayo: maelezo ya shughuli iliyopangwa, ikijumuisha eneo; maelezo ya matokeo ya shughuli za upeo; maelezo ya athari zinazoweza kutokea, ikijumuisha athari zinazoweza kuongezeka na athari zozote zilizoko katika maeneo yaliyo ndani ya mamlaka, maelezo ya uwezekano wa kuzuia, hatua za kupunguza na usimamizi, maelezo ya Kutokuwa na uhakika na mapungufu katika maarifa; habari kuhusu mchakato wa mashauriano ya umma; maelezo ya kuzingatia njia mbadala zinazofaa kwa shughuli iliyopangwa; maelezo ya hatua za ufuatiliaji, ikiwa ni pamoja na mpango wa usimamizi wa mazingira na mukhtasari usio wa kiufundi.

3. Chama kitatoa rasimu ya ripoti ya tathimini ya athari ya mazingira kupatikana kupitia mfumo wa kubadilishana wakati wa mchakato wa mashauriano ya umma, ili kutoa fursa kwa Bodi ya kisayansi na kiufundi kuzingatia na kutathimini ripoti hiyo.

4. Bodi ya kisayansi na kiufundi, kwa wakati ufaao na inavyofaa, inaweza kutoa maoni kwa chama kuhusu rasimu ya ripoti ya tathimini ya athari za mazingira. Chama kitaangazia maoni yoyote yaliyotolewa na Bodi ya kisayansi na kiufundi.

5. Wanachama watachapisha ripoti za tathimini za athari za mazingira, ikijumuisha kupitia mfumo wa kubadilishana taarifa, sekretarieti itahakikisha kwamba wanachama wote wanaarifiwa kwa wakati ufaao ripoti zinazochapishwa kupitia mfumo wa kubadilishana taarifa.

6.

7. Ripoti za mwisho za tathimini za mazingira zitatambuliwa na Bodi ya kisayansi na kiufundi kwa misingi ya mazoea, taratibu na maarifa husika chini ya mkataba huu kwa lengo la kuandaa miongozo ikijumuisha utambulisho wa misingi bora.

8. Uteuzi wa taarifa iliyochapishwa na iliyotumiwa katika mchakato wa uchunguzi wa kufanya tathimini ya athari za mazingira kwa mujibu wa vipengee vya 30 na 31, litaazingatiwa na kukaguliwa na Bodi ya kisayansi na kiufundi, kwa misingi ya desturi, taratibu na maarifa chini ya mkataba huu kwa madhumuni ya kutengeneza miongozo ikijumuisha utambulisho wa utendaji bora.

Kipengee cha 34

Kufanya maamuzi

1. A Party under whose jurisdiction or control a planned activity falls 1. Mwanachama ambaye mamlaka au udhibiti wa shughuli ziliyopangwa ziko chini ya mamlaka yake atakua na jukumu la kuamua kuhusu uwezekano wa kuendelea.

2. Wakati wa kuamua kama shughuli iliyopangwa inaweza kundelea chini ya kipengee hiki, hesabu kamili itachukuliwa kuangalia tathimini ya athari ya mazingira iliyofanywa kwa mujibu wa kipengee hiki. Uamuzi wa kuidhinisha shughuli iliyopangwa chini ya mamlaka au udhibiti wa chama utafanywa tu wakati kwa kuzingatia hatua ya kupunguza au usimamizi, chama kimeamua kwamba

shughuli hio inaweza kufanywa namna inayolingana na kuzuia athari mbaya kwa mazingira ya baharini.

Stakabbadhi za uamuzi zitaeleza kwa uwazi masharti yoyote ya idhini yanayohusiana na hatua za kupunguza na mahitaji ya ufuatiliaji. Stakabbadhi za uamuzi zitawekwa wazi, ikijumuisha kupitia mfumo wa kubadilishana taarifa.

Kupitia ombi la chama, kongamano la wanachama linaweza kutoa ushauri na usaidizi kwa chama hicho wakati wa kuamua ikiwa shughuli iliyopangwa chini ya mamlaka yake au udhibiti wake inaweza kuendelea.

Kipengee cha 35

Ufuatiliaji wa shughuli zilizoidhinishwa.

Wanachama kwa kutumia maarifa bora zaidi ya sayansi na kisayansi yanapokatikana na, inapotakikana, maarifa husika ya jadi ya watu wa asili na jamii za eneo hilo, kuweka chini ya uangalizi wa athari za shughuli zozote katika maeneo yaliyo nje ya mamlaka ya kitaifa ambayo wanaruhusu au ambayo wanashiriki ili kubaini kama shughuli hizi zinaweza kuchafua au kuwa na athari mbaya kwa mazingira ya baharini. Hasa, kila mshirika atafuatilia athari za kimazingira na zozote zinazohusiana, kama vile athari za kiuchumi, kijamii, kitamaduni na afya ya binadamu, shughuli iliyoidhinishwa chini ya mamlaka au udhibiti wake kwa mujibu wa masharti yaliyowekwa katika uidhinishaji wa shughuli.

Kipengee cha 36

Kuripoti kuhusu athari za shughuli zilizoidhinishwa

1. Wanachama, wawe wanafanya kazi kibinafsi au kwa pamoja, wataripoti mara kwa mara kuhusu athari za shughuli iliyoidhinishwa na matokeo ya ufuatiliaji unaohitajika chini ya kipengee cha 35.
2. Ripoti za ufuatiliaji zitawekwa wazi, ikijumuisha kupitia mfumo wa kubadilishana taarifa, na Bodi ya Kisayansi na Kiufundi inaweza kuzingatia na kutathmini ripoti hizo.
3. Ripoti za ufuatiliaji zitazingatiwa na Bodi la Kisayansi na Kiufundi, kwa misingi ya utendakazi husika, taratibu na maarifa husika chini ya Mkataba huu, kwa madhumuni ya kuandaa miongozo ya ufuatiliaji wa athari za shughuli zilizoidhinishwa, ikiwa ni pamoja na utambuzi wa mbinu bora.

Kipengee cha 37

Uhakiki wa shughuli zilizoidhinishwa na athari zake

1. Wanachama watahakikisha kuwa athari za shughuli iliyoidhinishwa inayofuatiliwa kwa mujibu wa kipengee cha 35 zinakaguliwa.

2. Iwapo Chama chenye mamlaka au udhibiti wa shughuli kitatambua athari mbaya ambazo ama hazikutarajiwa katika tathmini ya athari za mazingira, asili au ukali, au zinazotokana na ukiukaji wa masharti yoyote yaliyowekwa katika uidhinishaji wa shughuli, Chama kitapitia uamuzi wake wa kuidhinisha shughuli hiyo, kuarifu kongamano la wanachama, wanachama wengine na umma, ikiwa ni pamoja na kupitia mfumo wa kubadilishana taarifa.

(a) Ombi kwamba hatua zipendekezwe na kutekelezwa ili kuzuia, kupunguza na/au kudhibiti athari hizo au kuchukua hatua nyingine yoyote muhimu na/au kusitisha shughuli, inavyofaa; na

(b) Tathmini, kwa wakati ufaao, hatua zozote zinazotekelezwa au hatua zinazochukuliwa chini ya kipengee kidogo cha (a) hapo juu.

3. Kwa msingi wa ripoti zilizopokelewa chini ya kipengee cha 36, Bodi ya Sayansi na Kiufundi linaweza kuarifu Chama kilichoidhinisha shughuli hiyo ikiwa inazingatia kuwa shughuli hiyo inaweza kuwa na athari mbaya ambazo hazikutarajiwa katika tathmini ya athari za mazingira au zinazotokana na ukiukaji wa masharti yoyote ya kuidhinishwa kwa shughuli iliyoidhinishwa na, inavyofaa, inaweza kutoa mapendekezo kwa Chama.

4. (a) Kwa msingi wa taarifa bora zaidi za sayansi na kisayansi zinazopatikana na, inapopatikana, maarifa ya kimapokeo yanavyofaa ya Watu wa Kiasili na jamii za eneo hilo, Chama kinaweza kusajili masuala yake, na Chama kilichoidhinisha shughuli hiyo na Bodi ya Sayansi na Kiufundi. Kwamba shughuli iliyoidhinishwa inaweza kuwa na athari mbaya ambazo hazikutarajiwa katika tathmini ya athari za mazingira, kwa asili au ukali, au hiyo inatokana na uvunjaji wa masharti yoyote ya idhini ya shughuli iliyoidhinishwa;

(b) Chama kilichoidhinisha shughuli hiyo kitazingatia masuala hayo;

(b)

(c) Baada ya kuzingatia maswala yaliyosajiliwa na Chama, Bodi ya Kisayansi na Kiufundi litazingatia na linaweza kutathmini suala hilo kwa kuzingatia taarifa bora zaidi za sayansi na kisayansi zinazopatikana na, inapopatikana, ujuzi wa jadi unaofaa wa Watu wa Asili na jamii za mitaa na inaweza kuarifu Chama kilichoidhinisha shughuli hiyo, iwapo itazingatia kuwa shughuli kama hiyo inaweza kuwa na athari mbaya ambazo ama hazikutarajiwa katika tathmini ya athari za mazingira au zinazotokana na ukiukaji wa masharti yoyote ya kuidhinisha shughuli iliyoidhinishwa na, baada ya kumpa mwanachama huyo fursa ya kujibu maswala yaliyosajiliwa. na kwa kuzingatia majibu hayo na inavyofaa, linaweza kutoa mapendekezo kwa Chama kilichoidhinisha shughuli hiyo;

(d)Usajili wa masuala, arifa zozote zinazotolewa na mapendekezo yoyote yaliyotolewa na Bodi ya Kisayansi na Kiufundi yatatolewa hadharani, ikijumuisha kupitia mfumo wa kubadilishana taarifa.

(e)Chama kilichoidhinisha shughuli hiyo kitazingatia arifa zozote zitakazotolewa na mapendekezo yoyote yaliyotolewa na Bodi ya Kisayansi na Kiufundi.

5.Mataifa yote, hasa Mataifa ya pwani yaliyo karibu na Mataifa mengine yoyote yaliyo pakana na shughuli wakati yana uwezekano mkubwa wa kuathirika Mataifa yaliyoathiriwa, na washikadau watafahamishwa kupitia mfumo wa kubadilishana taarifa na wanaweza kushauriwa katika ufuatiliaji, kuripoti na kukagua michakato husika ya shughuli iliyoidhinishwa chini ya Mkataba huu.

6.Vyama vitachapisha, ikijumuisha kupitia mfumo wa kubadilishana taarifa.

Reports on the review of the impacts of the authorized activity; (a)Ripoti kuhusu mapitio ya athari za shughuli iliyoidhinishwa;

(b) Staakabadhi za uamuzi, ikiwa ni pamoja na rekodi ya sababu za uamuzi wa Chama, wakati Chama kimebadilisha uamuzi wake wa kuidhinisha shughuli hiyo.

Kipengee cha 38

Viwango na/au miongozo itakayoundwa na Bodi ya Kisayansi na Kiufundi kuhusiana na tathmini za athari za mazingira

1.Bodi ya Kisayansi na Kiufundi itatengeneza viwango au miongozo ya kuzingatiwa na kupitishwa na Mkutano wa Wanachama kuhusu:

(a)Uamuzi wa iwapo vizingiti vya kufanya uchunguzi au tathmini ya athari za kimazingira chini ya kipengee cha 30 vimefikiwa au kuzidiwa kwa shughuli zilizopangwa, ikijumuisha kwa misingi ya mambo yasiyo kamili yaliyowekwa katika aya ya 2 ya kipengee hicho;

(b)Tathmini ya athari limbikizi katika maeneo yaliyo nje ya mamlaka ya kitaifa na jinsi athari hizo zinapaswa kuzingatiwa katika mchakato wa tathmini ya athari za mazingira;

(c) Tathmini ya athari, katika maeneo yaliyo ndani ya mamlaka ya kitaifa, ya shughuli zilizopangwa katika maeneo yaliyo nje ya mamlaka ya kitaifa na jinsi athari hizo zinapaswa kuzingatiwa katika mchakato wa tathmini ya athari za mazingira;

(d) Mchakato wa arifa na mashauriano ya umma chini ya kipengee cha 32, ikijumuisha uamuzi wa kile kinachojumuisha taarifa za siri au za umiliki;

(e) Maudhui yanayohitajika ya ripoti za tathmini ya athari za mazingira na taarifa zilizochapishwa na zilizotumiwa katika mchakato wa uchunguzi kwa mujibu wa kipengee cha 33, ikijumuisha utendaji bora;

(f) Ufuatiliaji na kuripoti kuhusu athari za shughuli zilizoidhinishwa kama ilivyobainishwa katika vipengee vya 35 na 36, ikijumuisha utambuzi wa utendaji bora;

(g) Mwenendo wa tathmini za kimkakati za mazingira.

2. Bodi ya Kisayansi na Kiufundi inaweza pia kuunda viwango na miongozo ya kuzingatiwa na kupitishwa na kongamano la Wanachama, ikijumuisha:

(a) Orodha elekezi isiyo na kikomo ya shughuli zinazohitaji au zisizohitaji tathmini ya athari za mazingira, pamoja na vigezo vyovyote vinavyohusiana na shughuli hizo, ambavyo vitasasishwa mara kwa mara;

(b) Mwenendo wa tathmini za athari za mazingira na Wanachama kwa mkataba huu katika maeneo yaliyotambuliwa kuwa yanahitaji ulinzi au uangalizi maalum.

3. Kiwango chochote kitawekwa katika kiambatisho cha Mkataba huu, kwa mujibu wa kipengee cha 74.

Kipengee cha 39

Tathmini ya kimkakati ya mazingira

1. Vyama, mtu binafsi au kwa ushirikiano na Vyama vingine, vitazingatia kufanya tathmini za kimkakati za mazingira kwa mipango na programu zinazohusiana na shughuli zilizo chini ya mamlaka au udhibiti wao, zitakazofanywa katika maeneo yaliyo nje ya mamlaka ya kitaifa, ili kutathmini athari

zinazowezekeka za mipango au programu kama hizo, pamoja na njia mbadala, kwenye mazingira ya baharini

2. Kongamano la Wanachama linaweza kufanya tathmini ya kimkakati ya mazingira ya eneo au jimbo ili kukusanya na kuunganisha taarifa bora zaidi zinazopatikana kuhusu eneo au jimbo, kutathmini athari za sasa na zinazoweza kuwepo siku zijazo na kutambua mapungufu ya data na vipaumbele vya utafiti.
3. Wakati wa kufanya tathmini za athari za mazingira kwa mujibu wa Sehemu hii, Wanachama watazingatia matokeo ya tathmini za kimkakati za mazingira zinazofanywa chini ya kipengee cha 1 na 2 hapo juu, inapopatikana.
4. Kongamano la Wanachama litaandaa mwongozo kuhusu uendeshaji wa kila aina ya tathmini ya kimkakati ya mazingira iliyofafanuliwa katika kipengee hiki.

SEHEMU YA 5

KUJENGA UWEZO NA UHAMISHO

WA TEKNOLOJIA YA BAHARINI

Kipengee cha 40

Malengo

Malengo ya sehemu hii ni kwa ajili ya :

- (a) Kusaidia wanachama , hasa Nchi Wanachama zinazoendelea, katika kutekeleza masharti ya Mkataba huu, ili kufikia malengo yake;
- (b) Ushirikiano na ushirikishwaji unaojumuishia, usawa na ufanisi katika shughuli zinazofanywa chini ya Mkataba huu;
- (c) Kukuza uwezo wa kisayansi na kiteknolojia wa baharini, ikijumuisha pamoja na utafiti, wa Vyama, haswa Nchi Wanachama zinazoendelea, kuhusiana na uhifadhi na matumizi endelevu ya anuwai ya kibioolojia ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa, ikijumuisha kupitia ufikiaji wa teknolojia ya baharini. kwa, na uhamisho wa teknolojia ya baharini kwa, Nchi Wanachama zinazoendelea;
- (d) Ongeza, sambaza na ushiriki maarifa kuhusu uhifadhi na matumizi endelevu ya anuwai ya kibioolojia ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa
- (e) Hasa zaidi, inasaidia Nchi Wanachama zinazoendelea, hasa nchi zenye maendeleo duni , nchi zinazoendelea zisizo na bandari, Mataifa yenye hali duni ya kijiografia, Nchi zinazoendelea za visiwa vidogo, Mataifa ya pwani ya Afrika, Mataifa ya visiwa na nchi zinazoendelea za kipato cha kati, kupitia

kujenga uwezo na maendeleo na uhamisho wa teknolojia ya baharini chini ya Mkataba huu, katika kufikia malengo yanayohusiana na:

(i) Rasilimali za kijenetiki za baharini, ikiwa ni pamoja na kugawana faida, kama inavyoonyeshwa katika kipengee cha 9;

ii) Hatua kama vile zana za usimamizi za eneo, ikijumuisha ulinzi wa maeneo hifadhi ya baharini, kama inavyoonyeshwa katika kipengee cha 17;

(iii) Tathmini za athari za mazingira, kama inavyoonyeshwa katika kipengee cha 27.

Kipengee cha 41

Ushirikiano katika kujenga uwezo na uhamisho wa teknolojia ya baharini

1. Wanachama watashirikiana, moja kwa moja au kupitia vyombo na mifumo husika ya kisheria na vyombo husika vya kimataifa, kikanda, kieneo na kisékta, kusaidia wanachama, hususan Nchi Wanachama zinazoendelea, katika kufikia malengo ya mkataba huu kupitia kujenga uwezo na kuendeleza na kuhamisha sayansi na teknolojia ya baharini.

2. Katika kujenga uwezo na uhamisho wa teknolojia ya baharini chini ya Mkataba huu, wanachama watashirikiana katika ngazi zote na kwa namna zote, ikiwa ni pamoja na kupitia ushirikiano na kuwashirikisha wadau wote husika, kama vile, inapofaa, sekta binafsi, mashirika ya kiraia, na Watu wa kiasili na jamii za eneo hilo kama wamiliki wa maarifa ya kitamaduni, pamoja na kuimarisha ushirikiano na uratibu kati ya vyombo na mifumo husika ya kisheria na vyombo husika vya kimataifa, kikanda, kikanda na kisékta.

3. Katika kutekeleza Sehemu hii, Vyama vitatoa utambuzi kamili kwa mahitaji maalum ya Nchi Wanachama zinazoendelea, hasa nchi zenye maendeleo duni, nchi zinazoendelea zisizo na bandari, Nchi zisizo na uwezo wa kijiografia, Nchi zinazoendelea za visiwa vidogo, Mataifa ya pwani ya Afrika, nchi za visiwa na nchi zenye maendeleo ya kati. Wanachama watahakikisha kwamba utoaji wa huduma za kujenga uwezo na uhamishaji wa teknolojia ya baharini hauwi na masharti ya mahitaji ya kuripoti.

