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A. USE OF TERMS²

7. Definitions would need to be consistent with those contained in UNCLOS, UNFSA, and the Convention on Biological Diversity (CBD), including its Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation to the CBD (Nagoya Protocol), and other relevant international instruments, and adjusted to the context of marine biodiversity of areas beyond national jurisdiction.

8. The definitions would not be intended to cover trade in commodities.

9. Possible terms and definitions could include:

Areas beyond national jurisdiction

- "Areas beyond national jurisdiction" means the high seas and the Area, as defined in UNCLOS.

Area-based management tools

- *Option 1:* The definition of ABMTs could include three elements: (1) the objective – ABMTs would be aimed at the conservation and sustainable use of marine biological diversity; (2) the geographic scope – ABMTs would be applied only to areas in the high seas and the international seabed area; (3) the function - ABMTs would include different functions and management approaches.
- *Option 2:* ABMTs are tools designed and applicable in a specified area located beyond national jurisdiction with a view to achieving a defined objective (environmental conservation or/and resource management).
- *Option 3:* A spatial management tool for a geographically defined area through which one or several sectors/activities are managed with the aim of achieving particular objectives and affording higher protection than the surrounding areas.
- *Option 4:* ABMTs include both sectoral and cross-sectoral measures that contribute to conservation and sustainable use of marine biodiversity. Cross-sectoral ABMTs, including MPAs, and marine spatial planning, are those tools that require cooperation and coordination across multiple organizations and bodies, may achieve broader objectives and respond to cumulative impacts. Sectoral ABMTs include measures adopted by a competent international organization to achieve biodiversity conservation objectives for a specific area and include fisheries closures designated by RFMOs, Particularly Sensitive Sea Areas (PSSAs) designated by the IMO, or Areas of Particular Environmental Interest (APEIs/reference zones) designated by the ISA.

Biological diversity

- "Biological diversity" means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

² Definitions could be included under the respective parts of the instrument, unless these terms were to be used in more than one part of the instrument.

Biological resources

- "Biological resources" includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity.

Bioprospecting

Biotechnology

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

Continental shelf, as defined in UNCLOS

Derivatives

- "Derivative" means a naturally occurring biochemical compound resulting from the genetic expression or metabolism of biological or genetic resources, even if it does not contain functional units of heredity (based on Nagoya Protocol, article 2).

Ecosystem

- "Ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.

Ecosystem-based management

- "Ecosystem-based management" means an integrated approach to management that considers the entire ecosystem, including all stakeholders and their activities, and resulting stressors and pressures with direct or indirect effects on the ecosystem under consideration. The goal of ecosystem-based management is to maintain or rebuild an ecosystem to a healthy, productive and resilient condition, through, inter alia, the development and implementation of cross-

include materials made from material, such as derivatives, or information describing material, such as genetic sequence data.

(Marine) genetic resources

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purposes." MPAs would not be limited to marine reserved areas or no-take zones.

Marine scientific research

Marine spatial planning

- Marine spatial planning is a cross-sectoral ABMT that provides a framework for the orderly and sustainable use of the oceans as envisioned by UNCLOS with a view to balance demands for development with the need to protect the marine environment. Sectoral ABMTs (e.g. fisheries closures, PSSAs, APEIs), other cross-sectoral ABMTs (e.g. MPAs), strategic environmental assessments (SEAs) and EIAs are an integral part of this overarching planning approach. Marine spatial planning approaches would be ecosystem-based, adaptive and include all relevant stakeholders in the area under consideration.

Sustainable use

- "Sustainable use" means the use of components of marine biodiversity in a way and at a rate that does not lead to the long term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.

Technology

- "Technology" means hard technology as well as all of its associated aspects, such as specialized equipment and technical know-how, including manuals, designs, operating instructions, training and technical advice and assistance, necessary to assemble, maintain and operate a viable system and the legal right to use these items for that purpose on a non-exclusive basis. It also refers to infrastructure and enhancing technical capacity to make such transfer sustainable.

Transboundary environmental assessment

Transfer of marine technology

- The transfer of marine technology refers to the transfer of instruments,

B. SCOPE / APPLICATION

1. Geographical scope

10. *Option 1:* Areas beyond national jurisdiction.
11. *Option 2:* Areas not adequately addressed by existing international conventions.
12. Does not apply to maritime zones under national jurisdiction, including the continental shelf beyond 200 nautical miles where applicable.

