

**CONVENTION ON MARINE 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)**

WRITTEN ANALYSIS

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1.0 INTRODUCTION

- 1.1 Cabinet has endorsed Fiji's ratification of the BBNJ Agreement in 2023. Fiji signed the BBNJ Agreement in 2023.
- 1.2 The Ocean is a vast area, most of which is still unknown to humans. It constitutes over 90% of the habitable space on the planet and contains some 250,000 known species, with many more remaining to be discovered. Nearly two-thirds of the Ocean along with its unique species and ecosystems are in areas beyond national jurisdiction (ABNJ) otherwise known as the High Seas.
- 1.3 Fragmented international legal frameworks have left biodiversity in ABNJ vulnerable to growing threats, including climate change, pollution, including plastic pollution, overfishing, habitat destruction, ocean acidification, and underwater noise.
- 1.4 There is currently no international legal framework that regulates activities in the High Seas. This is to say the high seas are the areas of the ocean for which no one nation has sole responsibility for management.
- 1.5 Because these areas are largely far from coastlines, the myriad human activities and corresponding impacts on marine life in those areas are extremely challenging to monitor and control. The marine ecosystems in these areas are subject to negative impacts from human activities in many sectors — from shipping to marine pollution to overfishing and potentially to deep seabed mining, as well as impacts from climate change — all compounded by lack of oversight and comprehensive and coherent governance.
- 1.6 This lack of monitoring and surveillance means human rights violations are abundant in the open ocean. Issues like piracy, human trafficking, abuse and enslavement on fishing vessels, smuggling of migrants, and illegal drug and arms trade thrive in these areas of the ocean that are beyond any State's jurisdiction.
- 1.7 Urgent action is needed to improve fisheries management in the open ocean, and to strengthen protection of related ecosystems to prevent devastating impacts on marine biodiversity, socio-economic well-being and food security for millions of people directly dependent on those fisheries.
- 1.8 To address these gaps in the international legal framework, UN Member States including Fiji recognized the need for an international legally binding instrument

that would govern the conservation and sustainable use of biodiversity and marine genetic resources of areas beyond national jurisdiction.

2.0 SUMMARY OF THE AGREEMENT

2.1 Preamble

- i. The perambulatory paragraphs of the BBNJ Agreement show the strong emphasis on the relationship between the new BBNJ Agreement and UNCLOS, and reiterate many relevant obligations under UNCLOS. It also makes reference to the 2007 UN Declaration on Rights of Indigenous People (UNDRIP).
- ii. It is also worth highlighting that the perambulatory paragraphs recognize the threats faced by the marine environment (PP3), including the impacts of climate change, a first for the implementing agreements under UNCLOS, and the need to address them through a global comprehensive regime (PP4).
- iii. The perambulatory paragraph also touches on the idea of stewards of the ocean in the ABNJ. This idea of stewardship was a core position for the Pacific Small Island Developing States (PSIDS).
- iv. Several perambulatory paragraphs emphasize considerations of equity, the common interests and needs of humanity and the special circumstances of developing countries (PP5, PP6).

2.2 Part I - General Provisions (Article 1 – Article 8)

- i. The 'General Provisions' contain articles with overarching applicability and impact on the overall Agreement and its future interpretation.
- ii. This includes 'use of terms' (Article 1), 'objective of the Agreement' (Article 2), 'scope of application (Article 3) and 'exceptions' (article 4), 'relationship with other international agreements' (Article 5), 'an assurance that the Agreement is without prejudice to sovereignty disputes' (Article 6), 'general principles and approaches' (Article 7) and 'an obligation for Parties to cooperate' (Article 8).
- iii. Notably, one of the objectives 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". *This provision explicitly expands BBNJ beyond only the UNCLOS provisions, through "further international cooperation and coordination".*

- iv. The scope of the Agreement is areas beyond national jurisdiction (ABNJ), however the general provision also specify that the BBNJ Agreement's application is constrained:
 - It does not apply to military vessels or any government vessels in non-commercial service (Article 4), with one noteworthy exception to the exception: the provisions of Part II (MGRs) do apply to government vessels in non – commercial service, because it would otherwise exclude governmental research vessels.
 - "It shall be interpreted and applied in a manner that does not undermine relevant [existing agreements] (Article 5.2)". While this provision carries the potential risk of significant limitations for the use of the BBNJ Agreement where other relevant agreements exist, it is unclear from the text what constitutes "undermining" and further guidance from the Conference of Parties and State Practice will help shape the implementation of this provision over time.
- v. Overall, the inclusion of the principle of equity (see Article 7 d) and intergenerational equity (see Article 2 "for the present and in the long term") are worth noting and align well with the broader consideration and incorporation of those in the negotiation process and the operational provisions themselves.