Kipengee cha 42

Mbinu za kujenga uwezo na za uhamisho wa teknolojia ya baharini

1. Wanachama, ndani ya uwezo wao, watahakikisha kujenga uwezo kwa Nchi Wanachama zinazoendelea na watashirikiana kufanikisha uhamishaji wa teknolojia ya baharini, hasa kwa Nchi Wanachama zinazoendelea zinazohitaji na kuziomba, kwa kuzingatia hali maalum za Nchi za Visiwa vidogo zinazoendelea na za nchi zenye maendeleo duni, kwa mujibu wa masharti ya Mkataba huu.
2. Vyama vitatoa, ndani ya uwezo wao, rasilimali kusaidia ujenzi huo wa uwezo na maendeleo na uhamisho wa teknolojia ya baharini na kuwezesha upatikanaji wa vyanzo vingine vya usaidizi, kwa kuzingatia sera zao za kitaifa, vipaumbele, mipango na programu.
3. Kujenga uwezo na uhamishaji wa teknolojia ya baharini kunapaswa kuwa mchakato unaoendeshwa na nchi, uwazi, mchakato wa ufanisi na wa kurudia ambao ni shirikishi, mtambuka na unaozingatia jinsia. Itajenga katika, inavyofaa, na sio kurudia programu zilizopo na kuongozwa na mafunzo ya awali, ikiwa ni pamoja na yale ya kujenga uwezo na uhamisho wa shughuli za teknolojia ya baharini chini ya vyombo na mifumo husika ya kisheria na vyombo husika vya kimataifa, kikanda, kikanda ndogo na kisekta. Kwa kadiri inavyowezekana, itazingatia shughuli hizi kwa nia ya kuongeza ufanisi na matokeo.
4. Kujenga uwezo na uhamishaji wa teknolojia ya baharini kutategemea na kuitikia mahitaji na vipaumbele vya Nchi Wanachama zinazoendelea, kwa kuzingatia hali maalum za Nchi za Visiwa vidogo zinazoendelea na za nchi zilizoendelea kidogo, zinazotambuliwa kupitia tathmini ya mahitaji kwa kila kesi, kanda ndogo au kanda. Mahitaji na vipaumbele kama hivyo vinaweza kujitathmini au kuwezesha kupitia kujenga uwezo na uhamisho wa kamati ya teknolojia ya baharini na mfumo wa kubadilishana taarifa.

Kipengee cha 43

Mbinu za ziada za uhamisho wa teknolojia ya baharini

1. Washirika wana maono ya muda mrefu ya umuhimu wa kutambua kikamilifu maendeleo ya teknolojia na uhamisho kwa ushirikiano jumuishi, usawa na ufanisi na ushiriki katika shughuli zinazofanywa chini ya Mkataba huu na ili kufikia malengo yake kikamilifu.
2. Uhamisho wa teknolojia ya baharini unaofanywa chini ya Mkataba huu utafanyika kwa masharti ya haki na yanayofaa zaidi, ikiwa ni pamoja na masharti nafuu na ya upendeleo, na kwa mujibu wa kanuni na masharti yaliyokubaliwa pamoja na malengo ya mkataba huu.

3. Wanachama wataendeleza na kuhimiza hali za kiuchumi na kisheria za uhamishaji wa teknolojia ya baharini kwa Nchi Wanachama zinazoendelea, kwa kuzingatia hali maalum za Nchi za Visiwa vidogo zinazoendelea na za nchi zilizoendelea kidogo, ambayo inaweza kujumuisha kutoa motisha kwa biashara na taasisi.

4. Uhamisho wa teknolojia ya baharini utazingatia haki zote juu ya teknolojia hizo na kutekelezwa kwa kuzingatia maslahi yote halali, ikiwa ni pamoja na, mambo mengine, haki na wajibu wa wamiliki, wasambazaji na wapokeaji wa teknolojia ya baharini na kwa kuzingatia hasa maslahi na mahitaji ya Nchi zinazoendelea kwa ajili ya kufikia malengo ya Mkataba huu.

5. Teknolojia ya baharini iliyohamishwa kwa mujibu wa Sehemu hii itakuwa inafaa, kwa kadiri inavyowezekana, inategemewa, nafuu, iliyosasishwa, iliyo safi kimazingira na inapatikana katika mfumo unaoweza kufikiwa na Nchi Wanachama zinazoendelea, kwa kuzingatia hali maalum za Nchi za Visiwa vidogo zinazoendelea na nchi zilizo na maendeleo duni.

Kipengee cha 44

Aina za kujenga uwezo na uhamisho wa teknolojia ya baharini

1. Katika kuunga mkono malengo yaliyoainishwa katika kipengee cha 40, aina za kujenga uwezo na uhamishaji wa teknolojia ya baharini zinaweza kujumuisha, lakini sio tu, msaada kwa uundaji au uboreshaji wa kibinadamu, usimamizi wa kifedha, kisayansi, kiteknolojia, kishirika, kitaasisi na uwezo mwingine wa rasilimali za Wanachama, kama vile:

(a) Kushiriki na kutumia data, taarifa, maarifa na matokeo ya utafiti husika;

(a)

(b) Usambazaji wa habari na kuongeza ufahamu/kuongeza hamasa, ikijumuisha kuhusu maarifa ya kitamaduni yanayofaa ya Watu wa Asili na jamii za wenyeji, za eneo hilo, kulingana na ridhaa huru/, ya awali na iliyoarifiwa ya Watu hawa wa Asili na, kama inafaa, jamii za eneo hilo;

(c) Uendelezaji na uimarishaji wa miundombinu husika, ikijumuisha vifaa na uwezo wa wafanyakazi kwa matumizi na udumishaji wake;

(d) Ukuzaji na uimarishaji wa uwezo wa kitaasisi na mifumo au taratibu za kitaifa za udhibiti;

(e) Ukuzaji na uimarishaji wa uwezo wa rasilimali watu na usimamizi wa fedha na utaalumu wa kiufundi kwa njia ya kubadilishana, ushirikiano wa utafiti, msaada wa kiufundi, elimu na mafunzo na uhamisho wa teknolojia ya baharini;

(f) Utayarishaji na ushirikishaji wa mwongozo , miongozo na viwango;

(g) Uendelezaji wa programu za kiufundi, kisayansi na utafiti na maendeleo;

(h) Ukuzaji na uimarishaji wa uwezo na zana za kiteknolojia kwa ajili ya ufuatiliaji, udhibiti na ufuatiliaji wa ufanisi wa shughuli ndani ya mawanda ya Mkataba huu.

2. Maelezo zaidi kuhusu aina za kujenga uwezo na uhamishaji wa teknolojia ya baharini iliyoainishwa katika makala haya yamefafanuliwa katika Kiambatisho cha II.

3. Kongamano la wanachama, kwa kuzingatia mapendekezo ya kujenga uwezo na uhamisho wa kamati ya teknolojia ya baharini, mara kwa mara, inapohitajika, itapitia, kutathmini na kuendeleza zaidi na kutoa mwongozo kuhusu orodha ya dalili na isiyo na kikomo ya aina za kujenga uwezo na uhamisho wa teknolojia ya baharini iliyofafanuliwa katika Kiambatisho II, ili kutafakari maendeleo ya kiteknolojia na kukabiliana na maendeleo ya nchi, Kanda ndogo na kanda.

kipengee cha 45

Ufuatiliaji na uhakiki

1. Kujenga uwezo na uhamisho wa teknolojia ya baharini unaofanywa kwa mujibu wa masharti ya Sehemu hii utafuatiliwa na kupitiwa upya mara kwa mara.

2. Ufuatiliaji na mapitio yaliyorejelewa katika kipengee 1 hapo juu yatatekelezwa na kujenga uwezo na uhamisho wa kamati ya teknolojia ya baharini chini ya mamlaka ya Mkutano wa Wanachama na italenga:

(a) Kutathmini na kupitia upya mahitaji na vipaumbele vya Nchi Wanachama zinazoendelea katika suala la kujenga uwezo na uhamisho wa teknolojia ya baharini, kwa kuzingatia hasa mahitaji maalum ya Nchi Wanachama zinazoendelea na kwa hali maalum ya Nchi za visiwa vidogo vinavyoendelea na za nchi zilizoendelea kidogo, kwa mujibu wa Kipengee cha 42, kipengee cha 4;

(b) Kukagua usaidizi unaohitajika, unaotolewa na kuhamasishwa, pamoja na mapungufu katika kukidhi mahitaji yaliyotathminiwa ya Nchi Wanachama zinazoendelea kuhusiana na Mkataba huu;

(c) Kutambua na kukusanya fedha katika utaratibu wa kifedha ulioanzishwa chini ya kipekee cha 52 ili kuendeleza na kutekeleza kujenga uwezo na uhamisho wa teknolojia ya baharini, ikiwa ni pamoja na kufanya tathmini ya mahitaji;

(d) Kupima utendakazi kwa misingi ya viashirio vilivyokubaliwa na kupitia upya uchambuzi unaozingatia matokeo, ikijumuisha matokeo yanayoonekana, matokeo ya muda mfupi, maendeleo na ufanisi wa kujenga uwezo na uhamisho wa teknolojia ya baharini chini ya Mkataba huu, pamoja na mafanikio na changamoto;

(e) Kutoa mapendekezo ya shughuli za ufuatiliaji, ikijumuisha jinsi kujenga uwezo na uhamishaji wa teknolojia ya baharini kunavyoweza kuimarishwa zaidi ili kuruhusu Nchi Wanachama zinazoendelea, kwa kuzingatia hali maalum za Nchi za Visiwa vidogo zinazoendelea na za nchi zenye maendeleo duni, kuimarisha utekelezaji wao wa Mkataba ili kufikia malengo yake.

3. Katika kusaidia ufuatiliaji na mapitio ya kujenga uwezo na uhamisho wa teknolojia ya baharini, Vyama vitawasilisha ripoti kwa kujenga uwezo na uhamisho wa kamati ya teknolojia ya baharini. Ripoti hizo zinapaswa kuwa katika muundo na kwa vipindi vitakavyoamuliwa na Mkutano wa Wanachama, kwa kuzingatia mapendekezo ya kujenga uwezo na uhamisho wa kamati ya teknolojia ya baharini. Katika kuwasilisha ripoti zao, Wanachama watazingatia, inapohitajika, maoni kutoka kwa halmashairi za kikanda na zakanda ndogo kuhusu kujenga uwezo na uhamisho wa teknolojia ya baharini. Ripoti zilizowasilishwa na Wanachama, pamoja na maoni yoyote kutoka kwa mashirika ya kikanda na ya kanda ndogo kuhusu kujenga uwezo na uhamishaji wa teknolojia ya baharini, inapaswa kutolewa kwa umma. Kongamano la Nchi Wanachama litahakikisha kwamba mahitaji ya kuripoti yanafaa kuratibiwa na sio ya kutaabisha, haswa kwa Nchi Wanachama zinazoendelea, ikijumuisha katika suala la gharama na mahitaji ya wakati.

1.

Kipengee cha 46

Kujenga uwezo na uhamisho wa kamati ya teknolojia ya baharini

1. Kamati ya kujenga uwezo na uhamisho wa teknolojia ya baharini inaanzishwa rasmi.

2. Kamati itakuwa na wajumbe walio na sifa na utaalamu ufaao, ili kuhudumu kwa uthabiti kwa maslahi ya mkataba, yaliyopendekezwa na wanachama na kuchaguliwa na kongamano la wanachama, kwa kuzingatia uwiano wa kijinsia na mgawo sawa wa kijiografia na kutoa uwakilishi kwenye kamati kutoka nchi zilizo na maendeleo duni, kutoka nchi za visiwa vidogo zinazoendelea na kutoka nchi zinazoendelea zisizo na bandari. Masharti ya kumbukumbu na utaratibu wa uendeshaji wa kamati zitaamuliwa na kongamano la Wanachama katika mkutano wake wa kwanza.

3. Kamati itawasilisha ripoti na mapendekezo ambayo Mkutano wa Wanachama utazingatia na kuchukua hatua ipasavyo.

SEHEMU YA 6
MIPANGILIO YA TAASISI

Kipengee cha 47
Kongamano la wanachama

1. Kongamano la Wanachama linaanzishwa rasmi.

1.

2. Kongamano la kwanza la Wanachama litaitishwa na Katibu Mkuu wa Umoja wa Mataifa kabla ya mwaka mmoja baada ya kuanza kutumika kwa Mkataba huu. Baada ya hapo, mikutano ya kawaida ya kongamano la Wanachama itafanyika mara kwa mara ili kuamuliwa na kongamano la Wanachama. Mikutano isiyo ya kawaida ya kongamano la Wanachama inaweza kufanywa wakati mwingine, kwa mujibu wa kanuni za utaratibu

3. Kongamano la Wanachama litakutana kwa kawaida kwenye kiti cha/ kikao cha sekretarieti au katika Makao Makuu ya Umoja wa Mataifa.

3.

4. Kongamano la wanachama kwa maafikiano litaidhinisha katika mkutano wake wa kwanza, kanuni za utaratibu wake na vyombo vyake tanzu, kanuni za fedha zinazosimamia ufadhili wake na ufadhili wa sekretarieti na vyombo vyovyote tanzu na, baada ya hapo, kanuni za utaratibu na kanuni za fedha kwa chombo chochote tanzu kingine ambacho kinaweza kuanzisha. Hadi wakati ambapo kanuni za utaratibu zimepitishwa, kanuni za utaratibu wa mkutano wa serikali juu ya chombo cha kisheria cha kimataifa chini ya Mkataba wa Umoja wa Mataifa wa Sheria ya Bahari juu ya uhifadhi na matumizi endelevu ya anuwai ya kibiolojia ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa itatumika.

4.

5. Kongamano la wanachama litafanya kila juhudi kuidhinisha maamuzi na mapendekezo kwa makubaliano. Isipokuwa kama ilivyoainishwa vinginevyo katika Mkataba huu, ikiwa juhudi zote za kufikia muafaka zimekamili, maamuzi na mapendekezo ya Mkutano wa Wanachama kuhusu masuala ya msingi yatapitishwa na theluthi mbili ya Vyama vilivyopo na kupiga kura, na maamuzi kuhusu masuala ya utaratibu yatapitishwa na Wengi wa Vyama vilivyohudhuria na kupiga kura.

5.

6. Mkutano wa Wanachama utafanya mapitio na tathmini ya utekelezaji wa Mkataba huu na, kwa madhumuni haya:

6.

(a) Kupitisha maamuzi na mapendekezo yanayohusiana na utekelezaji wa Mkataba huu;

(b) Kupitia na kuwezesha ubadilishanaji wa taarifa kati ya Vyama vinavyohusika na utekelezaji wa Mkataba huu;

(a)

(c) Kukuza, ikijumuisha kwa kuanzisha michakato ifaayo, ushirikiano na uratibu pamoja na kati ya vyombo na mifumo husika ya kisheria na vyombo husika vya kimataifa, kikanda, kimkoa na kisekta, kwa nia ya kukuza mshikamano kati ya juhudi kuelekea uhifadhi na matumizi endelevu ya bioanuwai ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa;

(b)

(d) Kuanzisha vyombo tanzu kama inavyoonekana kuwa muhimu ili kusaidia utekelezaji wa Mkataba huu;

(c)

(e) Kupitisha bajeti kwa robo tatu ya walio wengi wa wanachama waliopo na kupiga kura ikiwa juhudi zote za kufikia muafaka zimekamilika, mara kwa mara na kwa muda wa kifedha kama itakavyoamua

(f) Kutekeleza majukumu mengine yaliyoainishwa katika Mkataba huu au inavyoweza kuhitajika kwa utekelezaji wake.

(d)

7. Kongamano la wanachama linaweza kuamua kuomba Mahakama ya Kimataifa ya Sheria ya Bahari kutoa maoni ya ushauri juu ya swali la kisheria juu ya kuzingatia Makubaliano haya ya pendekezo mbele ya kongamano la wanachama juu ya jambo lolote ndani ya uwezo wake. Ombi la maoni ya ushauri halitaombwa juu ya jambo lililo ndani ya uwezo wa mashirika mengine ya kimataifa, kikanda, kieneo, au kisekta, au juu ya jambo ambalo linahusisha kuzingatia kwa wakati mmoja mgogoro wowote kuhusu mamlaka au haki nyingine juu ya eneo la ardhi au isiyo ya kawaida au madai yake, au hali ya kisheria ya eneo kama ndani ya mamlaka ya kitaifa. Ombi litaonyesha upeo wa swali la kisheria ambalo maoni ya ushauri yanaombwa. Kongamano la wanachama linaweza kuomba kwamba maoni hayo yatolewe kwa dharura.

7.

8. Kongamano la wanachama ndani ya miaka mitano ya kuanza kutumika kwa Mkataba huu na baada ya hapo kwa vipindi vitakavyoamuliwa nao, kutathmini na kupitia utoshelevu na ufanisi wa masharti ya Mkataba huu na, ikibidi, kupendekeza njia za kuimarisha utekelezaji wa masharti hayo ili kushughulikia vyema uhifadhi na matumizi endelevu ya maeneo ya bahari ya baharini.

Kipengee cha 48

Uwazi

1. Mkutano wa Wanachama utahimiza uwazi katika michakato ya kufanya maamuzi na shughuli zingine zinazotekelezwa chini ya Makubaliano haya.

1.

2. Vikao vyote vya Mkutano wa Wanachama na vyombo vyake vidogo vitakuwa wazi kwa waangalizi wanaoshiriki kwa mujibu wa kanuni za utaratibu isipokuwa itakapoamuliwa vinginevyo na Mkutano wa Wanachama. Mkutano wa Wanachama utachapisha na kudumisha rekodi ya umma ya maamuzi yake.

2.

3. Mkutano wa Wanachama utahimiza uwazi katika utekelezaji wa Mkataba huu, ikijumuisha kwa njia ya usambazaji wa habari kwa umma na kuwezesha ushiriki wa, na kushauriana na, mashirika husika ya kimataifa, kikanda, kikanda na kisekta, Watu wa Asili na jumuiya za mitaa zenye ujuzi wa jadi husika, jumuiya ya kisayansi, jumuiya ya kiraia na wadau wengine husika, kama inavyofaa na kwa mujibu wa Makubaliano haya.

3.

4. Wawakilishi wa Mataifa yasiyohusika na Mkataba huu, mashirika husika ya kimataifa, kikanda, kikanda na kisekta, Watu wa Asili na jumuiya za wenyeji wenye ujuzi wa kitamaduni unaofaa, jumuiya ya kisayansi, jumuiya ya kiraia na wadau wengine husika wenye maslahi katika masuala yanayohusu Mkutano wa Wanachama wanaweza kuomba kushiriki kama waangalizi katika mikutano ya Mkutano wa Wanachama na Taasisi zake. Kanuni za utaratibu wa Mkutano wa Wanachama zitatoa njia za ushiriki huo na hazitakuwa na vikwazo visivyofaa katika suala hili. Kanuni za utaratibu pia zitatoa fursa kwa wawakilishi hao kupata taarifa zote muhimu kwa wakati.

4.

Kipengee cha 49

Bodi ya Kisayansi na Kiufundi

1. Bodi ya Kisayansi na Kiufundi inaanzishwa rasmi.

1.

2. Bodi ya Kisayansi na Kiufundi litaundwa na wanachama wanaohudumu katika nafasi zao za kitaalamu na kwa maslahi bora ya Mkataba, walioteuliwa na wanachama na waliochaguliwa na kongamano la Wanachama, wakiwa na sifa zinazofaa, kwa kuzingatia hitaji la utaalamu wa fani mbalimbali, ikiwa ni pamoja na utaalamu husika wa kisayansi na kiufundi na ujuzi wa jadi unaohusika wa usawa wa kijinsia wa Watu wa Asili na jamii za eneo hilo, usawa wa kijinsia na uwakilishi sawa wa kijiografia. Masharti ya kumbukumbu na utaratibu wa uendeshaji wa Bodi ya Kisayansi na Kiufundi, ikijumuisha mchakato wake wa uteuzi na masharti ya mamlaka ya wanachama, itaamuliwa na kongamano la wanachama katika mkutano wake wa kwanza.

2.

3. Bodi ya kisayansi na Kiufundi linaweza kutumia ushauri ufaao kutoka kwa vyombo na mifumo ya kisheria husika na vyombo husika vya kimataifa, kikanda, kikanda na kisekta, na pia kutoka kwa wanasayansi na wataalam wengine, kama inavyohitajika.

3.