2. Material scope

13. All elements of the package specified in General Assembly resolution 69/292.
14. With regard to activities:
 - Option 1:* Conservation, sustainable use and responsible management of all marine living organisms of areas beyond national jurisdiction.
 - Option 2:* Activities carried out under the jurisdiction or control of a contracting party in areas beyond national jurisdiction.
 - Option 3:* Any activity or development that has the potential to impact on marine biological diversity of areas beyond national jurisdiction, including on ocean processes.
 - Option 4:* Activities with the potential to have significant effects on or to cause damage to marine biodiversity or ecosystems in areas beyond national jurisdiction regardless of where these activities occur.
 - Option 5:* All activities that take place in areas beyond national jurisdiction and/or may have an impact on marine biological biodiversity and resources of areas beyond national jurisdiction. Where such activities are already managed or governed by an existing agreement, the instrument would apply relevant provisions of the existing agreement *mutatis mutandis*.
 - Option 6:* All existing and new activities and sectors impacting on marine biodiversity of areas beyond national jurisdiction with respect to the elements identified in the "package", while not undermining existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies.
 - Option 7:* Activities not adequately addressed by existing international conventions, e.g., UNCLOS and CBD.
 - Option 8:* Fisheries management in areas beyond national jurisdiction would not form part of the negotiations.

3. Personal scope

15. The instrument would extend to States and entities in a manner similar to UNFSA.

C. OBJECTIVE(S)

16. Ensure the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction.
17. Possible additional objectives could include:
 - Protect and preserve the marine environment.
 - Furthering of regional cooperation and regional cooperative mechanisms.

Prevent or eliminate excess capacity and ensure that levels of effort by entities involved are commensurate with the sustainable use of biological diversity as a means of

Stakeholder involvement.
Good governance.
Transparency.
Incorporation of traditional and local knowledge.
Accountability.
Equity.
Intra- and inter-generational equity.
Capacity-building and technology transfer.
Environmentally sound techniques and methods of operation in order to prevent or limit damage to biological diversity.
Sustainable use of marine biodiversity.
Precautionary principle/approach.
Risk-based approach.
Polluter-pays principle.
Special interests, circumstances and needs of developing countries such as SIDS and LDCs.
Avoidance of disproportionate burden.
Adaptive management.
Ability to address cumulative impacts.
Traceability.
Flexibility.
Conservation of biodiversity as a common concern of humankind.

25. The impacts of climate change could be a consideration for decisions made and actions taken under the instrument and decisions should not exacerbate or hasten the adverse impacts of climate change, especially upon SIDS.

26. No action or activity taken on the basis of the instrument would be construed or considered to be prejudicial to the positions of States Parties to a land or maritime sovereignty dispute or to dispute concerning the delimitation of maritime areas.

B. INTERNATIONAL COOPERATION⁴

27. Cooperation, coordination, consultation and communication between and among States and international organizations, including regional and sectoral bodies, would be enhanced such as through exchange of information.

28. Guidance and recommendations could be provided to States, including through existing global, sectoral or regional organizations involved in the conservation and sustainable use of marine biodiversity beyond national jurisdiction, in the form of goals, procedures, criteria, standards and guidelines.

29. Agreed general biodiversity protection guidelines or methodology to take into account the impact on fish stocks of emerging issues such as the adverse impacts of climate change, ocean acidification or pollution could be provided.

30. States would have a duty to cooperate directly or through appropriate subregional, regional or global mechanisms, taking into account the specific characteristics of the subregion or region (see UNFSA article 8.1).

⁴See also section IV.

31.

Cooperation in the identification and implementation of the most effective conservation measures to protect areas in areas beyond national jurisdiction, within a specific timeframe.

Cooperation in the management of MPAs in areas beyond national jurisdiction.

Conduct of marine scientific research and joint assessments of the effectiveness of existing MPAs and their conservation measures.

Regular reports to a conference of the parties on progress made.

Participation in meetings of the respective governing bodies as observers.