2.3 Part II - Marine Genetic Resources, Including the Fair and Equitable Sharing of Benefits (Article 9 – Article 16)

- i. At its heart, Part II of the BBNJ Agreement aims to balance fair and equitable benefit sharing of MGRs (including monetary benefit sharing) with as few burdens on marine scientific research as possible.
- ii. Part II of the BBNJ Agreement sets out a new set of rules for how activities relating to MGRs, and their digital representation, digital sequence information (DSI), from Areas beyond National Jurisdiction will be governed and how both monetary and non-monetary benefits from their use will be shared to further the objectives of this Agreement.

- iii. Future parties will have to ensure that actors under their jurisdiction, including vessels flying their flags, comply with the new regulations, which include among other things a notification system that establishes transparency and enables monitoring of these provisions along the different steps of the value chain.
- iv. The MGR section relies heavily on institutions established in other parts of the Agreement, including Clearing – House Mechanism (Art. 51) and the special fund (Art 52.4) and establishes its own access and benefit – sharing committee (ABSC, Art.15). As all part of the Agreement, Part II applies to both the High Seas and the Area, settling the long discussion about what provisions would apply to MGRs in the Area.
- v. The ocean contains the highest functional biodiversity on earth, which is closely associated on earth, which is closely associated with and dependent upon underlying genetic diversity, namely the total number of genetic makeup of each species. Most of the oceans

2.3 Part III – Area Based Management Tools, including Marine Protected Areas” (Article 17 – Article 26)

- i. ABMTs, including MPAs, are an important component of the marine conservation toolbox and spatial planning, yet processes to create them in areas beyond national jurisdiction, and their subsequent scope, have only existed within a few regional organizations (e.g. The Convention for the North – East Atlantic (the OSPAR Convention) and the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) and their membership. Closing this gap and establishing an overarching legal framework to allow for the creation of ABMTs anywhere in ABNJ was a key objective for many States and stakeholders in starting the BBNJ negotiation process in the first place.
- ii. The BBNJ Agreement allows for majority decision making on ABMTs, at the cost of giving Parties a heavily constrained possibility to opt-out of ABMTs. This is critically important, given that past attempts to establish MPAs in the CCAMLR context have been blocked by a small number of countries, because decisions to establish MPAs must be made by consensus agreement of its Members.
- iii. The obligation to ensure that actors under their jurisdiction comply with the ABMTs and their management plans falls to Parties, as does the requirement to monitor implementation, individually or collectively.

- iv. The ABMT part of the Agreement explicitly lists support to developing countries, including through capacity building and the transfer of marine technology and there is a recognition that its implementation should not impose a disproportionate burden on Small Island Developing States (SIDS) or landlocked countries.
- v. Notably, the ABMT part also contains a standalone provision that is explicitly broader than the process to establish ABMTs and allows the Conference of Parties (CoP) to adopt emergency measures (which are not limited to ABMTs) in the face of potential serious or irreversible damage.

2.4 Part IV – Environmental Impact Assessments (Article 27 – Article 39)

- i. Environmental Impact Assessments (EIAs) are a common tool in national and international frameworks to evaluate and inform decision makers about the likely environmental impacts of a proposed project or development, as well as how the project development can be improved to avoid possible adverse effects.
- ii. While UNCLOS does not specifically mention the term EIA, it establishes a broadly equivalent obligation applicable to the marine environment, including areas beyond national jurisdiction, that requires Parties to assess the potential effects of activities under their jurisdiction and control, when they have reasonable grounds for believing that such activities may cause substantial pollution of or significant and harmful changes to the marine environment in ABNJ. While some sector- and region-specific frameworks have included EIA provisions and the International Court of Justice (ICJ) has recognized EIAs as a duty under the International Law in certain cases, no uniform EIA requirements or standards for ABNJ ext.
- iii. The EIA part of the BBNJ Agreement fills this gap by establishing basic modern requirements for assessing and managing planned human activities affecting marine biodiversity in ABNJ. The scope of these provisions covers both activities taking place in the ABNJ as well as activities taking place with national jurisdiction, in the event there is a possibility that it would cause substantial pollution of or significant and harmful changes to the marine environment in ABNJ.
- iv. In the event that the proposed activity is taking place within national jurisdiction, the State can choose to follow its National EIA process, instead of the BBNJ EIA

process, with some additional transparency, monitoring and reporting measures. Similarly, if an activity takes place in ABNJ but has already been assessed under another relevant legal instrument, framework or body with sufficiently high EIA standards, the State does not need to follow the full BBNJ EIA process, but will need to fulfill transparency provisions. These transparency provisions entail that Parties are required to share relevant EIA reports with the CHM, and are obligated to promote the use of standards and guidelines developed the STB.