4. Chini ya mamlaka na mwongozo wa kongamano la Wanachama, na kwa kuzingatia utaalamu wa fani mbalimbali uliorejelewa katika kipengee cha 2 hapo juu, Bodi ya Kisayansi na Kiufundi litatoa ushauri wa kisayansi na kiufundi kwa kongamano la Wanachama, kutekeleza majukumu lilopewa chini ya Mkataba huu na majukumu mengine kama yatakavyoamuliwa na kongamano la wanachama na kutoa ripoti kwa kongamano hilo.

Kipengee Cha 50

Sekretarieti

1. Sekretarieti inaanzishwa. Kongamano la wanachama, katika mkutano wake wa kwanza, utafanya mipango ya utendaji wa sekretarieti, pamoja na maamuzi kuhusu kiti chake.

1.

2. Hadi wakati ambapo sekretarieti inaanza kazi zake, Katibu Mkuu wa Umoja wa Mataifa, kupitia Kitengo cha Masuala ya Bahari na Sheria ya Bahari ya Ofisi ya Masuala ya Kisheria ya Sekretarieti ya Umoja wa Mataifa, atafanya kazi za sekretarieti chini ya Mkataba huu.

2.

3. Sekretarieti na Nchi mwenyeji wanaweza kuhitimisha makubaliano ya makao makuu. Sekretarieti itafurahia uwezo wa kisheria katika eneo la Nchi mwenyeji na kupewa mapendeleo na kinga na Nchi mwenyeji kama inavyohitajika kwa utekelezaji wa majukumu yake.

3.

4. Sekretarieti ina wajibu wa:

(a) Kutoa usaidizi wa kiutawala na vifaa kwa kongamano la Wanachama na mashirika yake tanzu kwa madhumuni ya utekelezaji wa Mkataba huu .

(a)

(b) Kupanga na kuhudumia mikutano ya kongamano la Wanachama na wa vyombo vingine vyovyote kama itakavyoanzishwa chini ya Mkataba huu au na kongamano la Wanachama;

(b)

(c) Kusambaza taarifa zinazohusiana na utekelezaji wa Mkataba huu kwa wakati ufaao, ikijumuisha kufanya maamuzi ya Mkutano wa Wanachama yanayopatikana kwa umma na kuyawasilisha kwa wanachama wote, pamoja na vyombo na mifumo husika ya kisheria na vyombo vya kimataifa, kikanda, kieneo na kisekta;

(c)

(d) Kuwezesha ushirikiano na uratibu, inavyofaa, na sekretarieti za vyombo vingine vya kimataifa vinavyohusika na, hasa, kuingia katika mipango ya kiutawala na ya kimkataba kama itakavyohitajika kwa ajili hiyo na kwa ajili ya ufanisi wa utekelezaji bora wa majukumu yake, kwa kutegemea idhini ya kongamano la Wanachama;

(e) Kutayarisha ripoti za utekelezaji wa majukumu yake chini ya Mkataba huu na kuziwasilisha kwa kongamano la Wanachama;

(f) Kutoa usaidizi wa utekelezaji wa Mkataba huu na kutekeleza majukumu mengine kama yatakavyoamuliwa na kongamano la wanachama au kupewa chini ya Mkataba huu .

Kipengee cha 51

Utaratibu wa kubadilishana Taarifa

1. Utaratibu wa kubadilishana taarifa unaanzishwa.

2. Utaratibu wa kubadilishana taarifa utajumuisha kimsingi jukwaa la ufikiaji wazi. Mbinu mahususi za uendeshaji wa mfumo wa kubadilishana taarifa zitaamuliwa na kongamano la wanachama .

3. Utaratibu wa kubadilishana taarifa na majukumu yake:

(a) Hutumika kama jukwaa kuu ili kuwezesha Wanachama kupata, kutoa na kusambaza taarifa kuhusu shughuli zinazofanyika kwa mujibu wa masharti ya Mkataba huu, ikiwa ni pamoja na taarifa zinazohusiana na:

(i) Rasilimali za kijenitiki za baharini na maeneo yaliyo nje ya mamlaka ya kitaifa, kama ilivyobainishwa katika Sehemu ya 2 ya Mkataba huu .

(ii) Uanzishaji na utekelezaji wa zana za usimamizi wa eneo, ikijumuisha maeneo ya hifadhi ya baharini;

(iii) Tathmini za athari kwa mazingira;

(iv) Maombi ya kujenga uwezo na uhamisho wa teknolojia ya baharini na fursa kwa kuzingatia hilo, ikijumuisha ushirikiano wa utafiti na fursa za mafunzo, taarifa juu ya vyanzo na upatikanaji wa taarifa za kiteknolojia na data kwa ajili ya uhamisho wa teknolojia ya baharini, fursa za kuwezesha kufikia teknolojia ya baharini na uwepo wa ufadhili.

(b) Kuwezesha ulinganifu wa mahitaji ya kujenga uwezo kwa usaidizi unaopatikana na watoa huduma kwa ajili ya uhamisho wa teknolojia ya baharini, ikiwa ni pamoja na taasisi za serikali, zisizo

(c) Kutoa viungo vya mifumo husika ya kimataifa, kikanda, kieneo kitaifa na kisekta na hifadhi nyingine za jeni, hazina na hifadhidata, ikijumuisha zile zinazohusu maarifa ya jadi ya Watu wa Asili na jamii za eneo hilo, na kukuza, inapowezekana, uhusiano na majukwaa ya kibinafsi na yasiyo ya kiserikali yanayopatikana hadharani kwa ajili ya kubadilishana habari;

(d) Kukuza uhusiano na taasisi za kimataifa, za kikanda na za kieneo inapohitajika, wakati wa kuanzisha mifumo ya kikanda na kieneo chini ya mfumo wa kimataifa;

(e) Kukuza uwazi ulioimarishwa, ikijumuisha kwa kuwezesha ushirikishwaji wa data za msingi za mazingira na taarifa zinazohusiana na uhifadhi na matumizi endelevu ya bioanuwai ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa kati ya Vyama na wadau wengine husika;

(f) Kuwezesha ushirikiano na ushirikiano wa kimataifa, ukijumuisha ushirikiano wa kisayansi na kiufundi.

(g) Tekeleza majukumu mengine kama yatakavyoamuliwa na Mkutano wa Wanachama au kupewa chini ya Mkataba huu.

4. mfumo wa kubadilishana taarifa utasimamiwa na sekretarieti, bila kuathiri uwezekano wa ushirikiano na vyombo vyengine vya kisheria na mifumo na vyombo husika vya kimataifa, kikanda, kieneo na kisekta kama ilivyoamuliwa na kongamano la Wanachama, ikijumuisha Tume ya Kiserikali ya Bahari ya Umoja wa Mataifa ya Mamlaka ya Elimu, Sayansi na Utamaduni, Shirika la Kimataifa la Kilimo la Bahari la Kimataifa na Shirika la Kimataifa la Bahari la Umoja wa Mataifa.

1. Katika usimamizi wa utaratibu wa kubadilishana taarifa, utambuzi kamili utatolewa kwa mahitaji maalum ya Nchi Wanachama zinazoendelea, pamoja na mazingira maalum ya Nchi Wanachama wa visiwa vidogo vinavyoendelea, na ufikiaji wao kwa utaratibu huo utawezeshwa ili kuwezesha Nchi hizo kuutumia bila vizuizi visivyofaa au gharama za kiutawala. Taarifa itajumuishwa kwenye shughuli za kukuza upashanaji habari, kukuza ufahamu na usambazaji ndani na kwa Mataifa hayo, pamoja na kutoa programu mahususi kwa Nchi hizo.

2. Usiri wa taarifa iliyotolewa chini ya Mkataba huu na haki zake zitaheshimiwa. Hakuna chochote chini ya Mkataba huu kitakachotafsiriwa kuwa kinahitaji ushiriki wa habari ambayo inalindwa dhidi ya kufichuliwa chini ya sheria ya nchi ya Chama au sheria nyingine inayotumika

SEHEMU 7

UTARATIBU WA RASILIMALI ZA KIFEDHA

Kipengee cha 52

Ufadhili

1. Kila mwanachama atatoa, ndani ya uwezo wake, rasilimali kuhusiana na shughuli zinazokusudiwa kufikia malengo ya Mkataba huu, kwa kuzingatia sera, vipaumbele, mipango na programu zake za kitaifa.

1.

2. Taasisi zilizoanzishwa chini ya Mkataba huu zitafadhiliwa kupitia michango iliyotathminiwa ya wanachama .

3. Utaratibu wa utoaji wa rasilimali za kifedha za kutosha, zinazopatikana, mpya na za ziada na zinazotabirika chini ya Mkataba huu unaanzishwa. Utaratibu utasaidia Nchi Zinazoendelea katika kutekeleza Mkataba huu, ikijumuisha kupitia ufadhili wa kujenga uwezo na uhamishaji wa teknolojia ya baharini, na kutekeleza majukumu mengine kama yalivyobainishwa katika kipengee hiki kwa ajili ya uhifadhi na matumizi endelevu ya bioanuwai ya baharini.

4. Utaratibu utajumuisha:

a) Hazina ya udhamini ya hiari iliyoanzishwa na Mkutano wa Nchi Wanachama ili kuwezesha ushiriki wa wawakilishi wa Nchi Wanachama zinazoendelea, hasa nchi zilizoendelea, nchi zinazoendelea zisizo na bandari na Nchi za Visiwa vidogo zinazoendelea, katika mikutano ya vyombo vilivyoanzishwa chini ya Makubaliano haya;

b) Mfuko maalum ambao utafadhiliwa kupitia vyanzo vifuatavyo:

(i) Michango ya kila mwaka kwa mujibu wa kipengee cha 14, aya ya 6;

(ii) Malipo kwa mujibu wa kipengee cha 14, aya ya 7;

(iii) Michango ya ziada kutoka kwa wanachama na taasisi binafsi zinazotaka kutoa rasilimali za kifedha ili kusaidia uhifadhi na matumizi endelevu ya bioanuwai ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa;

(c) Wakfu wa kufadhili masuala ya mazingira duniani.

5. Kongamano la Wanachama linaweza kuzingatia uwezekano wa kuanzisha fedha za ziada, kama sehemu ya utaratibu wa kifedha, ili kusaidia uhifadhi na matumizi endelevu ya anuwai ya kibayolojia ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa, kufadhili ukarabati na urejesho wa kiikolojia wa anuwai ya kibaolojia ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa.

6. Hazina maalum na wakfu wa kufadhili masuala ya mazingira duniani itatumika ili:

(a) Kufadhili miradi ya kujenga uwezo chini ya Mkataba huu, ikijumuisha miradi madhubuti ya uhifadhi na matumizi endelevu ya anuwai ya viumbe vya baharini na shughuli na programu, ikijumuisha mafunzo yanayohusiana na uhamishaji wa teknolojia ya baharini;

(b) Kusaidia Nchi Wanachama zinazoendelea katika kutekeleza Makubaliano haya;

(c) Kusaidia mipango ya uhifadhi na matumizi endelevu ya Watu Asili na jamii za eneo hilo kama wamiliki wa maarifa ya kitamaduni.

(d) Kusaidia mashauriano ya umma katika ngazi ya kitaifa, Kieneo na kikanda;

(e) Kugharamia shughuli nyingine yoyote kama ilivyoamuliwa na kongamano la Wanachama.

(c)

7. Taratibu za kifedha zinapaswa kuhakikisha kuwa urudufu unaepukwa, na ukamilisho na mshikamano unaboresha, kati ya matumizi ya fedha ndani ya utaratibu.

2.

8. Rasilimali za kifedha zilizokusanywa ili kusaidia utekelezaji wa Mkataba huu zinaweza kujumuisha ufadhili unaotolewa kupitia vyanzo vya umma na vya kibinafsi, kitaifa na kimataifa, ikijumuisha, lakini sio tu, michango kutoka kwa Mataifa, taasisi za fedha za kimataifa, taratibu zilizopo za ufadhili chini ya vyombo vya kimataifa na kikanda, mashirika ya wafadhili, mashirika ya kiserikali, mashirika yasiyo ya kiserikali, watu wa kawaida na wa mahakama, kupitia ushirikiano wa mashirika ya umma na kibinafsi.

9. Kwa madhumuni ya Mkataba huu, utaratibu utafanya kazi chini ya mamlaka, inapofaa, na mwongozo wa kongamano la Wanachama na itawajibika. Kongamano la wanachama utatoa mwongozo kuhusu mikakati ya jumla, sera, vipaumbele vya programu na ustahiki wa kupata na matumizi ya rasilimali za kifedha.

3.

10. Kongamano la wanachama na Kituo cha Mazingira Ulimwenguni litakubaliana juu ya mipango ya kutekeleza aya za hapo juu katika mkutano wa kwanza wa kongamano la Wanachama.

4.

11. Kwa kutambua uharaka wa kushughulikia uhifadhi na matumizi endelevu ya anuwai ya kibayolojia ya baharini ya maeneo yaliyo nje ya mamlaka ya kitaifa, kongamano la Wanachama litaamua lengo la

awali la uhamasishaji wa rasilimali hadi 2030 kwa hazina maalum kutoka kwa vyanzo vyote, kwa kuzingatia, pamoja na mambo mengine, mbinu za kitaasisi za hazina maalum ya uwezo na habari iliyotolewa kupitia teknolojia ya uhamishaji wa rasilimali.

5.

12. Ustahiki wa kupata ufadhili chini ya Mkataba huu utakuwa wazi kwa Nchi Wanachama zinazoendelea kwa msingi wa mahitaji. Fedha chini ya mfuko maalum itagawanywa kulingana na vigezo vya kugawana sawa, kwa kuzingatia mahitaji ya usaidizi wa Vyama vilivyo na mahitaji maalum, haswa nchi zilizoendelea kidogo, nchi zinazoendelea zisizo na bandari, Nchi zenye uhaba wa kijiografia, nchi zinazoendelea za visiwa vidogo na nchi za pwani za Afrika, nchi za visiwa na nchi zinazoendelea za kipato cha kati, na kwa kuzingatia hali maalum za nchi ndogo za visiwa zinazoendelea. Hazina maalum italenga kuhakikisha upatikanaji mzuri wa ufadhili kupitia taratibu zilizorahisishwa za maombi na idhini na kuimarishwa kwa utayari wa usaidizi kwa Nchi Wanachama zinazoendelea.

6.

13. Kwa kuzingatia vikwazo vya uwezo, Vyama vitahimiza mashirika ya kimataifa kutoa upendeleo kwa, na kuzingatia mahitaji maalum na mahitaji maalum ya Nchi Wanachama zinazoendelea, hasa nchi zilizoendelea kidogo, nchi zinazoendelea zisizo na bandari na nchi zinazoendelea za visiwa vidogo, na kwa kuzingatia hali maalum za nchi za visiwa vidogo na za nchi zilizoendelea kidogo, katika ugawaji wa fedha zinazofaa na usaidizi wa kiufundi na matumizi ya huduma maalum kwa madhumuni ya baharini. anuwai ya kibaolojia ya maeneo yaliyo nje ya mamlaka ya kitaifa.

7.

14. Kongamano la wanachama litaunda kamati kusimamia rasilimali za kifedha. Itaundwa na wanachama walio na sifa zinazofaa na utaalamu, kwa kuzingatia uwiano wa kijinsia na mgawanyo sawa wa kijiografia. Taratibu za rufaa na kanuni za uendeshaji wa kamati zitaamuliwa na kongamano la wanachama wanachama. Kamati itaripoti mara kwa mara na kutoa mapendekezo juu ya utambuzi na uhamasishaji wa fedha chini ya utaratibu. Pia itakusanya taarifa na kuripoti kuhusu ufadhili chini ya taratibu na vyombo vingine vinavyochangia moja kwa moja au kwa njia isiyo ya moja kwa moja katika kuafikiwa kwa malengo ya Mkataba huu. Pamoja na mazingatio yaliyotolewa katika kipengee hiki, kamati itazingatia, pamoja na mambo mengine:

(a) Tathmini ya mahitaji ya Wanachama, hasa Nchi Wanachama zinazoendelea;

(b) upatikanaji na utoaji wa fedha kwa wakati;

(c) Uwazi wa michakato ya kufanya maamuzi na usimamizi kuhusu uchangishaji fedha na

(d)Uwajibikaji wa Nchi Wanachama zinazoendelea zinazopokea fedha kuhusiana na matumizi ya fedha kama ilivyokubaliwa.

15. Kongamano la Wanachama litazingatia ripoti na mapendekezo ya kamati ya fedha na kuchukua hatua zinazofaa.

16. Kongamano la wanachama , pamoja na hayo, utafanya mapitio ya mara kwa mara ya utaratibu wa kifedha ili kutathmini utoshelevu, ufanisi na ufikiaji wa rasilimali za kifedha, ikijumuisha utoaji wa kujenga uwezo na uhamishaji wa teknolojia ya baharini, haswa kwa Nchi Wanachama zinazoendelea.

PART VIII SEHEMU YA 8

UTEKELEZAJI NA UZINGATIAJI

Kipengee cha 53

Utekelezaji

Wanachama watachukua hatua zinazohitajika za kisheria, kiutawala au kisera, inavyofaa, ili kuhakikisha utekelezaji wa Mkataba huu.

Kipengee cha 54

Ufuatiliaji na Utekelezaji

Kila Mshirika atasimamia utekelezaji wa majukumu yake chini ya Makubaliano haya na, kwa muundo na kwa vipindi vitakavyoamuliwa na Mkutano wa Wanachama, kuripoti kwa Mkutano juu ya hatua ambazo imechukua kutekeleza Makubaliano haya.

Kipengee cha 55

Kamati ya utekelezaji na uzingatiaji

1. Kamati ya Utekelezaji na Uzingatiaji ya kusaidia na kuzingatia utekelezaji wa masharti ya Mkataba huu na kuhamasisha uzingatiaji wake imeanzishwa rasmi. Kamati ya Utekelezaji na Uzingatiaji itakuwa ya kusaidia kiasili na itatekeleza majukumu yake kwa uwazi, bila mivutano na bila kutoa adhabu.

2. Kamati ya Utekelezaji na Uzingatiaji itakuwa na wajumbe walio na sifa zinazofaa na uzoefu uliopendekezwa na wanachama na kuchaguliwa na kongamano la wanachama , kwa kuzingatia usawa wa kijinzia na uwakilishi sawa wa kijiografia.

3. Kamati ya Utekelezaji na Uzingatiaji itafanya kazi chini ya taratibu na kanuni za utaratibu zilizopitishwa na Mkutano wa Wanachama katika mkutano wake wa kwanza. Kamati ya Utekelezaji na Uzingatiaji itazingatia masuala ya utekelezaji na uzingatiaji katika ngazi ya mtu binafsi na ya kimfumo, pamoja na mambo mengine, na kuripoti mara kwa mara na kutoa mapendekezo, inavyofaa huku ikizingatia hali za kitaifa, kwa Mkutano wa Wanachama.

4. Wakati wa kazi yake, Kamati ya Utekelezaji na Uzingatiaji inaweza kutumia taarifa zinazofaa kutoka kwa vyombo vilivyoanzishwa chini ya Mkataba huu, pamoja na vyombo na mifumo husika ya kisheria na vya kimataifa, kikanda, kieneo na kisekta, kama itakavyohitajika.

SEHEMU 9
KUTULIZA MIGOGORO

Kipengee cha 56 kuzuia migogoro

Wanachama watahirikiana ili kuzuia migogoro.

Kipengee cha 57

Wajibu wa kutatua migogoro kwa njia za amani

Wanachama wana wajibu wa kusuluhisha mizozo yao kuhusu tafsiri au matumizi ya mkataba huu kwa mazungumzo, uchunguzi, upatanishi, upatanisho, usuluhishi, usuluhishi wa mahakama, kukimbilia mashirika ya kikanda au mipango, au njia zingine za amani wanazochagua.