C. MARINE GENETIC RESOURCES, INCLUDING QUESTIONS ON THE SHARING OF BENEFITS

1. Scope

39. Geographical scope:

Option 1: The instrument would apply to marine genetic resources of the Area and the high seas.

Option 2: The instrument would only apply to marine genetic resources in the Area.

40. Material scope:

Fish and other biological resources used for research on their genetic properties.

- A scientifically-informed threshold would be established, whereby if a particular (fish) species is extracted or harvested for the purpose of bioprospecting for marine genetic resources beyond a certain amount (depending on species and habitat variability), it would be considered a commodity. Such threshold could be elaborated by a scientific/technical body under the instrument.

On *in situ/ex situ/in silico* resources:

- *Option 1:* Applies to both *in situ* and *ex situ* marine genetic resources.
- *Option 2:* Applies to *in situ* and *ex situ* marine genetic resources as well as *in silico* and digital sequence data.
- *Option 3:* Applies to marine genetic resources collected *in situ*.

On derivatives:

- *Option 1:* Applies to derivatives.
- *Option 2:* Does not apply to derivatives.

2. Guiding principles and approaches

41. On the common heritage of mankind and the freedom of the high seas:

Option 1: The common heritage of mankind would underpin the new regime governing marine genetic resources of areas beyond national jurisdiction. This implies:

- The need to carry out activities for the benefit of mankind as a whole, irrespective of their geographical location, and taking into particular consideration the interests and needs of the developing countries.
- No claim or exercise of sovereignty or sovereign rights of the areas beyond national jurisdiction nor any appropriation would be recognized.
- Benefits would be shared in a fair and equitable manner.
- Activities regarding the exploration, exploitation of the resources in the said areas would be governed by the instrument.

Option 2

42. The use of areas beyond national jurisdiction and their resources by all States would exclusively for peaceful purposes.
43. The jurisdiction and rights of coastal States over their continental shelf, including beyond 200 nautical miles where applicable, would need to be respected.
44. Principle of adjacency. Coastal States could be allowed a greater role in conserving, managing and regulating access to the resources of high seas pocket areas.
45. Marine scientific research activities do not constitute the legal bas

72. *Option 2:* A mandatory disclosure of origin of the marine genetic resource in patent applications or other intellectual property right would be established.

73. *Option 3:* The instrument would prohibit private appropriation and the exercise of intellectual property rights where this would limit access to marine genetic resources for further research and other aims. If intellectual property rights were claimed in respect of products developed from marine genetic resources, the approach taken in the ITPGRFA could be considered.

74. *Option 4:* The matter of intellectual property rights would have to be addressed in a manner that ensures consistency with the work being conducted under WIPO.

75. *Option 5:* A *sui generis* system would be developed.

4. Monitoring of the utilization of marine genetic resources of areas beyond national jurisdiction

76. Users could be required to register their activities.

77. A protocol, code of conduct or guidelines could be developed in order to ensure transparency in the use of marine genetic resources of areas beyond national jurisdiction.

78. A depository of information on marine genetic resources extraction could serve as a mechanism to trace the provenance of marine genetic resources obtained in areas beyond national jurisdiction.

Take into account the special circumstances of SIDS and LDCs.

Consistency with UNCLOS, UNFSA and other relevant treaties.
 No undermining of existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies.
 Taking advantage of the work and expertise of existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies.
 Respect for the jurisdiction and rights of coastal States over the continental shelf, including beyond 200 nautical miles where applicable.
 Compatibility of measures taken for the EEZ and for areas beyond national jurisdiction.
 International cooperation and coordination.
 Necessity.
 Proportionality.
 Ecosystem approach.
 Precautionary principle/approach.
 Use of the best available science.
 Integrated approach.
 Preventive principle.
 Threats-based approach.
 Representativity.
 Adaptive management.
 Protection and preservation of the marine environment.
 Different levels of protection.
 Establishment and management of ABMTs, including MPAs, on an individual, case-by-case and temporary basis.
 Sustainable use.
 Balance of interests between activities for the protection and preservation of the marine environment and other lawful activities at sea.
 Multi-use approach.
 Equitable use.
 Transparency.
 Inclusivity.
 Public participation.
 Consultation.
 Accountability.
 Polluter-pays principle.
 Traceability.
 Liability.
 Stewardship of the marine environment for present and future generations.
 No disproportionate burden on coastal States.
 Traditional knowledge of local and indigenous communities.