- v. The BBNJ Agreement leaves both the responsibility to conduct an EIA and the subsequent decision whether to allow the activity to the Party under whose jurisdiction or control a planned activity fall, but it establishes public notification and consultation obligations which greatly improve transparency. Other Parties can also register their concern about specific activities in the ABNJ, and the possibility for a review and recommendations by the STB creates further accountability.

2.5 Part V – Capacity Building and Transfer of Marine Technology (Article 40 – Article 46)

- i. Capacity building and transfer of marine technology (CBTMT) under the BBNJ Agreement is both an obligation by itself, as well as a means of implementation for other parts of the Agreement. It is also one of the ways in which the principle of equity is operationalized in the Agreement.
- ii. UNCLOS already includes provisions on international cooperation and scientific and technical assistance to developing countries in the context of the protection of the marine environment, as well as a Part dedicated to the development and transfer of marine technology, but many States and stakeholders have criticized that these provisions have not been fully operationalized, constrained by weak language and the lack of a comprehensive institutional mechanism.
- iii. The BBNJ Agreement seeks to learn from this and adds many operational elements from the start, including incorporating a funding source (e.g. through the MGR provisions) and establishing a monitoring and review framework and even a separate committee, the capacity building and transfer of marine technology committee, to ensure that the implementation of this part of the Agreement is continuously being followed up on.
- iv. The objectives of this part of the Agreement are interlinked with the overall objectives of the BBNJ Agreement which aims to assist Parties, in particular developing State Parties and Parties under special circumstances in implementing

the parts of the Agreement through capacity building and the transfer of marine technology.

- v. Capacity building and transfer of marine technology will also be needs based, with needs “identified through needs assessments on an individual case – by – case, sub regional or regional basis”, either via self-assessment or facilitated by the CBTMT Committee.
- vi. The Part also sets out the types of capacity building and transfer of marine technology that can take place and this non – exhaustive list is attached as Annex II of the Agreement.
- vii. Capacity building and the transfer of marine technology under the BBNJ Agreement are subject to periodic review by the CBTMT committee, established in this part, under the authority of the CoP. Reviews are to include, among other things, assessing and reviewing the capacity needs of developing countries, identifying, and mobilizing funds, as well as reviewing the actual support provided and mobilized, as well as its performance on the basis of indicators and results-based analysis and make recommendations for follow-up activities. Parties are required to submit reports to the CBTMT committee.

2.6 Part VI – Institutional Arrangements (Article 47 – Article 51)

- **Conference of the Parties (CoP)**

- i. The BBNJ Agreement establishes a CoP as the principal decision – making body of the BBNJ Agreement. The CoP plays a key role in all parts of the agreement, including as the senior body to all subsidiary bodies created under the Agreement, and can create additional subsidiary bodies.
- ii. The establishment of a CoP with broad functions as a key part of the functioning of the BBNJ Agreements is a change to UNCLOS approach, which does not have equivalent provisions for its meetings of State Parties (SPLOS) and contains few decisions to be taken by SPLOS.
- iii. The BBNJ CoP will make decisions by consensus, it can adopt decisions by a vote with a simple majority for substantive matters, unless otherwise specified in other parts of the Agreement.
- iv. In addition to all the functions assigned to it in other parts of the Agreement it can request advisory opinions by the International Tribunal on the Law of the Sea (ITLOS) regarding the conformity of any proposal under consideration by the

CoP. It is also tasked with the regular review of the adequacy and effectiveness of the BBNJ Agreement as a whole and with promoting transparency in decision making and other processes under the BBNJ Agreement.

- v. The CoP is composed of all Parties to the Convention and will meet no later than one year after the entry into force of the Agreement and after that at regular intervals, yet to be determined. At its first meeting, it is expected to adopt Rules of Procedure by consensus.