Kipengee cha 58

Utatuzi wa migogoro kwa njia yoyote ya amani

iliyoafikiwa na Wanachama

Hakuna chochote katika Sehemu hii kinachozuia haki ya Mshirika yeyote kwa mkataba huu kukubaliana wakati wowote kusuluhisha mzozo kati yao kuhusu tafsiri au matumizi ya Mkataba huu kwa njia yoyote ya amani wanayochagua.

Kipengee cha 59

Mizozo inayoibuka kutokana na maswala ya kiufundi

Pale ambapo mzozo unahusu suala la hali ya kiufundi, wanaohusika wanaweza kupeleka mzozo huo kwa jopo la wataalamu wa dharura lililoundwa nao. Jopo litajadiliana na Wahusika na litajitahidi kusuluhisha mzozo huo haraka bila kutumia taratibu za kisheria za utatuzi wa mizozo chini ya kipengee 60 cha Mkataba huu.

Kipengee cha 60

Taratibu za utatuzi wa migogoro

1. Migogoro kuhusu tafsiri au matumizi ya Mkataba huu itatatuliwa kwa mujibu wa masharti ya utatuzi wa migogoro yaliyotolewa katika Sehemu ya 15 ya Mkataba.
2. Masharti ya Sehemu ya 15 na Viambatisho 5, 6, 7 na 8 kwa Mkataba huo yatachukuliwa kuwa ya kuigwa kwa madhumuni ya utatuzi wa mizozo inayomhusisha Mhusika katika Makubaliano haya ambaye si Mshiriki wa Mkataba.
3. Utaratibu wowote unaokubaliwa na Mhusika katika Makubaliano haya ambaye pia ni Mshiriki wa Mkataba kwa mujibu wa kipengee cha 287 cha Mkataba huo utatumika kwa usuluhishi wa migogoro chini ya Sehemu hii, isipokuwa Mhusika, wakati wa kutia saini, kuridhia, kuidhinisha, kukubali au kukubaliana na Makubaliano haya, au wakati wowote baada ya hapo, amekubali utaratibu mwingine wa kipengee cha 287 cha Mkataba huu kwa utatuzi wa migogoro chini ya sehemu hii.
4. Tamko lolote lililotolewa na Mshiriki wa Makubaliano haya ambaye pia ni Mshiriki wa Mkataba kwa mujibu wa kipengee cha 298 cha Mkataba huo litatumika kwa usuluhishi wa migogoro chini ya Sehemu hii, isipokuwa kama Mhusika, wakati wa kutia saini, kuridhia, kuidhinisha, kukubali au kukubaliana na Mkataba huu, au wakati wowote baada ya hapo, atakuwa ametoa uamuzi tofauti wa tamko la ibara ya 2. chini ya Sehemu hii.
5. Kwa mujibu wa aya ya 2 hapo juu, Mhusika katika Mkataba huu ambaye si Mshiriki wa Mkataba, wakati wa kutia saini, kuridhia, kuidhinisha, kukubali au kukubaliana na Mkataba huu, au wakati wowote baada ya hapo, atakuwa huru kuchagua, kwa njia ya tamko la maandishi, lililowasilishwa kwa mweka amana, moja au zaidi ya njia zifuatazo za usuluhishi au maombi ya makubaliano haya:
 - (a) Mahakama ya Kimataifa ya Sheria ya Bahari;
 - (b) Mahakama ya Kimataifa ya Haki;
 - (c) Kiambatisho cha 7 mahakama ya usuluhishi;

(d) Kiambatisho cha 8 mahakama maalum ya usuluhishi kwa moja au zaidi ya aina ya migogoro iliyobainishwa katika Kiambatisho kilichotajwa.

6. Mshiriki wa Makubaliano haya ambaye si Mshiriki wa Mkataba ambaye hajatoa tamko atachukuliwa kuwa amekubali chaguo katika aya ya 5 (c) hapo juu. Ikiwa wahusika kwenye mzozo wamekubali utaratibu sawa wa kusuluhisha mzozo huo, unaweza kuwasilishwa kwa utaratibu huo tu, isipokuwa wahusika wakubaliane vinginevyo. Iwapo wahusika kwenye mzozo hawajakubali utaratibu sawa wa kusuluhisha mzozo huo, unaweza kuwasilishwa tu kwa usuluhishi chini ya Kiambatisho cha 7 kwa Mkataba, isipokuwa wahusika wakubaliane vinginevyo. Kipengee cha 287, aya ya 6 hadi 8, ya Mkataba itatumika kwa matamko yaliyotolewa chini ya aya ya 5 hapo juu.

7. Mhusika katika Makubaliano haya ambaye si Mshiriki wa Mkataba anaweza, wakati wa kutia saini, kuridhia, kuidhinisha, kukubali au kukubaliana na Mkataba huu, au wakati wowote baada ya hapo, bila kuathiri wajibu unaojitokeza chini ya Sehemu hii, kutangaza kwa maandishi kwamba haikubali taratibu zozote au zaidi zilizotolewa katika Sehemu ya 15 au zaidi ya masharti yaliyowekwa katika sehemu ya 2 ya Mkataba huo kwa mujibu wa kipengee cha. Kipengee cha 298 cha Mkataba kitatumika kwa tamko kama hilo.

8. Masharti ya ibara hii yatakuwa bila ya kuathiri taratibu za utatuzi wa migogoro ambayo Wahusika wamekubaliana kama washiriki katika chombo au mfumo husika wa kisheria, au kama wanachama wa chombo husika cha kimataifa, kikanda, kieneo au kisekta kuhusu tafsiri au matumizi ya hati na mifumo hiyo.

9. Hakuna chochote katika Mkataba huu kitakachotafsiriwa kama kutoa mamlaka kwa mahakama au mahakama juu ya mgogoro wowote unaohusu au unaohusisha kuzingatiwa kwa wakati mmoja kwa hali ya kisheria ya eneo kama ndani ya mamlaka ya kitaifa, au juu ya mzozo wowote unaohusu mamlaka au haki nyingine juu ya eneo la ardhi ya bara au isiyo ya kawaida au kudai kwamba hakuna chochote katika Makubaliano haya. kuweka mipaka ya mamlaka ya mahakama au mahakama chini ya Sehemu ya 15, kipengee cha 2, cha Mkataba.

10. Ili kuepuka shaka, hakuna chochote katika Makubaliano haya kitakachotegemewa kama msingi wa kudai au kukanusha madai yoyote ya mamlaka ya kikatiba, haki za kieneo au mamlaka ya kisheria juu ya ardhi au maeneo ya baharini, yakiwemo yale yanayohusiana na migogoro inayohusiana nayo.

Kipengee cha 61

Mipango ya muda

Wakati mgogoro unasubiri kutatuliwa kwa mujibu wa Sehemu hii, wahusika wa mgogoro huo watajitahidi kwa kila njia kuingia katika makubaliano ya muda ya kivitendo.

SEHEMU YA 10

WASIOSHIRIKI MAKUBALIANO HAYA

Kipengee cha 61

Wasio washiriki wa Mkataba huu

Wanachama watahimiza wasio washiriki wa Mkataba huu kuwa Washirika wa Makubaliano haya na kupitisha sheria na kanuni zinazolingana na masharti yake.

SEHEMU YA 11

NIA NJEMA NA MATUMIZI MABAYA YA HAKI

Kipengee cha 63

Nia njema na matumizi mabaya ya haki

Wanachama watatimiza kwa nia njema wajibu uliochukuliwa chini ya Makubaliano haya na kutumia haki zinazotambuliwa humo kwa namna ambayo haitajumuisha matumizi mabaya ya haki.

SEHEMU YA 12
MASHARTI YA MWISHO

Kipengee cha 64

Haki ya kupiga kura

1. Kila Mshiriki katika Makubaliano haya atakuwa na kura moja, isipokuwa kama ilivyoainishwa katika aya ya 2 hapa chini.

2. Shirika la kikanda la ushirikiano wa kiuchumi ambalo ni Mwanachama wa Makubaliano haya, katika masuala yaliyo ndani ya uwezo wake, litatekeleza haki yake ya kupiga kura kwa idadi ya kura sawa na idadi ya Nchi Wanachama wake ambazo pia ni Wanachama wa Makubaliano haya. Shirika hilo halitatekeleza haki yake ya kupiga kura iwapo nchi mwanachama wake yeyote atatekeleza haki yake ya kupiga kura, na kinyume chake.

Kipengee cha 65

Sahihi

Makubaliano haya yatakuwa wazi kwa kutiwa saini na Mataifa yote na mashirika ya kikanda ya ushirikiano wa kiuchumi kuanzia tarehe 20 Septemba 2023, na yataendelea kuwa wazi kwa kutiwa saini katika Makao Makuu ya Umoja wa Mataifa mjini New York hadi tarehe 20 Septemba 2025."

Kipengee cha 66

Kuidhinishwa, kupitishwa, kukubalika na kujiunga

Makubaliano haya yatapaswa kuridhiwa, kuidhinishwa au kukubaliwa na Mataifa na mashirika ya kikanda ya ushirikiano wa kiuchumi. Yatakuwa wazi kwa uanachama wa Mataifa na mashirika ya kikanda ya ushirikiano wa kiuchumi kuanzia siku inayofuata tarehe ambayo Makubaliano haya yamefungwa kwa ajili ya kutiwa saini. Hati za kuridhia, kuidhinisha, kukubali na kujiunga zitawekwa kwa Katibu Mkuu wa Umoja wa Mataifa."

Kipengee cha 67

Mgawo wa uwezo kati ya mashirika ya kikanda ya ushirikiano wa kiuchumi na Nchi Wanachama wao kuhusu masuala yanayosimamiwa na Makubaliano haya

1. Shirika lolote la kikanda la ushirikiano wa kiuchumi linalokuwa Mwanachama wa Makubaliano haya bila nchi yoyote mwanachama wake kuwa Mwanachama, litawajibika kwa masharti yote ya Makubaliano haya. Kwa mashirika ambayo nchi moja au zaidi wanachama wake ni Wanachama wa Makubaliano haya, shirika hilo pamoja na nchi wanachama wake wataamua kuhusu majukumu yao husika ya kutekeleza wajibu wao chini ya Makubaliano haya. Katika hali kama hiyo, shirika na nchi wanachama wake hawatakuwa na haki ya kutekeleza haki zao chini ya Makubaliano haya kwa wakati mmoja."

2. Katika hati yake ya kuridhia, kuidhinisha, kukubali au kujiunga, shirika la kikanda la ushirikiano wa kiuchumi litatamka kiwango cha uwezo wake kuhusiana na masuala yanayosimamiwa na Makubaliano haya. Shirika lolote la aina hiyo pia litamjulisha mwekaji wa hati, ambaye naye atawaarifu Wanachama, kuhusu mabadiliko yoyote yanayohusiana na kiwango cha uwezo wake."

Kipengee cha 68

Kuanzishwa kwa utekelezwaji

1. Makubaliano haya yataanza kutumika siku 120 baada ya tarehe ya kuwekwa kwa hati ya sitini ya kuridhia, kuidhinisha, kukubali au kujiunga.

1.

2. Kwa kila Jimbo au shirika la ujumuishaji wa uchumi wa kikanda ambalo linauridhia, kuidhinisha au kukubali Makubaliano haya au kukubali baada ya kuweka hati ya sitini ya uidhinishaji, idhini, kukubalika au kupitishwa, Makubaliano haya yataanza kutumika siku ya thelathini kufuatia uwekaji wa hati yake ya kuridhia, uidhinishaji, kukubalika kwa somo au kupitishwa juu ya aya ya 1.

2.

3. Kwa madhumuni ya aya ya 1 na 2 hapo juu, hati yoyote iliyowekwa na shirika la ujumuishaji wa uchumi wa eneo haitahesabiwa kuwa ya ziada kwa zile zilizowekwa na Nchi wanachama wa shirika hilo.

Kipengee cha 69

Maombi ya Muda

1. Mkataba huu unaweza kutumika kwa muda na shirika la serikali au kikanda la ushirikiano wa kiuchumi ambalo linakubali maombi yake ya muda kwa kumjulisha mtu aliyeweka amana kwa maandishi wakati wa kutia saini au kuweka hati yake ya kuridhia, idhini, kukubalika au kujiunga. Maombi hayo ya muda yataanza kutumika kuanzia tarehe ya kupokea taarifa na mtunza fedha, mwekaaji wa hati.

2. Maombi ya muda ya shirika la serikali au eneo la ushirikiano wa kiuchumi yatakoma baada ya kuanza kutumika kwa Makubaliano haya kwa shirika hilo la ujumuishaji wa uchumi wa Jimbo au kikanda au baada ya kuarifiwa na shirika hilo la serikali au kikanda la ushirikiano wa kiuchumi kwa msimamizi kwa maandishi juu ya nia yake ya kusitisha matumizi yake ya muda.

Kipengee cha 70

Kutoridhishwa na vighairi

Hakuna uhifadhi au vighairi vinavyoweza kufanywa kwa Makubaliano haya, isipokuwa ikiwa imeruhusiwa wazi na vifungu vingine vya Makubaliano haya.

Kipengee cha 71

Matamko na tarifa /matangazo na taarifa

Kipengee cha 70 hakizuii shirika la serikali au kikanda la ushirikiano wa kiuchumi, wakati wa kutia saini, kuridhia, kuidhinisha, kukubali au kukubaliana na Mkataba huu, kutoa matamko au taarifa, hata hivyo, zilizotajwa kwa lengo, pamoja na, kuainisha sheria na kanuni zake na masharti ya Mkataba huu, mradi tu kwamba tamko hilo halijumuishi au kuathiri utoaji wa taarifa ya kisheria. ya Mkataba huu katika maombi yao kwa shirika hilo la ujumuishaji wa uchumi wa Jimbo au kikanda.

Kipengee ha 72

Marekebisho

1. Mhusika anaweza, kwa mawasiliano ya maandishi yaliyotumwa kwa sekretarieti, kupendekeza marekebisho ya Mkataba huu. Sekretarieti itasambaza mawasiliano hayo kwa Vyama vyote. Iwapo, ndani ya miezi sita kuanzia tarehe ya kusambazwa kwa mawasiliano, sio chini ya nusu ya Wanachama watajibu ombi hilo vyema, marekebisho yaliyopendekezwa yatazingatiwa katika mkutano unaofuata wa Mkutano wa Wanachama.

2. Marekebisho ya Makubaliano haya yaliyopitishwa kwa mujibu wa kipengee cha 47 yatawasilishwa na mtunza amana kwa wanachama wote ili kuthibitishwa, kupitishwa au kukubalika.

3. Marekebisho ya Makubaliano haya yataanza kutumika kwa wanachama walivyoridhia, kuidhinisha au kukubalika siku ya thelathini kufuatia uwekaji wa hati za kuridhia, kuidhinishaji au kukubalika kwa theluthi mbili ya idadi ya Wanachama wa Makubaliano haya wakati wa kupitishwa kwa marekebisho. Baada ya hapo, kwa kila Mhusika kuweka hati yake ya kuridhia, kuidhinisha au kukubali marekebisho baada ya kuweka idadi inayotakiwa ya hati hizo, marekebisho hayo yataanza kutumika siku ya thelathini kufuatia kuwekwa kwa hati yake ya kuridhia, kuidhinishwa au kukubalika.

4. hiki. "Mabadiliko yanaweza kutamka, wakati wa kupitishwa kwake, kwamba idadi ndogo au kubwa ya kuridhia, kuidhinisha au kukubali itahitajika ili kuanza kutumika kuliko ilivyohitajika chini ya kipengee hiki."

5. Kwa madhumuni ya aya ya 3 na 4 hapo juu, hati yoyote iliyowekwa na shirika la ujumuishaji wa uchumi wa eneo haitahesabiwa kuwa ya ziada kwa zile zilizowekwa na Nchi wanachama wa shirika hilo.

6. Shirika la serikali au kikanda la ushirikiano wa kiuchumi ambalo linakuwa Mshirika wa Makubaliano haya baada ya kuanza kutumika kwa marekebisho kwa mujibu wa aya ya 3 hapo juu, litashindwa kueleza nia tofauti na Jimbo hilo au shirika la ujumuishaji wa uchumi wa kikanda:

(a) Atachukuliwa kama Mshiriki wa Makubaliano haya kama yalivyorekebishwa;

(b) Atachukuliwa kuwa Mshiriki wa Makubaliano ambayo hayajarekebishwa kuhusiana na Upande wowote ambao hauhusiki na marekebisho hayo.

Article 73 Kipengee 73

Denunciation Kukashifu

1. Mwanachama anaweza, kwa taarifa iliyoandikwa kwa Katibu Mkuu wa Umoja wa Mataifa, kushutumu Mkataba huu na anaweza kuonyesha sababu zake. Kukosa kuonyesha sababu hakutaathiri uhalali wa shutuma. Kashfa itaanza kutumika mwaka mmoja baada ya tarehe ya kupokea arifa, isipokuwa kama arifa itabainisha tarehe ya baadaye.

2. Kashfa hiyo haitaathiri kwa njia yoyote wajibu wa Mhusika yeyote kutimiza wajibu wowote uliomo katika Makubaliano haya ambayo itakuwa chini yake chini ya sheria ya kimataifa bila ya Makubaliano haya.

Kipengee cha 74

Viambatisho

1. Viambatisho ni sehemu muhimu ya Makubaliano haya na, isipokuwa itamkwe vinginevyo waziwazi, rejeleo kwa Makubaliano haya au kwa sehemu mojawapo yake litajumuisha pia rejeleo kwa viambatisho vinavyohusiana nayo."

2. Masharti ya kipengee chaa 72 yanayohusiana na marekebisho ya Mkataba huu pia yatumika kwa pendekezo, kupitishwa na kuanza kutumika kwa kiambatisho kipya cha Mkataba.

3. Mhusika yeyote anaweza kupendekeza marekebisho ya kiambatanisho chochote cha Makubaliano haya ili kuzingatiwa katika mkutano unaofuata wa Mkutano wa Wanachama. Viambatisho vinaweza kurekebisha na Mkutano wa Wanachama. Bila kujali masharti ya ibara ya 72, masharti yafuatayo yatumika kuhusiana na marekebisho ya viambatanisho vya Mkataba huu:

(a) Nakala ya marekebisho yanayopendekezwa yatawasilishwa kwa sekretarieti angalau siku 150 kabla ya mkutano. Sekretarieti, baada ya kupokea maandishi ya marekebisho yaliyopendekezwa, itawasilisha kwa Wanachama. Sekretarieti itashauriana na vyombo tanzu vinavyohusika, kama inavyotakiwa, na itawasilisha majibu yoyote kwa wanachama wote siku 30 kabla ya mkutano;

a. Utoaji wa ufadhili wa masomo au ruzuku nyingine kwa wawakilishi wa Nchi Wanachama wa Visiwa vidogo vinavyoendelea katika warsha, programu za mafunzo au programu nyingine husika ili kuendeleza uwezo wao mahususi;

b. Utoaji wa utaalamu na rasilimali za kifedha na kiufundi, hasa kwa Nchi zinazoendelea za visiwa vidogo, kuhusu tathmini za athari za mazingira;

a.

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

(v) Kuanzishwa kwa utaratibu wa mtandao kati ya wafanyikazi.

(d) Kukuza na kushiriki miongozo, miongozo na viwango, ikijumuisha:

(i) Vigezo na nyenzo za kumbukumbu;

(ii) Viwango na sheria za teknolojia;

(iii) Hazina ya miongozo na taarifa muhimu ili kubadilishana maarifa na uwezo wa jinsi ya kufanya tathmini za athari za mazingira, mafunzo tuliyojifunza na mbinu bora;

(e) Maendeleo ya programu za kiufundi, kisayansi na utafiti na maendeleo, ikijumuisha shughuli za utafiti wa kibayoteknolojia.