3. Process for the establishment of area-based management tools, including marine protected areas

94. *Option 1: "Global model"* – A global overarching framework would be created to enable the identification, designation, management and enforcement of ABMTs, including MPAs, in areas beyond national jurisdiction.

95. *Option 2: "Hybrid model"* – General guidance and objectives would be developed at the global level to enhance cooperation and coordination and provide a level of oversight to the decision-making and implementation by regional and/or sectoral mechanisms.

109. The contributions made during the consultation process could be made publicly available by the secretariat, which would also collect, compile and forward all comments back to the proponent.

110. The proponent would revise its proposal, as necessary, based on the comments received through the consultation process.

111. The proposal could be reviewed through a mechanism for scientific consideration and advice such as by a scientific/technical body, which would consider whether a similar MPA exists and how it could be complemented with protection under the instrument, provide advice on the proposal's compatibility with the instrument's scientific criteria, as well as make other recommendations, including on ecologically representative MPA networks and biogeographical classification schemes.

112. A scientific/technical body could make recommendations on the proposal.

3.2.3 Decision-making

In making a decision on the designation of ABMTs, including MPAs, the following could be considered:

113. The process of designation or establishment of ABMTs, including MPAs, would need to be consistent with the purpose of the instrument.

It would be necessary to ensure that the process of designation or establishment of ABMTs, including MPAs, is consistent with the purpose of the instrument.

120. Decisions on ABMTs would need to be based on scientific data with ABMTs being universal and binding in nature.

121. *Option 1:* A global institution would make decisions on:

The spatial boundaries of the area to be designated as MPA.

The establishment of such area.

Appropriate conservation and management measures to be taken in the MPA.

In taking the decisions, all efforts would need to be made to reach consensus. Majority voting could be envisaged.

The ISA could be an essential component, as it has a mandate already recognized by UNCLOS.

122. *Option 2:* Information about a designated area and activities that could potentially harm or cause adverse impacts to that area would be referred to relevant bodies and frameworks with purview over such activities for consideration and possible management measures or other action by those bodies.

When a designated area has multiple relevant bodies with purview over activities that could potentially harm or cause adverse impacts to that area, a process could be established by which those bodies could coordinate and cooperate, including during the consideration of and, as appropriate, implementation of possible management measures.

If the existing framework decides to take different measures from those identified by the Conference of the Parties or none at all, the Conference of the Parties would ask the existing framework for consultations. The States Parties to the instrument and the relevant existing frameworks would cooperate as much as possible within the relevant frameworks to ensure these existing frameworks duly respect the decision of the Conference of the Parties and take appropriate conservation and management measures.

Ways and means could be considered to make relevant measures binding upon all States Parties, including non-members of the relevant existing frameworks.

123. *Option 3:* Any issues related to the establishment and management of ABMTs, including MPAs, would be addressed within existing international mechanisms.

An MPA proposal would be presented to the appropriate regional seas convention, which following public consultations, would consider the proposal in relation to the requirements of the instrument and relevant input from the public consultation.

The MPA, including any measures that fall within its competence could be adopted by the regional seas convention which would announce its decision on its website. The decision made by the regional seas convention, in accordance with the requirements of the instrument, would be binding on all States Parties to the instrument.

The regional seas convention, or one of its Parties, would forward the MPA decision specifically to other relevant bodies, such as IMO, RFMOs, other regional seas conventions, ISA, etc. The States Parties would be under an obligation to pursue the objectives of the instrument in all relevant mechanisms where they are partic

124. Where there is no competent body to recommend measures to address the impact of a specific activity in the proposed area:

Option 1: The Parties would identify specific measures to meet the conservation objectives of the area.

Option 2: Such measures would be developed and considered by Parties and those States and entities that would be entitled to become Parties.