- **Scientific and Technical Body (STB)**

- i. The STB is an advisory body under the authority and guidance of the CoP to provide scientific and technical advice, including in its functions to review and make recommendation under the ABMT and EIA parts of the Agreement.
- ii. The STB will compose of members serving in their expert rather than national capacity, taking into account the need for multidisciplinary expertise, gender balance and equitable geographical representation.

- **Secretariat**

- i. The Secretariat provides administrative support and facilitation for the effective implementation and functioning of the treaty, including the organizing and servicing of meetings of the bodies created by the treaty, and provides assistance to Parties in the implementation of the Agreement. This includes the management of the CHM outlined below.
- ii. The Secretariat will be staffed by international civil servants. Until the Secretariat starts its functions, the Division for the Oceans and Law of the Sea of the Office of Leal Affairs of the UN Secretariat will function as interim Secretariat.

- **Clearing – House Mechanism (CHM)**

- i. The CHM primarily consist of an open access platform, managed by the Secretariat, to serve as a central hub for information exchange on the implementation of the Agreement, with specific functions for it set out in all parts of the Agreement.
- ii. The CHM will also carry out other functions, including facilitating matchmaking between capacity building needs and support available and facilitate cooperation and transparency, including with bodies and stakeholders outside of BBNJ.

- **Finance Committee**

- i. The terms of reference and modalities of operation for the finance committee will be set by the CoP. The Finance Committee will assess needs of the Parties, availability and disbursement of funds, transparency and accountability, make recommendations to the CoP on the identification and mobilization of funds and report on other funding mechanisms.
- ii. The Committee shall be composed of members possessing appropriate qualifications and expertise, taking into account gender balance and equitable geographical distribution.

- **Implementation and Compliance Committee**

- i. The implementation and compliance committee role is to facilitate implementation and promote compliance with the provisions of the Agreement at the individual and systemic level. It will function in a transparent, non-adversarial and non-punitive manner.
- ii. The Committee will be composed of members, nominated by Parties, possessing appropriate qualifications and expertise, taking into account gender balance and equitable geographical distribution.

- **Access and benefit – sharing committee (ABSC)**

- i. The Access and benefit –sharing committee (ABSC) is a subsidiary body established in the MGR Section (Part II of the Agreement) to make recommendations and provide guidance on the implementation of the benefit sharing provisions thereunder, including making recommendations on potential future revisions of the monetary benefit sharing mechanism. It can also consult and facilitate the exchange of information with other relevant legal instruments and frameworks on these matters.
- ii. The ABSC will consist of 15 members, possessing appropriate qualifications in related fields, nominated by Parties and elected by the CoP, taking into account gender balance and equitable geographical distribution as well as providing for representation from Least Developed Countries (LDCs), Landlocked Developing Countries (LLDCs) and SIDS.

- **Capacity – building and marine technology committee (CBTMTC)**

- i. The CBTMTC has a range of active and advisory functions in the CBTMT part of the BBNJ Agreement, including facilitating capacity needs – assessments and monitoring and reviewing the implementation of this part of the Agreement. It also makes recommendations and develops guidance.
- ii. The CBTMTC will consist of members possessing appropriate qualifications and expertise, nominated by Parties and elected the CoP, taking into account gender balance and equitable geographical distribution as well as providing for representation from LDCs, LLDCs and SIDS.

2.7 Part VII – Financial Resources and Mechanism (Article 52)

- i. The Funding mechanism established by the BBNJ Agreement has multiple components:
 - Mandatory assessed contributions from Parties fund the Institutions established by the Agreement;
 - A voluntary trust fund supports the participation of developing State Parties in the meetings of the bodies established under the Agreement;
 - A special fund which will inter alia receive monetary benefits shared under the MGR part of the Agreement as well as additional voluntary contributions; and
 - The Global Environmental Facility (GEF)
- ii. The CoP can also decide to establish additional funds and will establish a finance committee to support the implementation of this part of the Agreement. The text also includes eligibility criteria for access to funding, which focus on needs by developing States.

2.8 Part VIII – Implementation and Compliance (Article 55) & Part IX – Settlement of Disputes (Article 56 – 61)

- i. In this part of the Agreement, there are also a range of options to address non-compliance by Parties, ranging from a facilitative, non – punitive implementation and compliance approach to putting in place the option of dispute settlement.
- ii. For disputes of a technical nature, the Agreement allows referral to an ad hoc expert panel, which may be more efficient than other dispute settlement mechanisms.