THE REPUBLIC OF KENYA

LAWS OF KENYA

THE TREATY-MAKING AND RATIFICATION ACT

CAP. 4D

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Treaty-Making and Ratification Act Cap. 4D

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Treaty-Making and Ratification Act (Cap. 4D)

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TREATY-MAKING AND RATIFICATION ACT

CAP. 4D

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[Revised by 24th Annual Supplement (Legal Notice 221 of 2025) on 31 December 2022]

An Act of Parliament to give effect to the provisions of Article 2(6) of the Constitution and to provide the procedure for the making and ratification of treaties and connected purposes

Part I – PRELIMINARY

1. Short title

This Act may be cited as the Treaty-Making and Ratification Act.

2. Interpretation

(1) In this Act, unless the context otherwise requires—

“bilateral treaty” means an agreement concluded between Kenya and any other State or between Kenya and an international organisation;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to foreign affairs.

“full powers” means all those powers conferred, by way of a legal document, to a person or persons designated by a competent state authority, to represent the State for negotiating, adopting, or authenticating the text of a treaty, for expressing the consent of the State to be bound by a treaty, or for accomplishing any other act with respect of a treaty;

“international organisation” means an intergovernmental organization;

“ratification” means the international act by which the State signifies its consent to be bound by a treaty and includes acceptance, approval and accession where the treaty so provides;

“Registrar” means the Registrar of Treaties appointed under section 14;

“Registry” means the Registry of Treaties established by section 10;

“relevant Cabinet Secretary” means the Cabinet Secretary for the time being responsible the subject matter of the treaty;

“relevant state department” means the state department responsible for the subject matter of the treaty to be approved for ratification;

“reservation” means a unilateral statement made by a State when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to the State;

“signature” means an act whereby the State expresses its willingness to consent to the text of a treaty and has the effect of obligating the said State, even though it may not be a party to the treaty, to refrain, in good faith, from acts that would defeat the object and purpose of the treaty;

"treaty" means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation and includes a convention.

- (2) Despite subsection (1), until after the first elections under the Constitution, references in this Act to the expression "Cabinet Secretary" and "State Department" shall be construed to mean "Minister" and "Ministry" respectively.

[Act No. 18 of 2014, Sch.]

3. Application

- (1) This Act applies to treaties which are concluded by Kenya after the commencement of this Act.
- (2) This Act shall apply to—
- (a) multilateral treaties;
 - (b) bilateral treaties which deal with—
 - (i) the security of Kenya, its sovereignty, independence, unity or territorial integrity;
 - (ii) the rights and duties of citizens of Kenya;
 - (iii) the status of Kenya under international law and the maintenance or support of such status;
 - (iv) the relationship between Kenya and any international organisation or similar body; and
 - (v) the environment and natural resources.
- (3) A treaty relating to the adjustment, alteration or variation of the present position of Kenya on matters of sovereignty, independence and territorial integrity shall be approved in a referendum in accordance with Article 255 of the Constitution:

Provided that the process of ensuring that the boundaries are correctly marked on the ground in accordance with the instruments establishing them shall not be deemed to amount to adjustment, variation or alteration under this section.

- (4) Notwithstanding subsection (2)(b), the Government may enter into bilateral agreements—
- (a) necessary for matters relating to government business; or
 - (b) relating to technical, administrative or executive matters.

[Act No. 18 of 2018, Sch.]

Part II – INITIATION AND NEGOTIATION OF TREATIES

4. General responsibility for treaty initiation

- (1) Subject to the provisions of this Act, the national executive shall be responsible for initiating the treaty-making process, negotiating and ratifying treaties.
- (2) The responsibility provided for in subsection (1) may be delegated to a relevant State department.

5. Initiation of treaty-making process

- (1) Subject to the provisions of this section, the relevant national executive or the relevant State department shall initiate the treaty-making process in such manner as may be prescribed by the Cabinet Secretary.

- (2) When deciding whether to initiate the treaty-making process or not, the national executive or the relevant State department shall consider the following—
 - (a) the need that the new treaty is to meet;
 - (b) the existing legal regime, including the extent of its applicability to the perceived problem;
 - (c) the probability of reaching the required measure of agreement on the solution aimed for;
 - (d) any relevant legislative efforts related to the perceived problem;
 - (e) the optimal form for the proposed treaty;
 - (f) the likelihood that the proposed treaty shall be accepted by a sufficient number of states, where the treaty is multilateral;
 - (g) the anticipated time schedule for completing the treaty-making process;
 - (h) the expected costs of formulating and adopting the treaty to Kenya;
 - (i) in formulating treaties relating to technical or scientific problems; whether extensive scientific studies or research have been carried out to determine the parameters of the problem and the lines of potential solutions.
- (3) The national executive or the relevant State department shall record whether the conditions in subsection (2) are met, and shall present a proposal to commence treaty-making for approval by the Cabinet.
- (4) The Cabinet shall consider and approve or disapprove a proposal for treaty-making presented in accordance with subsection (3) within a reasonable time.

6. Values and principles in negotiating treaties

- (1) In negotiating treaties, the national executive or the relevant State department shall be bound by the values and principles of the Constitution; and shall take into account the regulatory impact of any proposed treaty.
- (2) When appointing persons to negotiate a treaty, the national executive or the relevant State department shall appoint persons who are competent to undertake such negotiations in the interest of the people of Kenya.

Part III – RATIFICATION OF TREATIES

7. Approval by Cabinet

Where the Government intends to ratify a treaty, the Cabinet Secretary of the relevant State department shall, in consultation with the Attorney-General, submit to the Cabinet the treaty, together with a memorandum outlining—

- (a) the objects and subject matter of the treaty;
- (b) any constitutional implications including—
 - (i) any proposed amendment to the Constitution; and
 - (ii) that the treaty is consistent with the Constitution and promotes constitutional values and objectives;
- (c) the national interests which may be affected by the ratification of the treaty;
- (d) obligations imposed on Kenya by the treaty;
- (e) requirements for implementation of the treaty;

- (f) policy and legislative considerations;
- (g) financial implications;
- (h) ministerial responsibility;
- (i) implications on matters relating to counties;
- (j) the summary of the process leading to the adoption of the treaty;
- (k) the date of signature;
- (l) the number of states that are party to the treaty;
- (m) the views of the public on the ratification of the treaty;
- (n) whether the treaty sought to be ratified permits reservations and any recommendations on reservations and declarations;
- (o) the proposed text of any reservations that should be entered when ratifying the treaty in order to protect or advance national interests or ensure conformity with the Constitution; and
- (p) whether expenditure of public funds will be incurred in implementing the treaty and an estimate, where possible, of the expenditure.

8. Consideration by Parliament

- (1) Where the Cabinet approves the ratification of a treaty, the Cabinet Secretary shall submit the treaty and a memorandum on the treaty to the Speaker of National Assembly.
- (2) *Deleted by Act No. 18 of 2014, Sch.*
- (3) The relevant parliamentary committee shall, during its consideration of the Treaty, ensure public participation in the ratification process in accordance with laid down parliamentary procedures.
- (4) The National Assembly may approve the ratification of a treaty with or without reservations to specific provisions of the treaty.
- (5) A proposed reservation shall be introduced as a provision into the treaty in accordance with the procedure set out in the Standing Orders.
- (6) *Deleted by Act No. 18 of 2014, Sch.*
- (7) Where the National Assembly refuses to approve the ratification of a treaty, the Clerk of the National Assembly shall submit the resolution of the House to the relevant Cabinet Secretary within fourteen days of the resolution.
- (8) *Deleted by Act No. 18 of 2014, Sch.*
- (9) The National Assembly shall not approve the ratification of a treaty or part of it if its provisions are contrary to Constitution, nor shall the House approve a reservation to a treaty or part of it if that reservation negates any of the provisions of the Constitution even if the reservation is permitted under the relevant treaty.

[Act No. 18 of 2014, Sch.]

9. Approval for ratification

- (1) Where the ratification of a treaty referred to in section 7 is approved by National Assembly without any reservations to the treaty, the relevant Cabinet Secretary shall, within thirty days from the date of the approval of the ratification of treaty request the Cabinet Secretary to prepare the instrument of ratification of the treaty.

- (2) Where a treaty referred to in section 7 is approved for ratification with reservations to some provisions of the treaty, the treaty shall be ratified with those reservations to the corresponding article in the treaty.
- (3) Where the National Assembly refuses to approve the ratification of the treaty referred to in section 7, the Government shall not ratify the treaty.

[Act No. 18 of 2014, Sch.]

10. Ratification of Treaty

- (1) All instruments of ratification of a treaty shall be signed, sealed and deposited by the Cabinet Secretary at the requisite international body and a copy thereof shall be filed with the Registrar.
- (2) Where a treaty ratified under this Act is subsequently amended or modified, the amendment or modification shall be ratified only after compliance with the procedure set out in this Part.
- (3) The provisions of subsection (2) shall apply similarly to protocols signed under a treaty.

11. Granting of full powers

The Cabinet Secretary may grant full powers to such persons as may be appropriate for the purposes of ratification of any treaty in accordance with this Act.

12. Offence to ratify without approval

- (1) A person shall not ratify any treaty on behalf of the Government of Kenya unless the treaty has been considered and approved by the Cabinet and Parliament in accordance with this Part.
- (2) A person who contravenes subsection (1) commits an offence and shall be liable to imprisonment for a term not exceeding fifteen years or to a fine not exceeding twenty million shillings or to both such fine or imprisonment.

Part IV – REGISTRY OF TREATIES

13. Registry of Treaties

- (1) There shall be a Registry of Treaties which shall be a department within the State Department responsible for matters relating to foreign affairs.
- (2) The Registry shall—
 - (a) be the depository of all treaties to which Kenya is a party;
 - (b) contain a record of all treaties in such manner as may be prescribed;
 - (c) contain the status of all treaties pending ratification or domestication and the timelines for such ratification or domestication;
 - (d) perform such other function as may be assigned to it by the Cabinet Secretary.

[Act No. 18 of 2014, Sch.]

14. Registrar

- (1) The Registry shall be headed by the Registrar of Treaties who shall be appointed by the Cabinet Secretary through an open and competitive process, with the approval of the Public Service Commission.
- (2) The office of the Registrar shall be an office in the public service.

- (3) A person shall be qualified to be appointed as Registrar if such person has—
- (a) at least a degree in law from a university recognised in Kenya; and
 - (b) at least seven years experience in the practice of law or international relations;
- (4) The Registrar shall—
- (a) maintain a record of—
 - (i) the treaties to which Kenya is a signatory;
 - (ii) the treaties proposed for ratification by Kenya;
 - (iii) the treaties that Kenya has ratified;
 - (iv) Kenya's reports to any treaty body;
 - (v) the recommendations and concluding observations from any treaty body on Kenya's reports;
 - (b) monitor the implementation of the treaties ratified by Kenya;
 - (c) inform lead State departments to observe and uphold the obligations of the respective lead state department under the respective treaties;
 - (d) advise any citizen of Kenya on the rights and obligations of Kenya under a treaty;
 - (e) maintain a website of the treaties to which Kenya is a signatory;
 - (f) keep copies of the published reports of proceedings of the negotiations that led to the adoption of the treaties ratified by Kenya;
 - (g) facilitate public access to treaties which Kenya has ratified;
 - (h) respond to public inquiries on any treaty ratified by Kenya; and
 - (i) perform such other functions as may be prescribed by the Cabinet Secretary.

Part V – GENERAL PROVISIONS

15. Public awareness

- (1) The Cabinet Secretary shall cause to be laid before the National Assembly, at least once every financial year, a report containing records of all treaties which Kenya has ratified and which may in any way bind Kenya to specific actions.
- (2) The Cabinet Secretary shall, through publication in at least two newspapers of nationwide circulation, notify the public of every treaty, which may in any way bind, or to which Kenya is a party.
- (3) The relevant state department in respect of each treaty shall take measures to inform and create awareness to the public about the effects and benefits of the treaty.

16. Reporting in compliance with terms of treaties

Where a treaty provides for the submission of periodic reports as part of its monitoring mechanisms the Cabinet Secretary shall, in conjunction with the Attorney-General and the relevant state department facilitate the preparation and submission of such report within the prescribed period.

17. Denunciation of certain treaties

- (1) Where Kenya wishes withdraw from a treaty, the relevant Cabinet Secretary shall prepare a cabinet memorandum indicating the reasons for such an intention.
- (2) The provisions of [section 4](#), [section 5](#) and [section 6](#) shall apply with necessary modifications, to withdrawal from a treaty.

18. Rules

- (1) The Cabinet Secretary may make Rules for giving effect to this Act.
- (2) Without limiting the generality of subsection (1) the Cabinet Secretary may make Rules—
 - (a) prescribing anything that needs to be prescribed under this Act;
 - (b) for the granting of full powers in other areas in addition to the one specified under [section 8](#);
 - (c) providing for the administrative steps to be taken prior to the preparation of the cabinet memorandum for cabinet approval of a treaty under this Act;
 - (d) the dissemination of information under this Act.



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**MINISTRY OF MINING, BLUE ECONOMY AND MARITIME
AFFAIRS**
**STATE DEPARTMENT FOR THE BLUE ECONOMY AND
FISHERIES**

**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)**

The Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs is in the process of tabling 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).

In compliance with the provisions of the Treaty Making and Ratification Act Cap 4D, the Ministry announces to the public the availability of the said Agreement.

The main objective of the Agreement is expressly provided for in Article 2 of the Agreement which is to -

- i. To ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term through effective implementation of the relevant provisions of the convention and further international cooperation and coordination.*

The Constitution of Kenya, 2010 and the Treaty Making and Ratification Act Cap 4D requires the public to participate in the decision-making process through the submission of comments to the Ministry. It is in this spirit that the Ministry requests the public to participate by submitting their comments through the provided address.

All interested persons should submit written comments on the Agreement using the prescribed feedback forms for public comments, to reach the undersigned **not later than seven (7) days** from the date of publication of this notice.

To facilitate discussions and enable stakeholder feedback the documents are available and can be accessed through the Ministry website:
<https://www.mibema.go.ke/node/107>

- (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 (BBNJ Agreement); and**
- (2) Public comments/feedback Form.**

There will be a public forum for validation of comments on a date to be communicated to discuss the Agreement.

Duly filled comments/feedback forms should be submitted online through email: ps@blueeconomy.go.ke and copied to bbnjagreement@blueeconomy.go.ke

Comments may also be submitted back via the following address:

**The Principal Secretary,
State Department for the Blue Economy and Fisheries
SHA Building Ragati Road
P.O. Box 58187-00200
Nairobi.**

Public Participation Questionnaire on the Ratification of the BBNJ Agreement

In line with Articles 10, 118, and 201 of the Constitution of Kenya, this questionnaire is designed to facilitate public participation on the proposed ratification of the Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement). Your views will inform Kenya's position and readiness to ratify and implement the Agreement.

General Understanding and Awareness

1. Are you aware of the BBNJ Agreement and its objectives to conserve and sustainably use marine biodiversity in areas beyond national jurisdiction?
2. Do you know what are the marine genetic resources?
3. Do you know the beneficial uses of the marine genetic resources and instances where they have been commercialized?
4. Do you believe Kenya should participate in international efforts to protect marine biodiversity in areas beyond our national waters?

National Interests and Benefits

5. What opportunities do you see for Kenya from participating in the BBNJ Agreement (e.g., access to marine genetic resources, scientific collaboration, funding)?
6. How do you think the Agreement could affect Kenya's:
 - Marine research institutions?
 - Coastal communities and fisheries?
 - Private sector and biotech industries?
7. What indigenous rights relating to the ocean would wish to see preserved?

Institutional and Legal Preparedness

8. What should Kenya put in place to ensure it benefits from the BBNJ Agreement (e.g., laws, scientific infrastructure, training)?
9. Are there specific institutions (public, academic, civil society) you believe should be involved in implementing Kenya's obligations under the Agreement?

Equity and Capacity Building

10. Do you support Kenya advocating for access to financial and technical assistance under the BBNJ, especially for developing countries?

11. How can the government ensure inclusive participation of youth, women, and marginalized groups in activities linked to marine biodiversity conservation and use?
12. Would you support the establishment of a national multi-stakeholder committee to coordinate implementation and provide periodic updates?

Ratification Considerations

13. Do you support the ratification of the BBNJ Agreement by Kenya? Why or why not?
14. What concerns, if any, do you have about Kenya ratifying this international treaty?



MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS
STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES

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)
REQUEST FOR COMMENTS ON THE DRAFT

The Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs is in the process of tabling 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).

In compliance with the provisions of the Treaty Making and Ratification Act Cap 4D, the Ministry announces to the public the availability of the said Agreement.

The main objective of the Agreement is expressly provided for in Article 2 of the Agreement which is to -

- i. To ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term through effective implementation of the relevant provisions of the convention and further international cooperation and coordination.

The Constitution of Kenya, 2010 and the Treaty Making and Ratification Act Cap 4D requires the public to participate in the decision-making process through the submission of comments to the Ministry. It is in this spirit that the Ministry requests the public to participate by submitting their comments through the provided address.

All interested persons should submit written comments on the Agreement using the prescribed feedback form, public comments, to reach the undersigned **not later than seven (7) days** from the date of publication of this notice.

To facilitate discussions and enable stakeholder feedback the documents are available and can be accessed through the Ministry website: <https://www.mibema.go.ke/node/107>

- 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 (BBNJ Agreement); and
- 2) Public comments/feedback Form.

There will be a public forum for validation of comments on a date to be communicated to discuss the Agreement.

Duly filled comments/feedback forms should be submitted online through email: is@blueeconomy.go.ke and copied to bbnjagreement@blueeconomy.go.ke

The last date to receive comments will be on the **27th May, 2025**.

Comments may also be submitted back via the following address:

The Principal Secretary,
State Department for the Blue Economy and Fisheries
HA Building, 14th Floor, Ragati Road
P.O. Box 58187-00200
Nairobi.



REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYERI

P.O. BOX 1112-10100 NYERI | Email: nyericyountytreasury@gmail.com
DEPARTMENT OF FINANCE, ACCOUNTING, ECONOMIC PLANNING AND ICT

TENDER NOTICE

Bids are invited from eligible and qualified firms for the undermentioned works, and supply of goods.

NO.	DEPARTMENT	TENDER REFERENCE NUMBER	TENDER DESCRIPTION	NEGOTIATION NUMBER	BID BOND (KSHS)	ELIGIBILITY
1	NYERI MUNICIPALITY	CGN/MON/30/2024-2025	PROPOSED UPGRADING OF KIRICHI SHOPPING CENTRE ROAD TO BITUMEN STANDARD	1866900	200,000	OPEN
2	NYERI MUNICIPALITY	CGN/MON/31/2024-2025	PROPOSED UPGRADING OF KANGEMI-SEWAGE ROAD TO BITUMEN STANDARD	1866902	240,000	OPEN
3	AGRICULTURE	CGN/ALAD/32/2024-2025	SUPPLY AND DELIVERY OF ASSORTED AGRICULTURAL MATERIALS AND SMALL FARM EQUIPMENT FOR MWEIGA, GATITU, MURUGURU AND DEKAN KIMATHI WARDS	1866968	120,000	OPEN
4	AGRICULTURE	CGN/ALAD/33/2024-2025	SUPPLY AND DELIVERY OF ASSORTED STARTER RAW MATERIALS FOR LIVESTOCK FEED PRODUCTION FOR ISLAND DAIRY FARMERS COOPERATIVE SOCIETY (FCS), MWEIGA, KIRIMUKUYU AND GATARAKWA WARDS	1866969	151,000	OPEN

Interested bidders must meet all the conditions as indicated in the tender document and can view and download the documents in the County Government of Nyeri website - www.nyeri.go.ke free of charge or through the IFMIS tender portal www.supplier.treasury.go.ke using the unique IFMIS negotiation number given above or PPIP Portal: www.tenders.go.ke.