Option 3: The instrument woul

133. While the management plan would not be applicable to non-Parties to the instrument, these would be notified of the designation and invited to consider implementing appropriate management

142. A particular MPA's conservation and management plan and any specific measures applied to it could be adjusted to reflect the status of the a

activity that undermines the effectiveness of the instrument's conservation measures, the compliance committee would make recommendations on ways to rectify their acts or omissions. The non-complying Party and non-Party would be notified and offered a reasonable time to respond to the alleged non-compliance and rectify its actions or omissions. When necessary, the instrument would adopt measures to facilitate compliance (e.g. technical assistance and capacity building) based on recommendations from the compliance committee. If the Party or non-Party continues to undermine the effectiveness of the protected area, and/or if the ecosystem or any of its components under protection is under serious threat, the Parties to the instrument would adopt appropriate responsive measures. The responsive measures would be designed to ensure that the conservation objectives of the area are met.

E. ENVIRONMENTAL IMPACT ASSESSMENTS

152.

158. Possible guiding principles and approaches could include:
- Precautionary principle / approach.
 - Ecosystem approach.
 - International cooperation.
 - Integrated approach.
 - Use of the best available science / science-based approach.
 - Transparency.
 - Inclusiveness.
 - Consultation.
 - Fairness.
 - Effectiveness.
 - Inter- and intra-generational equity.
 - Responsibility to protect and preserve marine environment.
 - Polluter-pays principle.
 - Stewardship.
 - No-net-loss principle.

3. Activities for which an environmental impact assessment would be required

159. The obligation to conduct EIAs would relate to planned activities under the jurisdiction or control of States.

160. Possible approaches to set out when an EIA would be required could include:
- Option 1:* EIAs would be mandatory for all proposed activities in areas beyond national jurisdiction.
 - Option 2:* EIAs would be required under specified circumstances, including based on:
 - o Possible threshold levels could be:
 - Option 1:* Based on UNCLOS article 206 (“reasonable grounds to believe that a proposed activity may cause significant and harmful changes to the environment”).
 - Option 2:* More stringent

Option 3: Stakeholders would have an opportunity to provide inputs before decisions are made.

165. Stakeholders for the conduct of public consultation could be:

174. It would be necessary to ensure that the outcome of the EIA is duly taken into account in decisions on the authorization of activities and on any accompanying mitigation or compensation (redress) measures.

175. The proposed activity would be permitted only where the assessment concludes that the activity would not have significant adverse impacts, or could be managed to avoid such impacts. Each decision to permit an activity would include an environmental management plan.

176. When an activity would not be authorized, an appeals process could be provided for.

177. Neither the EIA itself nor the State's decision based on the EIA would be subject to review by any outside entity or process.

178. On the question of who would bear the costs of EIAs:

Option 1: The instrument could address who would bear the costs for an EIA.

- The costs of the EIAs could be borne by or contributed to by the operator.
- The costs of conducting the EIA could be borne by the proponent of an activity.
- In the case of activities carried out by developing countries, consideration could be given to the need for financing and/or other means of cooperation (capacity-building and technology transfer).

Option 2: The decision on costs could be left to the national competence of States Parties.

5. Content of environmental impact assessment reports

179. The content of EIA reports could include:

A description of the proposed activity and its purpose.

A description of the environment likely to be affected, including any dependent or associated ecosystems, ecosystem services provided, impacted sensitive or vulnerable areas and vulnerability to climate stressors.

A description of the ecosystem services provided by the area.

A description of the potential environmental impact of the proposed activity, including impacts on ecosystem servi.

180. A generic EIA template could be developed.

6. Environmental impact assessments for transboundary impacts

181. Article 206 of UNCLOS could serve as a basis for assessing transboundary impacts.

Mechanisms would be established in the instrument to engage global sectoral organizations, such as IMO and ISA, as well as regional conventions in regional SEA processes.

- SEAs would be collectively funded.

8. *Compatibility of environmental impact assessment measures*¹⁰

187. Compatibility with coastal State measures could be built into EIAs conducted in relation to areas beyond national jurisdiction adjacent to areas within coastal State's jurisdiction.

9. *Relationship to existing environmental impact assessment measures under relevant legal instruments and frameworks and relevant global, regional and sectoral bodies*

Possible approaches to EIA measures under relevant instruments and frameworks and relevant global, regional and sectoral bodies could include the following:

188. Existing relevant legal instruments and frameworks, in particular UNCLOS, as well as relevant global, regional and sectoral bodies should not be undermined.