NB: There will be mandatory pre-tender site visit for tender no. CGN/MON/30/2024-2025-Proposed Upgrading of Kirichi Shopping Centre Road to Bitumen Standard and CGN/MON/31/2024-2025-Proposed Upgrading of Kangemi-Sewage Road to Bitumen Standard on 19th May 2025 at 10:00 am. Bidders to assemble at the Municipal Yard Offices for further direction.

Completed tender documents to be submitted through the IFMIS supplier portal and bidders must submit hard copies of their completed tender document in a plain sealed envelope clearly marked the tender number, tender name and bearing no indication of the tenderer and address it to

THE COUNTY SECRETARY,
COUNTY GOVERNMENT OF NYERI,
P. O BOX 1112 – 10100
NYERI

The bid documents should be placed in the Tender Box located at the Nyeri County Government Headquarters (Town Hall), Nyeri town or sent by post to reach the above address not later than **23rd May, 2025 at 11:00am**.

Tenders will be opened immediately after the above closing time in the presence of bidders or their representatives who choose to attend. Late bids will not be accepted.

County Secretary
County Government of Nyeri



REPUBLIC OF KENYA
THE COUNTY ASSEMBLY OF NYERI

P.O. BOX 162-10100, NYERI,
info@nyeriassembly.go.ke | Tel: +061 2037100



OFFICE OF THE CLERK

PUBLIC PARTICIPATION FORUM ON THE NYERI COUNTY ANNUAL BUDGET ESTIMATES FOR THE FY 2025/26

Pursuant to Article 10(2), Article 196(1) (b), Article 201 (a), 232(1) (d) and (f) of the Constitution of Kenya, Section 131 of the Public Finance Management Act, 2012, Section 87 of the County Governments Act, 2012 and Standing Order 216 of the County Assembly of Nyeri Standing orders, the County Assembly Budget and Appropriations Committee hereby invites the Members of the public, private sector organizations, interested parties and all stakeholders to submit any representations that they may have on the Nyeri County Annual Budget Estimates for the FY 2025/26. The representations may be made orally or by written memorandum in the following manner: -

The representations may be made orally or by written memorandum in the following manner: -

- i. The Written memoranda may be emailed to the Office of the Clerk, County Assembly of Nyeri on the address - info@nyeriassembly.go.ke or hand delivered to the Office of the Clerk, County Assembly Building, Ruring'u, P.O. Box 162-10100, Nyeri to be received on or before Friday, **30th May, 2025**.
- ii. Public participation forums shall be held on the dates and time indicated below:

Sub-County	Venue	Date	Time
Kieni East Sub-County	Naromoru PCEA Hall	Monday, 26 th May, 2025	9:00 - 11:00 a.m.
Mathira West Sub-County	Kiriko PCEA Hall	Monday, 26 th May, 2025	9:00 - 11:00 a.m.
Kieni West Sub-County	Mweiga CDF Hall	Monday, 26 th May, 2025	2:00 - 4:00 p.m.
Mathira East Sub-County	Karatina Town Hall	Monday, 26 th May, 2025	2:00 - 4:00 p.m.
Othaya Sub-County	Othaya CDF Hall	Tuesday, 27 th May, 2025	9:00 - 11:00 a.m.
Mukurwe-ini Sub-County	Muhito PCEA Hall	Tuesday, 27 th May, 2025	9:00 - 11:00 a.m.
Tetu Sub-County	Wamagana Catholic Hall	Tuesday, 27 th May, 2025	2:00 - 4:00 p.m.
Nyeri Central Sub-County	Culture Hall	Tuesday, 27 th May, 2025	2:00 - 4:00 p.m.

The Nyeri County Annual Budget Estimates for the FY 2025/26 can be obtained from the County Assembly of Nyeri website <https://www.nyeriassembly.go.ke/budget-documents/>

Clerk,
County Assembly of Nyeri

LAMU COUNTY GOVERNMENT
COUNTY PUBLIC SERVICE BOARD

JOB VACANCY

The County Government of Lamu, invites applications from qualified and competent persons for the following position:

DEPARTMENT OF ROADS AND STRUCTURAL, TRANSPORT, PLANNING, WORKS AND INFRASTRUCTURE, NATURAL RESOURCES, ENVIRONMENT, PHYSICAL PLANNING AND URBAN DEVELOPMENT

1. CHIEF SUPERINTENDING QUANTITY SURVEYOR	TWO (2) YEARS CONTRACT	CPSB 05	2 POSTS
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IMPORTANT NOTE
Those with academic qualifications from foreign Universities should attach proof of accreditation from the Commission for University Education. Shortlisted candidates will be required to produce the original National Identity Card, Academic and Valid Professional Certificates and other relevant supporting documents. Any form of canvassing will lead to automatic disqualification. Youth, Women and persons with special needs are encouraged to apply.

HOW TO APPLY
Written applications, together with the required documents for the above position will be addressed to:

The Secretary,
Lamu County Public Service Board,
P.O. BOX 536-80500,
Lamu.

Applications should be received on or before **27th May, 2025** via postal service or hand-delivery.

Details of the job descriptions and requirements for appointment can be accessed on the County website: www.lamu.go.ke; www.lamu-cpsb.org

Customer Care Desk

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Nation Media Group
Made in Africa for Africa

MAY 12, 2025

NEWS FOCUS 15

Africa's Great Lakes Region rallies for modern hydrographic transformation

By HANNA TAMBUKOCI

Six hydrographic survey vessels from the Great Lakes region have gathered for the annual hydrographic transformation of the Great Lakes region. The meeting, held in Kampala, Uganda, was a continuation of the hydrographic survey work initiated in 2019. The meeting was organized by the International Hydrographic Association (IHO) in partnership with the East African Hydrographic Association (EAHA).

The meeting was held from May 12-14, 2025, at the Sheraton Hotel in Kampala. It was attended by representatives from the hydrographic services of the East African states: Kenya, Uganda, Tanzania, Rwanda, and Burundi. The meeting was organized by the East African Hydrographic Association (EAHA) in partnership with the International Hydrographic Association (IHO).

The meeting was held from May 12-14, 2025, at the Sheraton Hotel in Kampala. It was attended by representatives from the hydrographic services of the East African states: Kenya, Uganda, Tanzania, Rwanda, and Burundi. The meeting was organized by the East African Hydrographic Association (EAHA) in partnership with the International Hydrographic Association (IHO).



Kenya Civil Aviation Authority
Public Meeting

The Kenya Civil Aviation Authority (KCAA) invites interested parties to attend a public meeting on the proposed amendments to the Kenya Civil Aviation Regulations (KCAR) regarding the issuance of Licenses to Operate (LO) for aircraft operators. The meeting will be held on Monday, 23rd May 2025, at 10:00 AM at the KCAA Conference Room, 1st Floor, KCAA Building, Nairobi.

Emilia N. Arua
DIRECTOR GENERAL



MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS
STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES

NATIONAL AQUACULTURE POLICY 2025

The Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs is in the process of reviewing the National Aquaculture Policy 2025.

In compliance with the provisions of the Fisheries Management and Development Act, the Cabinet Secretary is publishing the draft National Aquaculture Policy 2025 for public comment.

The main objectives of the Proposed Draft Policy are to:

1. Promote aquaculture production and productivity in the catching sector;
2. Promote aquaculture research, innovation and technology adoption;
3. Promote aquaculture extension services and technology adoption;
4. Promote aquaculture and financing in aquaculture;
5. Promote aquaculture and research, development and innovation;
6. Develop an aquaculture information management, data and communication system;
7. Enhance climate change adaptation and mitigation in aquaculture;
8. Promote aquaculture and environmental sustainability;
9. Promote aquaculture and gender equality.

The Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs Act Cap 424 requires the public to participate in the decision-making process through the submission of comments to the Ministry in the form of a public comment form. The public comment form is available and can be accessed through the Ministry website: <https://www.mma.go.ke>

All interested persons should submit written comments on the Proposed Draft National Aquaculture Policy 2025, using the provided public comment form, to the undersigned not later than 14 days from the date of publication of the notice.

To facilitate discussions and ensure stakeholder feedback the documents are available and can be accessed through the Ministry website: <https://www.mma.go.ke>

The Proposed Draft National Aquaculture Policy 2025
Public comments/feedback form

There will be a public forum for submission of comments on a date to be communicated to the public through the National Aquaculture Policy 2025.

July 2025 comments/feedback forms should be submitted online through email: publiccomments@mma.go.ke. Written Comments may also be submitted back via the following address:

The Principal Secretary
State Department for the Blue Economy and Fisheries
10th Building Regent Road
P.O. Box 10107-00100
Nairobi



MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS
STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES

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)

The Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs is in the process of ratifying 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).

In compliance with the provisions of the Trade, Mining and Rehabilitation Act Cap 424, the Cabinet Secretary is publishing the BBNJ Agreement for public comment.

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

The Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs Act Cap 424 requires the public to participate in the decision-making process through the submission of comments to the Ministry. It is the duty of the Ministry to ensure that the public has the opportunity to participate in the decision-making process through the submission of comments to the Ministry in the form of a public comment form. The public comment form is available and can be accessed through the Ministry website: <https://www.mma.go.ke>

All interested persons should submit written comments on the Agreement using the provided public comment form, to the undersigned not later than 14 days from the date of publication of the notice.

To facilitate discussions and ensure stakeholder feedback the documents are available and can be accessed through the Ministry website: <https://www.mma.go.ke>

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
Public comments/feedback form

There will be a public forum for submission of comments on a date to be communicated to the public through the BBNJ Agreement.

July 2025 comments/feedback forms should be submitted online through email: publiccomments@mma.go.ke. Written Comments may also be submitted back via the following address:

The Principal Secretary
State Department for the Blue Economy and Fisheries
10th Building Regent Road
P.O. Box 10107-00100
Nairobi

6 NEWS FOCUS

MAY 12, 2025

Government enhances efforts to accelerate



Edit Annotate Fill & Sign Convert All



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REPUBLIC OF KENYA
MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS
STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES
Office of the Principal Secretary

Email: ps@blueeconomy.go.ke
Telephone: +254 (20) 2718870

When replying please quote:

SHA Building
Ragati Road
P.O. Box 58187-00200
Nairobi

MMBE& MA/SDBE& F/ LEG/VOL.1 (7)

14th May, 2025

Dr. Idris Salim Dokota, PhD, CBS
Principal Secretary
State Department for Cabinet Affairs
Office of the Deputy President
Harambee House Annex
NAIROBI

Mr. Michael Lenasalon
Principal Secretary
State Department for Devolution
Office of the Deputy President
Harambee House Annex
NAIROBI

Mr. Ahmed A. Ibrahim
Principal Secretary
State Department for National
Government Coordination
Office of the Prime Cabinet Secretary
NAIROBI

CPA Dr. Aurelia C. Rono, CBS
Principal Secretary
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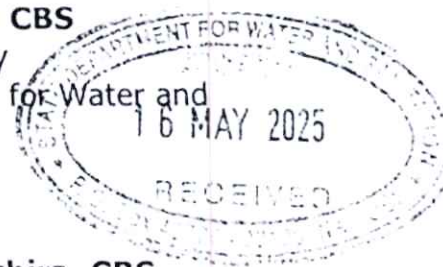
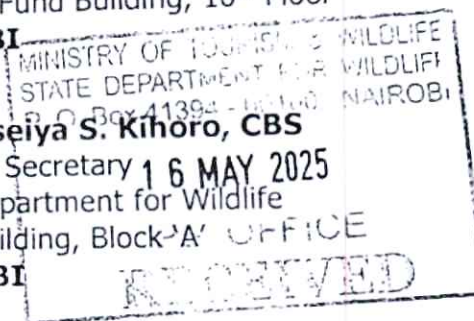
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Rights & constitutional Affairs
Office of the Attorney General & State
Department for Justice
Sheria House
NAIROBI

Hon. Shadrack J. Mose, CBS
The Solicitor General
State Law Office
Sheria House
NAIROBI

Dear

REQUEST FOR COMMENTS ON THE BBNJ AGREEMENT, THE DRAFT NATIONAL AQUACULTURE POLICY AND THE MONITORING CONTROL AND SURVEILLANCE REGULATIONS, 2025.

The Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs is in the process of tabling before the National Assembly Committee on the Blue Economy, Water and Irrigation, 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)**.

In compliance with the provisions of the Treaty Making and Ratification Act (Cap 4D), the Ministry announces the availability of the said Agreement.

The main objective of the Agreement is expressly provided for in Article 2 of the Agreement which is -

- i. To ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term through effective implementation of the relevant provisions of the convention and further international cooperation and coordination.*

The Constitution of Kenya, 2010 and the Treaty Making and Ratification Act (Cap 4D) requires the public to participate in the decision-making process through the submission of comments to the Ministry. It is in this spirit that the State Department requests your respective offices to participate by submitting their comments through the provided address.

To facilitate discussions and enable stakeholder feedback the documents are available and can be accessed through the Ministry website: **<https://www.mibema.go.ke/node/107>**

(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 (BBNJ Agreement); and

(2) Public comments/feedback Form.

Duly filled comments/feedback forms should be submitted online through email: **ps@blueeconomy.go.ke** and copied to **bbnjagreement@blueeconomy.go.ke**

Similarly, in compliance with the provisions of the Fisheries Management and Development Act, the Statutory Instruments Act (Cap 2A), the Ministry announces the availability of the **Draft National Aquaculture Policy 2025**.

The main objectives of the Proposed Draft Policy are: -

- i. *To upscale aquaculture production and productivity in the culturing systems.*
- ii. *To promote aquaculture value addition, marketing and trade.*
- iii. *To improve aquaculture extension services and technology adoption*
- iv. *To promote investment and financing in aquaculture*
- v. *To promote aquaculture research, development and innovations*
- vi. *To develop an aquaculture information management, data and communication system*
- vii. *To enhance climate change adaptation and mitigate environmental degradation.*
- viii. *To promote social inclusivity in aquaculture.*

The Constitution of Kenya, 2010 and the Statutory Instruments Act, Cap 2A requires the public to participate in the decision-making process through the submission of comments to the Ministry. It is in this spirit that the Ministry requests your respective offices to participate by submitting your comments through the provided address.

To facilitate discussions and enable stakeholder feedback the documents are available and can be accessed through the Ministry website:
<https://www.mibema.go.ke/node/107>

- 1) The Proposed Draft National Aquaculture Policy 2025
- 2) Public comments/feedback Form.

Duly filled comments/feedback forms should be submitted online through email:
fibes@blueeconomy.go.ke

Finally, the Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs intends to publish in the Gazette the **Proposed Draft Monitoring, Control and Surveillance Regulations 2025** as provided for under section 20, 21 and 208 of the Fisheries Management and Development Act.

In compliance with the provisions of the Fisheries Management and Development Act and the Statutory Instruments Act (Cap 2A), the Ministry announces to the availability of the draft the Proposed Draft Monitoring, Control and Surveillance Regulations 2025.

The main objectives of the Proposed Draft Regulations are to: -

- i. *Provide a framework for monitoring, control and surveillance in the fisheries sector*
- ii. *Provide modalities for conducting monitoring, control and surveillance, and inspections; and*
- iii. *Promote fisheries conservation, management and development.*

The Constitution of Kenya, 2010 and the Statutory Instruments Act, Cap 2A requires the public and stakeholders to participate in the decision-making process through the

submission of comments to the Ministry. It is in this spirit that the Ministry requests your respective offices to participate by submitting your comments through the provided address.

Written comments on the Proposed Draft Monitoring, Control and Surveillance Regulations, 2025 should be submitted using the prescribed feedback forms for public comments, to reach the undersigned not later than fourteen (14) days from the date of publication of this notice.

To facilitate discussions and enable stakeholder feedback the documents are available and can be accessed through the Ministry website:
<https://www.mibema.go.ke/node/107>

- (1) The Proposed Draft Monitoring, Control and Surveillance Regulations 2025; and
- (2) Public comments/feedback Form.

Duly filled comments/feedback forms should be submitted online through email:
fibes@blueeconomy.go.ke

Comments on the above-mentioned proposed policies and regulations may also be submitted back via the following address:

**The Principal Secretary,
State Department for the Blue Economy and Fisheries
SHA Building, 14th Floor, Ragati Road
P.O. Box 58187-00200
Nairobi.**

Yours

Betsy M. Njagi, CBS
PRINCIPAL SECRETARY

Copy to: Hon. Hassan Ali Joho, EGH
Cabinet Secretary
Ministry of Mining, Blue Economy and Maritime Affairs
Works Building, Ngong Road
P.O. Box 30009 – 00100
Nairobi.

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Public Participation Questionnaire on the Ratification of the BBNJ Agreement

In line with Articles 10, 118, and 201 of the Constitution of Kenya, this questionnaire is designed to facilitate public participation on the proposed ratification of the Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement). Your views will inform Kenya's position and readiness to ratify and implement the Agreement.

Input by: Dr Joseph Nyingi Kamau

from

KMFRI; jkamau@kmfri.go.ke

General Understanding and Awareness

1. Are you aware of the BBNJ Agreement and its objectives to conserve and sustainably use marine biodiversity in areas beyond national jurisdiction?
 - ***Yes I am aware***
2. Do you know what are the marine genetic resources?
 - ***Yes I know***
3. Do you know the beneficial uses of the marine genetic resources and instances where they have been commercialized?
 - ***Yes at KMFRI we are currently conducting experiments to develop antifouling paints from marine sponges.***
4. Do you believe Kenya should participate in international efforts to protect marine biodiversity in areas beyond our national waters?
 - ***Yes I do, our marine waters are highly connected to the ABNJ and any activity in this region has an impact on our waters. Oceanographic, cultural and ecological connectivity with the ABNJ needs to be considered when assessing a coastal state's interests and possibly priorities for protection.***
 - ***Coastal zones, might experience an immediate impact especially where there is a tight ecological connectivity to the ABNJ. For instance, where a habitat service lays within the ABNJ, e.g life cycles of migratory species. Here, deterioration of a habitat that is used by migratory species for breeding or for the protection/nurturing of juvenile life stages may force these species to***

travel longer distances to find alternative locations, during which they will be exposed to elevated risk or mortality. Similarly, the exposure of migratory species to fishing and shipping impacts along their migratory corridors can undermine the work of coastal communities to protect vulnerable species within their own waters and shorelines.

National Interests and Benefits

5. What opportunities do you see for Kenya from participating in the BBNJ Agreement (e.g., access to marine genetic resources, scientific collaboration, funding)?
 - *The BBNJ agreement Sets up a procedure to establish large-scale marine protected areas in the high seas. This will be of advantage to Kenya but the same has to be informed by research. The Agreement however, allows African scientists access to old samples from marine scientific research and samples collected under the BBNJ, which will inform the bases of any intervention.*
 - *It is no secret that fishing companies in developed States overfish in high seas areas adjacent to exclusive economic zones of coastal African States. The BBNJ Agreement's focus on marine ecological connectivity and other measures will limit such unsustainable and unregulated illegal fishing.*
 - *The Agreement calls for assistance to developing countries to strengthen their capacity to prepare, conduct and evaluate environmental impact assessments (EIAs). It will ensure that activities on the high seas are assessed to prevent, mitigate, and manage adverse environmental impacts and protect and preserve the marine environment.*
6. How do you think the Agreement could affect Kenya's:
 - Marine research institutions? *It will provide opportunities of data sharing thus broadening their research capabilities.*
 - Coastal communities and fisheries? *It will enhance resource sustainability*
 - Private sector and biotech industries? *Opens for collaboration opportunities*
7. What indigenous rights relating to the ocean would wish to see preserved?

Institutional and Legal Preparedness

8. What should Kenya put in place to ensure it benefits from the BBNJ Agreement (e.g., laws, scientific infrastructure, training)?
9. Are there specific institutions (public, academic, civil society) you believe should be involved in implementing Kenya's obligations under the Agreement? *KMFRI, KMA, Kenya Navy, Ministry Mining, Blue Economy and Maritime affairs*

Equity and Capacity Building

10. Do you support Kenya advocating for access to financial and technical assistance under the BBNJ, especially for developing countries?
11. How can the government ensure inclusive participation of youth, women, and marginalized groups in activities linked to marine biodiversity conservation and use?
12. Would you support the establishment of a national multi-stakeholder committee to coordinate implementation and provide periodic updates?

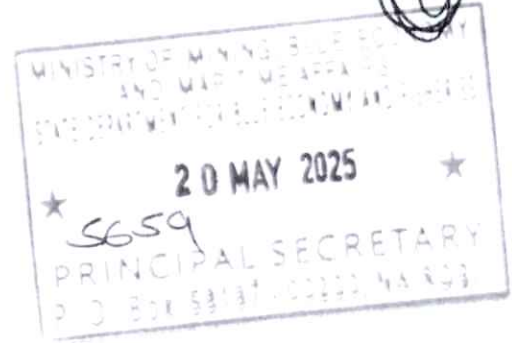
Ratification Considerations

13. Do you support the ratification of the BBNJ Agreement by Kenya? Why or why not? ***Yes I support the agreement is focused on protecting the interests of developing countries by providing avenues to protect their resources from overexploitation in disregards to the supporting ecosystems.***
14. What concerns, if any, do you have about Kenya ratifying this international treaty?

*I AM Dr. Maxilia
 Andy Njagi
 @AndyNjagi*

May 19th, 2025

The Principal Secretary,
 State Department for the Blue Economy and Fisheries,
 SHA Building Ragati Road,
 P.O. Box 58187-00200,
 Nairobi.



Dear PS Betsy Njagi, CBS,

RE: COMMENTS ON 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)

The Nature Conservancy (TNC) commends the Government of Kenya for its significant progress in tabling and ratifying the Biodiversity Beyond National Jurisdiction (BBNJ) Agreement, in full compliance with the provisions of the Treaty Making and Ratification Act (Cap 4D).

In exercise of our rights and obligations under the Constitution of Kenya and the Treaty Making and Ratification Act (Cap 4D), we hereby submit TNC's formal comments, as per the circulated questionnaire, for your consideration.

We appreciate the opportunity to contribute to this important process and remain available for any further engagement as needed.

Public Participation Questionnaire on the Ratification of the BBNJ Agreement

General Understanding and Awareness

1. Are you aware of the BBNJ Agreement and its objectives to conserve and sustainably use marine biodiversity in areas beyond national jurisdiction?

Yes. The Nature Conservancy (TNC) is fully supportive of the BBNJ Agreement and its objective that aims to conserve and sustainably use marine biodiversity in areas beyond national jurisdiction.

2. Do you know what are the marine genetic resources?

Yes. TNC is familiar with the concept of marine genetic resources (MGR).

3. Do you know the beneficial uses of the marine genetic resources and instances where they have been commercialized?

Yes. TNC acknowledges the potential of MGRs, especially in areas such as pharmaceuticals and biotechnology, despite their currently limited commercialization. Kenya, while not yet actively

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commercializing MGRs, this significant project will require continued support from the Government to continue to progress.

4. Do you believe Kenya should participate in international efforts to protect marine biodiversity in areas beyond our national waters?

Yes. UNC fully supports Kenya's participation in the BBNJ Agreement, which is the result of decades of rigorous international negotiations. Kenya is well-positioned, both geographically and diplomatically, to support the implementation of the Agreement and contribute meaningfully to regional and global marine conservation efforts.

National Interests and Benefits

5. What opportunities do you see for Kenya from participating in the BBNJ Agreement (e.g., access to marine genetic resources, scientific collaboration, funding)?

Kenya stands to benefit significantly from the Agreement's provisions on benefit-sharing and from access to the three established BBNJ funds. Additional opportunities include:

- Scientific collaboration and technology transfer
- Capacity building and training
- Data sharing and research advancement
- Access to marine genetic resources
- Advanced national conservation targets, including the 30% marine protection goal under the Global Biodiversity Framework
- Enhancing transparency in marine resource use

6. How do you think the Agreement could affect Kenya's: - Marine research institutions? - Coastal communities and fisheries? - Private sector and biotech industries?

Kenya's federal institutions, academia, and private sector are well-positioned to benefit from increased capacity, access to new technologies, and enhanced opportunities for international collaboration and funding.

7. What indigenous rights relating to the ocean would wish to see preserved?

UNC strongly supports the inclusion of Indigenous Peoples and Local Communities in marine governance, specifically the application of Free, Prior, and Informed Consent (FPIC) and the preservation and integration of Indigenous traditional knowledge in marine resource management.

Institutional and Legal Preparedness

8. What should Kenya put in place to ensure it benefits from the BBNJ Agreement (e.g., laws, scientific infrastructure, training)?

While minimal legal or institutional restructuring is required prior to the Agreement's entry into force, Kenya's readiness to implement future BBNJ provisions will be critical. As such, it is recommended that:

- Kenya becomes a Party to the Agreement to participate in the Conference of the Parties (COP) deliberations.
- National guidelines on FPIC be developed.
- Preparations begin for eventual compliance with emerging Conference of Parties (COP) mechanisms, such as the BBNJ Clearing House Mechanism and Batch Identifier systems.

9. Are there specific institutions (public, academic, civil society) you believe should be involved in implementing Kenya's obligations under the Agreement?

Implementation will require involvement of:

Equity and Capacity Building

10. Do you support Kenya advocating for access to financial and technical assistance under the BBNJ, especially for developing countries?

Yes, Kenya should advocate for financial and technical assistance under the BBNJ to support marine biodiversity in recognition of the challenges faced by developing countries.

11. How can the government ensure inclusive participation of youth, women, and marginalized groups in activities linked to marine biodiversity conservation and use?

To ensure inclusivity, the Government of Kenya should:

- Encourage participation of youth, women, and marginalized groups in marine conservation programs.
- Promote community-based management of marine resources.
- Enhance awareness and training for youth.
- Develop appropriate benefit-sharing mechanisms.
- Increase participation of women in marine conservation.

12. Would you support the establishment of a national multi-stakeholder committee to coordinate implementation and provide periodic updates?

Yes, the establishment of a national multi-stakeholder committee to coordinate implementation and provide periodic updates is essential. TNC has suggestions on the structure and composition of such a committee and appropriate mandate.

Ratification Considerations

13. Do you support the ratification of the BBNJ Agreement by Kenya? Why or why not?

Yes, Kenya should benefit from the Agreement, and it is a key element of Kenya's marine strategy. The Agreement's early ratification will enable Kenya to actively shape the development of the Agreement's procedures and development of the Oceans Act.

14. What concerns, if any, do you have about Kenya ratifying this international treaty?

TNC has no concerns to Kenya's ratification of the Agreement.

Yours sincerely,



Ruth Masha
Kenya Country Director,
The Nature Conservancy.
Ruth.masha@tnc.org

General questions

Are you aware of the BBNJ Agreement and its objectives to conserve and sustainably use marine biodiversity in areas beyond national jurisdiction?

Yes, we are. In fact, early this month, we conducted a webinar on BBNJ aimed at enhancing the network's understanding of the BBNJ Agreement and its implications for fisheries governance. We are also aware that just recently during the 29th IOTC meeting, a recommendation was agreed on *promoting the objectives of IOTC through cooperation with the BBNJ agreement (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).*

Do you know what are the marine genetic resources?

Yes, we know the marine genetic resources; however, our understanding is limited due to the lack of extensive research conducted in our country on this topic.

Do you know the beneficial uses of the marine genetic resources and instances where they have been commercialized?

There is a significant focus on bioprospecting, cosmetics, nutraceuticals, and biotechnology in our region. Local universities, such as the Technical University of Mombasa, are engaged in research for instance on marine algae, aiming to develop biofuels and produce nutrient supplements for livestock, as well as fertilizers.

Furthermore, marine microbes and invertebrates are being studied for their bioactive compounds, which have potential applications in drug development, including antibiotics, antivirals, and anticancer agents.

Research institutions like the Kenya Marine and Fisheries Research Institute (KMFRI) are investigating pharmaceutical compounds derived from marine species. The Kenya Agricultural and Livestock Research Organization (KALRO) is also involved in research aimed at agricultural applications.

Overall, there is immense potential to be harnessed from genetic resources, which can contribute to various sectors, including medicine and agriculture.

Do you believe Kenya should participate in international efforts to protect marine biodiversity in areas beyond our national waters?

Yes. First of all Kenya is a party to a number of treaties and protocols and other processes related to marine biodiversity, for instance UNCLOS, UNFSA, IOTC, therefore there is no reason for Kenya not to participate in this effort. Additionally marine ecosystems are interconnected. Activities on the high seas (e.g., overfishing, pollution, genetic resource exploitation) directly impact coastal states like Kenya. Protecting biodiversity in ABNJ ensures the health of migratory species (e.g., tuna, whales) that are crucial to Kenya's marine economy.

In addition, Kenya has a stake in Marine Genetic Resources (MGRs) found in ABNJ. Participating in global governance mechanisms—such as the new UN High Seas Treaty (BBNJ Agreement)—ensures Kenya has a say in how these resources are accessed and how benefits are shared fairly. We also understand that international frameworks often shape norms and rules that can affect Kenyan interests, especially those of small-scale fishers and coastal communities. By engaging, Kenya helps promote equity and justice in benefit-sharing and protect the rights of developing countries. Lastly, Kenya has already shown leadership in climate change diplomacy, blue economy initiatives, and marine conservation (e.g., Nairobi Convention, hosting the Sustainable Blue Economy Conference). Continued engagement strengthens its voice as a regional lead

National Interests and Benefits

What opportunities do you see for Kenya from participating in the BBNJ Agreement (e.g., access to marine genetic resources, scientific collaboration, funding)?

We believe participation will open doors to Technical support and funding, Scientific collaboration, research and Technology transfer and data sharing. These are vital for improving domestic marine management and conservation. Overall, BBNJ will go a long way in enhancing Ocean governance.

How do you think the Agreement could affect Kenya's: - Marine research institutions? - Coastal communities and fisheries? - Private sector and biotech industries?

Marine Research Institutions

- **Access to Multilateral Research Platforms:** Kenyan institutions could gain access to global marine scientific research collaborations and shared marine genetic resource databases.
- **Capacity Building and Technology Transfer:** The BBNJ includes provisions for equity in scientific knowledge. This could lead to international funding and training programs for Kenyan institutions of higher learning, TVETS and marine research bodies (e.g., KMFRI).
- **Data Sharing and Ocean Mapping:** Kenyan researchers would benefit from open-access repositories of data collected in ABNJ, enhancing regional ecological understanding.

Coastal communities and fisheries

Indirect Benefits from Conservation Measures: Improved biodiversity conservation could have spillover effects that benefit nearshore fisheries and ecosystems.

Since the BBNJ focuses on areas beyond national jurisdiction, direct benefits to coastal communities may not be immediately visible. However, the government has to be deliberate in investing in activities that could create an enabling investment environment for private sector with benefits to local communities.

Private sector and Biotech Industries

The regulation of access to MGRs could open pathways for Kenyan biotech startups and companies to engage in equitable marine bioprospecting partnerships

What indigenous rights relating to the ocean would wish to see preserved?

In the context of the Biodiversity Beyond National Jurisdiction (BBNJ) agreement, it's crucial that Indigenous rights relating to the ocean are recognised and preserved, even though ABNJ lies outside of national territories. For Kenya and similar coastal states with Indigenous and local communities deeply connected to marine spaces, the following rights should be safeguarded-

- The BBNJ framework must recognize and protect the intellectual contributions of Indigenous peoples and ensure they benefit equitably from the commercial or scientific use of marine genetic resources, especially when traditional knowledge informs such use. This aligns with the Nagoya Protocol principles on Access and Benefit Sharing (ABS).
- Indigenous peoples and local communities (IPLCs) must have a meaningful voice in BBNJ negotiations, implementation, and monitoring. This includes participation in:
 - Scientific and technical bodies

- Environmental impact assessments (EIAs)
- Management plans for marine protected areas (MPAs) in ABNJ

Institutional and Legal Preparedness

8. What should Kenya put in place to ensure it benefits from the BBNJ Agreement (e.g., laws, scientific infrastructure, training)?

- Establish a National BBNJ Coordination Mechanism: This can be in the form of a task force whose role would be to monitor negotiations, advise on implementation, and coordinate domestic policies.
- Domesticate the BBNJ Agreement by incorporating its provisions into national law (e.g., environmental impact assessments, marine genetic resource regulation) and/or harmonize it with existing frameworks like the EMCA, the Fisheries Management Act, and the Nagoya Protocol
- Strengthen Marine Science and Research Capacity by investing in for instance Oceanographic research vessels, Marine biotechnology labs (for marine genetic resources), Marine data
- Raise awareness about: Kenya's role and rights in ABNJ, the value of high seas biodiversity and develop school curricula on the same

9. Are there specific institutions (public, academic, civil society) you believe should be involved in implementing Kenya's obligations under the Agreement?

Yes, Academic institutions including TVETS, Curriculum Development Institutions in the country eg KICD, Civil Society – CANCO, TuFAK, SWIOTUNA, CORDIO, WWF, WCS, IUCN etc

Equity and Capacity Building

10. Do you support Kenya advocating for access to financial and technical assistance under the BBNJ, especially for developing countries?

Yes, we fully support Kenya advocating for access to financial and technical assistance under the BBNJ Agreement. This is critical for ensuring equity, meaningful participation, and capacity to implement the treaty effectively.

The financial assistance will provide a level playing field for developing countries in activities such as marine scientific research, Environmental Impact Assessments and Monitoring. Kenya, like many developing coastal states, faces challenges in marine technology, data management and monitoring systems etc. Dedicated assistance under BBNJ can fund training, technology transfer and research that will address some of these challenges. We also believe that BBNJ follows the principles of equity and fairness as enshrined in UNCLOS and RIO declaration. Advocating for assistance affirms that our ocean conservation is a shared duty but with differentiated capabilities

11. How can the government ensure inclusive participation of youth, women, and marginalized groups in activities linked to marine biodiversity conservation and use?

The government has a pivotal role in promoting the field of marine genetics among the youth, which can significantly influence their career development in marine genetic resources. It is essential to place a strong emphasis on inclusivity, particularly regarding gender and marginalised groups in this initiative.

To enhance the country's education system, it is recommended to develop specialised courses in marine genetics. These courses could be integrated into STEM (Science, Technology, Engineering, and Mathematics) programs as well as Technical and Vocational Education and Training (TVET) institutions. For this initiative to be successful, it is crucial to provide training for teachers in the relevant subjects to ensure they are well-equipped to educate students.

Additionally, the government should invest in infrastructure by equipping laboratories to facilitate research in marine genetics. Such support will foster an environment conducive to scientific exploration and innovation in this vital field.

12. Would you support the establishment of a national multi-stakeholder committee to coordinate implementation and provide periodic updates?

Yes, we strongly support. The committee should have a clear mandate and a well-defined implementation structure

Ratification Considerations

13. Do you support the ratification of the BBNJ Agreement by Kenya? Why or why not?

Yes, we support the ratification of the BBNJ (Biodiversity Beyond National Jurisdiction) Agreement by Kenya. Ratification will;

- Secure Kenya's stake in the global commons: The high seas are a shared global resource. Ratifying the BBNJ ensures Kenya has a seat at the table in decisions about how biodiversity in these areas is conserved, accessed, and shared.
- The BBNJ Agreement provides a framework for equitable sharing of benefits arising from marine genetic resources found beyond national jurisdiction. Ratification enables Kenya to claim its fair share of financial, technological, and knowledge-based benefits, especially important for innovation in marine biotechnology
- Unlock technical and financial resources - By becoming a party to BBNJ, Kenya becomes eligible for:
 - Capacity building and training
 - Marine technology transfer
 - Support for conservation programs in ABNJ

This helps strengthen Kenya's blue economy and scientific capacity

- Enhance marine conservation and climate resilience: BBNJ supports the establishment of marine protected areas (MPAs) and environmental impact assessments (EIAs) in the high seas. These tools help protect ecosystems connected to Kenya's coastal and marine life, enhancing climate resilience, fish stocks, and biodiversity.

14. What concerns, if any, do you have about Kenya ratifying this international treaty?

While ratifying the BBNJ Agreement is broadly beneficial for Kenya, there are valid concerns that must be carefully considered and addressed to ensure the country does not face unintended challenges during implementation. These concerns are not reasons to oppose ratification, but they do highlight the need for strategic preparation and capacity-building. One such concern is inadequate commitment by the country to actualise the provisions of the agreements. There could also be a concern in terms of biopiracy.

The document has been discussed and submitted on behalf of;

South West Indian Ocean Tuna Forum

Tuna Fisheries Alliance of Kenya

Community Action for Nature Conservation

Submitted by;

Doreen Simiyu

Coordinator South West Indian Ocean Tuna Forum

Mobile:07205750505

Email: info@swiotuuna.org/swiotuuna@gmail.com

PUBLIC PARTICIPATION QUESTIONNAIRE ON THE RATIFICATION OF THE BBNJ AGREEMENT

In line with Articles 10, 118, and 201 of the Constitution of Kenya, this questionnaire is designed to facilitate public participation on the proposed ratification of the Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement).

Your views will inform Kenya's position and readiness to ratify and implement the Agreement.

General Understanding and Awareness

Q1. Are you aware of the BBNJ Agreement and its objectives to conserve and sustainably use marine biodiversity in areas beyond national jurisdiction?

The Biodiversity Beyond National Jurisdiction (BBNJ) Agreement, adopted in 2023, aims to protect marine biodiversity in international waters beyond national jurisdiction.

Q2. Do you know what are the marine genetic resources?

Marine genetic resources encompass the genetic material of all marine organisms, including plants, animals, and microbes, found in the ocean.

Q3. Do you know the beneficial uses of the marine genetic resources and instances where they have been commercialized?

Marine genetic resources include the genetic information marine organisms host enabling them to produce a wide range of biochemical as observed by Jaspars et al., 2016 that can benefit humankind through applications of bio discovery of pharmaceutical compounds, cosmetics, food supplements, research tools, and in industrial utilization.

4. Do you believe Kenya should participate in international efforts to protect marine biodiversity in areas beyond our national waters?

Kenya should participate in international efforts to protect marine biodiversity beyond its national waters because the health of these areas directly impacts Kenya's coastal communities, economy, and national security. By collaborating internationally, Kenya can strengthen its conservation efforts, benefit from global expertise, and ensure the long-term sustainability of its vital marine resources.

National Interests and Benefits

Q5. What opportunities do you see for Kenya from participating in the BBNJ Agreement (e.g., access to marine genetic resources, scientific collaboration, funding)?

To protect Kenya's coastal ecosystems while creating environmentally friendly jobs in a host of industries, including recycling, tourism and small-scale fishing.

Q 6. How do you think the Agreement could affect Kenya's:

- Marine research institutions?

The agreement's impact on Kenya's marine research institutions could be substantial, potentially leading to both challenges and opportunities. Specifically, it could influence

funding, research priorities, and collaboration with international partners. Furthermore, the agreement might address areas like marine litter management and fisheries governance, requiring institutions to adapt their research to support these efforts.

- Coastal communities and fisheries?

The Agreement, particularly concerning fisheries subsidies, could have significant impacts on Kenya's coastal communities and fisheries, primarily due to the potential reduction of government support for fishing activities. This could lead to short-term economic challenges for small-scale fishermen who rely on government assistance. However, the Agreement could also offer long-term benefits by promoting sustainable fisheries management and ensuring the viability of the fishing industry.