189. Existing processes and guidance developed to assess the impacts of human activities on biodiversity features applicable in areas beyond national jurisdiction, including those under regional and sectoral regimes would be respected.

190. There would be no duplications between EIAs conducted under the instrument and EIAs conducted under the relevant existing bodies.

191. Existing activities managed under regional and sectoral organizations could be allowed to continue where these organizations are mandated to consider the environmental impacts in the

Contribute to capacity

203. After termination of the activity, there would be a follow-up evaluation to ensure environmental protection was upheld, which could take the form of natural capital accounting and be compared against the baseline established during the screening phase.

204. A contingency fund could be established to mitigate possible harmful effects on the environment caused directly by the activity. In line with the polluter-

Increasing, disseminating and sharing knowledge and expertise on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, and empowering all States to fully take part in the achievement of the instrument's objectives.

Coordinating efforts relating to the conservation and sustainable use of marine resources.

211.

- Establishment or strengthening of the capacity of relevant organizations/ institutions.
- Access to and acquisition of necessary knowledge and materials, information, and data in order to inform decision making of the developing countries.
- Awareness-raising and knowledge sharing, including on marine scientific research.
- Development of joint research cooperation programmes, technology in marine science, necessary infrastructure, acquisition of necessary equipment to sustain and further develop R&D capabilities in country, including data management.
- Collaboration and international cooperation in scientific research projects and programmes.
- Establishment or strengthening of the capacity of relevant organizations/ institutions.

3.2 Technology transfer

214. Any definition of transfer of marine technology would need to be broad enough to take account of future developments in science.

215. The IOC Criteria and Guidelines on the Transfer of Marine Technology provide an important reference point, and details could be included on what is considered technology -0.r7.1(n)-0.7(y)-7.5(d)- 4ncheod1(n)

222. Best practices and lessons learned from existing mechanisms would need to be utilized wherever relevant and applicable, including:

The mechanism under the ISA.

CBD, article 16.

The Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal,

The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention).

6. Funding

228. A funding mechanism(s) to ensure adequate, predictable and sustainable funding for capacity-building and transfer of relevant marine technology, as well as to promote the establishment of genuine partnerships between the private sector and private and public actors in developing countries, could be established as follows:

Option 1: A voluntary trust fund would be established.

Option 2: An existing funding mechanism would be utilized, for example the Global Environment Facility.

Option 3: A special fund and other distinct funding mechanisms such as a rehabilitation or liability fund, as well as a contingency fund would be established.

Option 4: A combination of voluntary and mandatory mechanisms.

229. Funding would be provided through:

Voluntary and mandatory proceeds. Existing funding mechanisms such as the Nagoya Protocol, and ISA capacity-building funding arrangements could be models to draw from.

Contributions resulting from the access to and utilization of marine genetic resources; premiums paid during the appr C:crcTc 0 Tw 1078TjEMC 65 3(iu)13.1(m)-6004 Tc -0.004 6t.9(c)sn 710.6(

241. The instrument could provide for institutional arrangements as follows:
- Option 1: "Global model"* – Scientific advice, decision-making, review and monitoring of implementation would be done at the global level.
 - Option 2: "Hybrid model"* – General guidance, criteria and standards would be set at the global level while regional and sectoral organizations would be relied upon for scientific advice and implementation and compliance, with a level of oversight as regards decision-making and implementation at the global level.
 - Option 3: "Regional or sectoral approach"* – A global mechanism would aim at facilitating coordination and cooperation while leaving regional and sectoral bodies with the full authority to decide on measures and ensure follow-up and review of implementation.
242. The possibility of using mechanisms already in place could be examined.

A. DECISION-MAKING BODY/FORUM

243. The institutional arrangement for the instrument would provide for an overarching framework at the global level that would meet regularly. It could be organized as follows:
- Option 1.* A new international organization, with a meeting or conference of the parties would be established. The conference of the parties would be convened every year and a Review Conference¹⁵ every five years.
 - Option 2.* The mandate of the ISA would be expanded to oversee the implementation of the instrument.
244. The global body could be composed of an

better address any continuing problems in the conservation and sustainable use of

in the conservation and management of the relevant fisheries resources by giving effect to any conservation and management measures adopted by such organization or arrangement.