- Private sector and biotech industries?

It might increase competition from EU-based businesses, potentially forcing Kenyan companies to innovate and become more competitive. The biotech sector, in particular, could benefit from access to advanced technologies and expertise from the EU, potentially boosting research and development efforts.

Q7. What indigenous rights relating to the ocean would wish to see preserved?

Some of the most common techniques include preservation, restoration, remediation, and mitigation. Preservation of the environment means that lands and their natural resources should not be consumed by humans and should instead be maintained in their pristine form.

Institutional and Legal Preparedness

Q8. What should Kenya put in place to ensure it benefits from the BBNJ Agreement (e.g., laws, scientific infrastructure, training)?

To ensure Kenya benefits from the Biodiversity Beyond National Jurisdiction (BBNJ) Agreement, the country should focus on harmonizing national policies with the BBNJ Agreement, investing in capacity building, and actively participating in international forums on ocean governance. This includes ensuring fair and equitable benefit-sharing, protecting marine biodiversity, and promoting sustainable use of marine resources in areas beyond national jurisdiction.

9. Are there specific institutions (public, academic, civil society) you believe should be involved in implementing Kenya's obligations under the Agreement?

To effectively implement Kenya's obligations under the BBNJ Agreement, a collaborative approach involving various institutions is crucial. Public institutions like the Ministry of Environment and Forestry should lead policy development and coordination. Academic institutions like the University of Nairobi can provide research, training, and technical expertise. Civil society organizations can play a vital role in monitoring, advocacy, and public awareness.

Equity and Capacity Building

Q10. Do you support Kenya advocating for access to financial and technical assistance under the BBNJ, especially for developing countries?

- Regulation of resource use;
- Protection of the environment and biodiversity;
- Mediation, conflict resolution and conciliation;
- Formulation of stable, unambiguous undertakings and agreements.

Q11. How can the government ensure inclusive participation of youth, women, and marginalized groups in activities linked to marine biodiversity conservation and use?

To ensure inclusive participation in marine biodiversity conservation, governments should implement policies that address gender inequalities, empower marginalized groups, and provide opportunities for leadership and decision-making. This includes legal reforms, capacity building, economic empowerment, and challenging traditional gender norm.

12. Would you support the establishment of a national multi-stakeholder committee to coordinate implementation and provide periodic updates?

Establishing a national multi-stakeholder committee for the BBNJ agreement offers several benefits. It facilitates coordinated implementation, ensures diverse perspectives are considered, and promotes transparency and accountability. This approach also allows for more effective information sharing and knowledge exchange, ultimately leading to better decision-making and more robust implementation of the BBNJ agreement.

Ratification Considerations

Q13. Do you support the ratification of the BBNJ Agreement by Kenya? Why or why not?

Environmental protection principles that include the sustainability principle, the polluter pay principle and precautionary principle; Social principles that include the equity principle, human rights principle and participation principle;

Q14. What concerns, if any, do you have about Kenya ratifying this international treaty?

Kenya's potential ratification of the BBNJ Agreement, which aims to protect marine biodiversity in areas beyond national jurisdiction, has sparked discussions about its potential benefits and drawbacks for the country. While the agreement offers opportunities for fair benefit-sharing and resource access, some stakeholders have expressed concerns about the need for capacity building and ensuring equitable implementation.

Submissions & Comments prepared by:

Ms. Lydia Nyawira Mburia-0711850405/0743864426

NEMA EIA & SEA Associate Expert Number 12888,

German DAAD Summer School Fellow

Fellow Africa Group of Negotiators & Experts (AGNES)

BA Community Development, MBA Natural Resource Management

Dated this: 13th day of May 2025

Public Participation Questionnaire on the Ratification of the BBNJ Agreement

In line with Articles 10, 118, and 201 of the Constitution of Kenya, this questionnaire is designed to facilitate public participation on the proposed ratification of the Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement). Your views will inform Kenya's position and readiness to ratify and implement the Agreement.

General Understanding and Awareness

1. Are you aware of the BBNJ Agreement and its objectives to conserve and sustainably use marine biodiversity in areas beyond national jurisdiction?

Yes, we are aware. Some of our network members have participated in webinars on the BBNJ Agreement and the need for RFMOs to adopt it as a conservation and management measure. We are aware that the Government of the Maldives submitted a proposal on the adoption of a resolution by the Indian Ocean Tuna Commission to adopt and implement the BBNJ agreement, which was accepted by the IOTC members for adoption. However, there's a need for more sensitization, especially among the local communities, many of which are limited to the coastal waters.

2. Do you know what are the marine genetic resources?

Yes, we understand what marine genetic resources are. However, the majority of the local communities that are our members are more familiar with the term marine biodiversity. However, much of the genetic resources we are familiar with are those within our territorial and EEZ waters, and little is known about the high seas.

3. Do you know the beneficial uses of the marine genetic resources and instances where they have been commercialized?

Yes, we know the beneficial uses of MGRs. The MGRs, including microbes, plants, and algae from the Ocean, are being used for various needs such as addressing food security, the pharmaceutical industry, therapeutics, and various industrial uses; hence, if harnessed, they are likely to generate significant revenues for the coastal communities. The Kenya Marine and Fisheries Research Institute in Mombasa, through its natural products department, is undertaking research on marine bioprospecting to develop novel products that can support the biotechnology and natural products industries. The Kenya Medical Research Institute, in collaboration with overseas research bodies, is also researching MGRs to support drug development.

4. Do you believe Kenya should participate in international efforts to protect marine biodiversity in areas beyond our national waters?

Yes. Kenya should participate in international efforts to protect its biodiversity as a commitment to

its international obligations noting that Kenya is a signatory to the UNCLOS, and its agreements including the UN Fish Stock Agreement, as well as the Convention on Biological Diversity, and the Port State Measures Agreement to deter IUU fishing activities which poses significant threats in biodiversity and our food security. Kenya has committed to ensuring a sustainable blue economy in the country. In 2018, it hosted the first global blue economy conference, and it is set to host the 11th Our Ocean Conference in 2026, making it the first African country to host this important conference. The ocean conference showcases the country's commitment to ocean stewardship and its role in addressing global ocean challenges.

National Interests and Benefits

5. What opportunities do you see for Kenya from participating in the BBNJ Agreement (e.g., access to marine genetic resources, scientific collaboration, funding)?

There are several opportunities for Kenya by participating in the BBNJ Agreement, which may include increased access to funding as the agreement gives special consideration to developing states. The participation will also foster collaboration between Kenyan research institutions and overseas institutions, which will leverage the development of the marine biotechnology-related industries in Kenya and thus create job opportunities. Kenya should also take advantage and apply the GEF funding for the ratification process of the BBNJ Agreement.

6. How do you think the Agreement could affect Kenya's: - Marine research institutions?

Ratifying the agreement will attract funding to support local research and development industries and financial assistance for capacity building. This will broaden the scope of the country's marine research to include the high seas. The Agreement will enable collaboration and technology transfer with record to the MGRs, and will also provide scholarships for Kenyan researchers to advance their studies overseas.

- Coastal communities and fisheries?

Coastal communities would benefit from capacity building through the BBNJ funding mechanisms. Also, the coastal communities can directly benefit through food security, and the natural products that will be developed through the biotechnology and pharmaceutical industries.

- Private sector and biotech industries?

The private sector and biotech industries will venture into bioprospecting and exploration of MGRs with technical assistance from global companies that have invested in the industry. However, the success of the private sector and biotech industries is dependent on the political well-being of the country.

7. What indigenous rights relating to the ocean would wish to see preserved?

The coastal communities have indigenous rights which has to be safeguarded by the adoption of national policies and legislation that give the indigenous people and local communities special access to marine resources. The tenure and access rights of the indigenous people should thus be well safeguarded. There's a need to ensure sustainable utilization to avoid overexploitation of

MGRs.

Institutional and Legal Preparedness

8. What should Kenya put in place to ensure it benefits from the BBNJ Agreement (e.g., laws, scientific infrastructure, training)

The country has signed the treaty, but it needs to ratify it so that it can be incorporated into the country's legislation. There should be an environment upon which the BBNJ Agreement is anchored. At present, the Ministry of Blue Economy, mining, and maritime affairs is the institution at the country level housing the BBNJ Agreement; however, a law or policy will be required to pursue its implementation. At the international level, the BBNJ Agreement process is being handled by the Ministry of Foreign Affairs. There are several multilateral environmental agreements that Kenya has ratified, and there are institutions and Clearing House Mechanisms for information sharing and reporting of activities related to the utilization of MGRs in the high seas.

9. Are there specific institutions (public, academic, civil society) you believe should be involved in implementing Kenya's obligations under the Agreement?

There are institutions in the country, both public, academic, and civil society, that are undertaking research focusing on marine natural products, biotechnology. However, there's a need to have a well-established institution that will be responsible for coordinating and fostering collaborations among like-minded bodies, which will have to be guided by a strategic plan to be revised after a given timeframe. There's a need to establish institutions that will be responsible for the commercialization of marine genetic resources and will be responsible for providing certain accreditation and standards before being granted access rights. The Kenyan public universities, including the University of Nairobi, Technical University of Mombasa, and Pwani University, and research bodies such as KMFRI, KALRO, and KEMRI, offer an opportunity to drive the biotech research and industry in the country.

Equity and Capacity Building

10. Do you support Kenya advocating for access to financial and technical assistance under the BBNJ, especially for developing countries?

Certain clauses allow the formation of certain financial mechanisms, and Kenya can advocate to be included. We certainly right to the financial and technical assistance as stipulated in the agreement, and thus we take advantage of it.

11. How can the government ensure inclusive participation of youth, women, and marginalized groups in activities linked to marine biodiversity conservation and use?

Noting that the BBNJ is beyond the country's maritime borders, the youth and marginalized can only be involved in the implementation of the BBNJ Agreement when they are capacity built, and take part in the national and international dialogues pertinent to the BBNJ through representation. There is also a need to adopt a curriculum that takes into account the global trends for the youth, women, and marginalized to familiarize and participate in affairs related to marine biodiversity conservation and how they can benefit through sustainable utilization. The women can be engaged through the establishment of entrepreneurial opportunities, cosmetics, food, and nutrition.

12. Would you support the establishment of a national multi-stakeholder committee to coordinate implementation and provide periodic updates?

The agreement cuts across the jurisdiction of several ministries, and thus, a national multi-stakeholder committee with well-elaborated terms of reference should be established. It should not be an ad hoc committee because it may not be functional. The committee should also be budgeted to enable it to undertake its mandates. The multi-stakeholder committee should have the mandate to make certain decisions. The TORs should elaborate on the roles and responsibilities

Ratification Considerations

13. Do you support the ratification of the BBNJ Agreement by Kenya? Why or why not?

Yes, Kenya should ratify the BBNJ Agreement to benefit from the technical assistance and financial resources that will be provided. If we do not go ahead, others will ratify it and benefit, including landlocked countries such as Malawi, which have already ratified the agreement. By ratifying the agreement, Kenya will be able to advocate for an equitable share and access to marine resources and safeguard the country's interests in the high seas.

14. What concerns, if any, do you have about Kenya ratifying this international treaty?

Yes, we have concerns because we have ratified many agreements, and we are required to occasionally provide feedback to the government. Government officials appointed or nominated to represent the country sometimes do not have adequate information, and many times are unprepared when in attendance at high-level global platforms, which, to some extent, limits the country to acquire funding and technical support due to a lack of a strong voice to champion the needs of the country. We would also want to see the linkage of the multi-stakeholder committee and the ministry responsible for the implementation of the agreement, as well as other institutions working on MGRs. Financial constraints may also impede the implementation of the agreement, and thus, there's a need for the country to provide a special allocation to implement multilateral environmental treaties. We also have a concern about the capacity at all levels, taking into consideration that much of the country's research on MGRs has been limited to territorial waters due to a lack of human and infrastructural capacity to undertake meaningful research and develop noble products. The country should thus review its policies to ensure they align with the international frameworks to which we are party, and ensure adequate capacity building for meaningful engagement and decision making.

Subject BBNJ Public Participation Questionnaire on the Ratification of the BBNJ Agreement

From Dr. Joseph Kamau <jkamau@kmfri.go.ke>

To ps <ps@blueeconomy.go.ke>, bbnjagreement <bbnjagreement@blueeconomy.go.ke>

Cc Chief Executive Officer <director@kmfri.go.ke>, jmwalumma <jmwalumma@kmfri.go.ke>

Date Wednesday May 14, 2025 1:35:16 PM

The Principal Secretary,
State Department for the Blue Economy and Fisheries
SHA Building Ragati Road
P.O. Box 58187-00200
Nairobi.



Attached please find my contribution to the public participation on the ratification of the BBNJ Agreement.

Regards

Dr. Joseph Nyingi Kamau
Principal Research Scientist
Assistant Director Oceanography & Hydrography
Kenya Marine & Fisheries Research Institute

Attachments

BBNJ_Public_Participation_Questions_Kenya (Kamau).pdf (743 kB)

*I AM Dr. Makalia
Andy wife*

*I noted for info
Jmz
19/5/2025*

*III Note in the BE-BBD
Reference - Mr
Jmz
19/5/2025*

JK

Subject
SUBMISSIONS AS REGARDS THE PUBLIC PARTICIPATION QUESTIONNAIRE ON THE RATIFICATION OF THE BBNJ AGREEMENT

From lydia mburia <lydiamburia@gmail.com>

To
ps@blueeconomy.go.ke <ps@blueeconomy.go.ke>, bbnjagreement@blueeconomy.go.ke <bbnjagreement@blueeconomy.go.ke>, lydia mburia <lydiamburia@gmail.com>

Date Tuesday May 13, 2025 2:11:13 PM

Good afternoon Principal Secretary, State Department for the Blue Economy and Fisheries? Please see my attached submissions as regards the above cited subject matter, thank you.

Submissions & Comments prepared by:

Ms. Lydia Nyawira Mburia-0711850405/0743864426

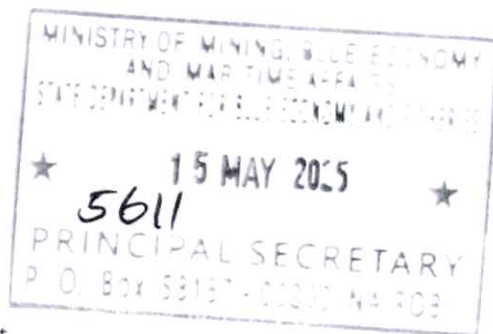
NEMA EIA & SEA Associate Expert Number 12888,

German DAAD Summer School Fellow

Fellow Africa Group of Negotiators & Experts (AGNES)

BA Community Development, MBA Natural Resource Management

Dated this: 13th day of May 2025



Attachments

PUBLIC PARTICIPATION QUESTIONNAIRE ON THE RATIFICATION OF THE BBNJ AGREEMENT LYDIA MBURIA.pdf (98.1 kB)

*I Att: Dr. Matunga
Kindly note*

*II noted for action.
Amr*

*III Noted with BE - BBNJ Rati...
Amr
19-5-2025*

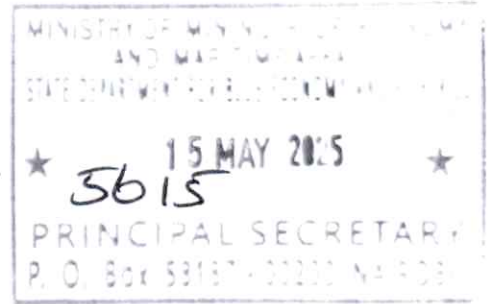
Subject Submission of comments for the BBNJ agreement by SWIOTUNA

From SWIOTUNA SWIOTUNA <swiotuuna@gmail.com>

To ps@blueeconomy.go.ke <ps@blueeconomy.go.ke>

Cc bbnjagreement@blueeconomy.go.ke <bbnjagreement@blueeconomy.go.ke>

Date Monday May 12, 2025 10:10:51 AM



Dear Madam PS,

We hope this message finds you in good health.

In response to the public notice regarding the submission of comments for the BBNJ agreement, we are pleased to submit the completed "General Questions" document.

We look forward to collaborating in advancing a Sustainable Blue Economy in the country.

Regards

Doreen Simiyu

On behalf of the :Secretariat Team

South West Indian Ocean Tuna Platform(SWIOTUNA)

SWIOTUNA Secretariat -Nairobi Office:

P.O Box 7668-00508

Dannys Court, Mombasa Road, Hse No. B13, Nairobi

SWIOTUNA Secretariat -Mombasa office:

P.O. BOX 85148-80100, GPO, Mombasa

Bububu Estate, Off Mtongwe Road, Likoni, Hse No. D83, Mombasa

Website: <https://www.swiotuuna.org/>

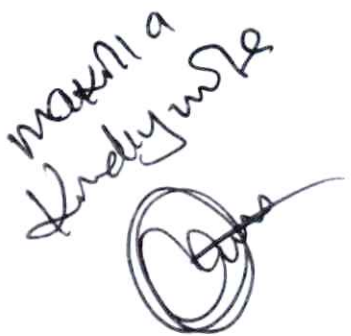
Email: info@swiotuuna.org/swiotuuna@gmail.com

Social Media Handles: Facebook: <https://www.facebook.com/South-West-Indian-Ocean-Tuna-Forum-Swiotuna> ,
Twitter @SWIOTUNA

Attachments

Submission for General questions for BBNJ agreement by SWIOTUNA.docx (3.06 MB)

I AM Dr. MARIAM KUNDUWA



Noted for action

JM

19/5/2025

III file in the 135-BBNJ

Reflection

AK

JM

19-5-2025

MINISTRY OF MINING, BLUE ECONOMY
AND MARITIME AFFAIRS
STATE DEPARTMENT FOR BLUE ECONOMY AND FISHERIES
★ 574528 MAY 2025 ★
PRINCIPAL SECRETARY
P.O. Box 58187 - 00200, NAIROBI

Subject Greenpeace Africa's Comments on the BBNJ Agreement
From Nelly Omina <nelly.omina@greenpeace.org>
To ps@blueeconomy.go.ke <ps@blueeconomy.go.ke>
Cc bbnjagreement@blueeconomy.go.ke <bbnjagreement@blueeconomy.go.ke>
Date Tuesday May 27, 2025 7:02:30 PM

Dear Cabinet Secretary,

Greenpeace Africa commends the Ministry's efforts to engage stakeholders in the ratification process of the BBNJ Agreement and welcomes the opportunity to contribute.

As outlined in the attached letter, we strongly urge the Government of Kenya to ratify the BBNJ Agreement without delay to safeguard marine biodiversity and secure long-term benefits for Kenya's coastal communities. With its vast coastline and strong dependence on the ocean for food security, livelihoods, and climate resilience, Kenya stands to gain significantly from strengthened global cooperation on ocean governance.

Ratifying the treaty would reaffirm Kenya's leadership in ocean protection and demonstrate a firm commitment to securing the rights and wellbeing of present and future generations.

We have also attached our completed public feedback form and stand ready to engage in any further consultations or validation forums organised by the Ministry.

Thank you for this opportunity.

-

Nelly Omina
Oceans Campaign, Digital Lead



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13 14 15 16 17 18 19 20 21 22 23 24
nomina@greenpeace.org
25 26 27 28 29 30 31 32 33 34 35 36
37 38 39 40 41 42 43 44 45 46 47 48
49 50 51 52 53 54 55 56 57 58 59 60

www.greenpeaceafrica.org

Attachments

Public Participation Questionnaire on the Ratification of the BBNJ Agreement.pdf (107 kB)

Greenpeace Africa Call for Immediate Ratification of the BBNJ Treaty to Protect our Ocean Commons-2.pdf (140 kB)