256. Representatives from relevant organizations, both governmental and non-governmental, concerned with biological diversity beyond areas of national jurisdiction could be afforded the opportunity to take part in meetings of subregional and regional organizations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the organization or arrangement concerned. Such representatives may be given timely access to the records and reports of such meetings, subject to the procedural rules on access to them.

B. SUBSIDIARY BODY/BODIES

257. A scientific and/or technical body could be established as a subsidiary body, including as follows:

Option 1. A scientific and/or technical body would be established. It could utilize scientific committees under existing frameworks. It could be organized in chambers or sub-commissions similar to the Commission on the Limits of the Continental Shelf.

Option 2. One scientific committee covering all sea areas would be established.

Option 3. Multiple scientific committees with each one covering a sea area would be established.

258. The possible composition of these bodies could include:
Multidisciplinary subject-matter experts nominated by governments, including from States Parties on issues covered by the instrument.

260. Additional subsidiary bodies could be established under the instrument as follows:
An SEA/EIA administrative oversight committee.²¹
A compliance committee to review general issues of compliance and implementation of the instrument.²²
A finance and administration committee.²³
A committee on capacity-building and transfer of marine technology.
A mechanism/entity with a mandate to oversee access and benefit-sharing of marine genetic resources.²⁴

261. Taking into account the special case of SIDS, each of the subsidiary bodies could allocate dedicated seats to SIDS.

262. At the regional level, regional arrangements could be established to facilitate implementation of the instrument, including regional experts panels or committees, such as regional area-based management committees, regional capacity-building and transfer of marine technology committees, regional enforcement committees, and regional finance and administration committees.

C. SECRETARIAT

263. The functions of the secretariat could be modelled on article 319 (2) of UNCLOS and article 15 of General Assembly resolution 49/28, as well as the general functions of secretariats under other instruments, such as the CBD and UNFCCC.

264. Procedures established by the secretariat could take into account the special circumstances of SIDS.

265. Whether a permanent secretariat would be required or whether secretariat services could be provided by an existing international body, such as secretariat the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs (DOALOS/OLA) services would need to be provided in a cost-effective manner. DOALOS/OLA could serve as secretariat for the instrument with the necessary allocation of human, technical and financial resources.

266. The secretariat and the depositary may not necessarily be the same.

²¹ See also section III.E.

²² See also section VII.

²³ See also section VI.

²⁴ See also section III.C.

Review and plan budget.
Monitor the funds established in the instrument.
Report to the global body.

B. REHABILITATION / CONTINGENCY FUND

Possible approaches to address rehabilitation and contingencies could include the following:

281. A mechanism to deal with loss, damage and contingencies could be developed drawing on experience from the Warsaw Mechanism for Loss and Damage established under the UNFCCC, and other similar regimes.

Such mechanism would have a residual nature, i.e. to enter into action only when the

300. Non-Parties could be encouraged to become parties to the instrument.

301. States that would not be Parties to the instrument would not be discharged from their general obligations under UNCLOS and customary international law, including the obligation to protect and preserve the marine environment as well as the obligation to cooperate in good faith, and to ensure that their activities do not undermine the effectiveness of the instrument's conservation measures.

302. The relevant rules of the Vienna Convention on the Law of Treaties would apply.

307. A possible mechanism for regular review

310. The instrument would contain standard final clauses, such as those contained in articles 37 to 50 of UNFSA and 309 to 319 of UNCLOS, including provisions relating to settlement of disputes, signature, ratification and accession, entry into force, reservations and exceptions, declarations and statements, amendment, denunciation, participation by international organizations, depositary, and authentic texts.

311. Consideration would need to be given to the number of ratifications required for entry into force, ensuring a prompt entry into force.

312. With regard to participation:

Universal participation would be sought. The instrument would be open for signature, ratification and accession by all States and other entities on the same basis as provided for in UNFSA (articles 37-39).

Similarly to article 305 in connection with Annex IX of UNCLOS, the instrument would also be open for signature by international organizations allowing for the participation of the European Union.

Consideration could be given to the necessity and possibility of provisional application of the instrument.