- iii. The dispute settlement provisions also strike a careful balance with regards to the compulsory dispute settlement measures under UNCLOS, which apply to UNCLOS Parties, but not Non – Parties.

2.9 Part X – Non-Parties to the Agreement, Part XI - Good Faith and Abuse of Rights, Part XII – Final Provisions

- i. The dispute settlement provisions also strike a careful balance with regards to the compulsory dispute settlement measure under UNCLOS, which apply to UNCLOS Parties but not Non – Parties.
- ii. Final provisions of the Agreement also contain important provisions regarding the conclusion and future modification of the treaty.
- iii. In this Part, Parties also have the option of agreeing to provisional application of the Agreement by notifying the depository (the Secretary General of the UN). No reservations or exceptions to the Agreement can be made, unless specifically permitted in other articles of the Agreement.
- iv. Amendments can be proposed by Parties and a process is set out for when and how they would be considered by the CoP and when they would enter into force, if adopted.

3.0 REQUIREMENTS FOR IMPLEMENTATION

- 3.1 If Parliament approves the ratification of the BBNJ Agreement, Fiji will officially become a party to the Agreement, however the Agreement itself will only 'enter into force' 120 days after the date of deposit of the sixtieth instrument of ratification, approval, acceptance or accession.
- 3.2 To date, fourteen (14) countries have signed and ratified the Agreement. In the Pacific, only two (2) countries, Federated States of Micronesia and Palau have ratified the Agreement.
- 3.3 Upon ratifying the BBNJ Agreement, Fiji through the Maritime Affairs Coordinating Committee (MACC), chaired by the Ministry of Foreign Affairs will take necessary steps to ensure effective implementation of the Agreement.

- 3.4 This will include the review of relevant legislation and policies, the convening of workshops to ensure that they relevant technical agencies are aware of their respective responsibilities under the Agreement.
- 3.5 If required, MACC will also consider the establishment of a BBNJ Technical Committee to assist with the implementation of the BBNJ Agreement.

4.0 IMPACT OF EXECUTION OF THE AGREEMENT

- 4.1 Fiji is a party to UNCLOS, being the first country to sign the Convention when it opened for signature on 10 December 1982 in Montego Bay, Jamaica. The BBNJ Treaty falls under UNCLOS and as both instruments are aimed at conserving and sustainably managing our oceans and its resources, both within national jurisdiction and now in areas beyond national jurisdiction, it is critical that Fiji also signs and ratifies the BBNJ Treaty.
- 4.2 The BBNJ Treaty helps to fill the 'gaps' that were not addressed by UNCLOS and in addition to helping protect vulnerable ecosystems and species, the BBNJ Treaty is also consistent with the diplomatic, economic, and social interests of States, including Fiji:

- i. Diplomatic benefits**

The BBNJ Treaty offers States an opportunity to strengthen multilateral diplomatic institutions and promote international cooperation towards global conservation efforts. The Treaty clearly establishes core obligations and principles for high seas conservation and sustainable management through the BBNJ Treaty that will advance global collaboration around common goals, including revitalizing efforts to meet the Sustainable Development Goals (SDGs).

While differing priorities and power imbalances have historically hindered progress towards meeting global targets, a strong BBNJ Treaty will mitigate many challenges and inefficiencies inherent in the current regional and sector-based governance regime by creating a platform for working towards more cohesive integrated management.

- ii. Economic benefits**

Strengthened biodiversity protections through a strong BBNJ treaty can enhance ecosystems health, preserve genetic diversity, and improve fish stocks, leading to economic benefits for ocean-related industries. The ocean supports a wide-range of renewable economic activities, generating

millions of jobs and revenue sectors including fishing, energy, tourism, shipping and biotechnology. Additionally, the ocean provides intangible goods, services, and non-market benefits such as atmospheric regulation, carbon sequestration and storage, and global temperature control.

Many coastal countries including the Pacific Islands Developing States (PSIDS) are motivated to explore how to grow their ocean-based economies, however, the benefits of a growing blue economy will only be realized if regulations and governance adequately protect the ocean's capacity to provide ecosystem goods and services in a holistic manner. While most of this ocean-based economic value comes from coastal areas, biodiversity protection in the high seas will enhance ecosystem services stemming from ABNJ, with benefits that can spill over and lead to more prosperous coastal sectors.

iii. Social benefits

The BBNJ Treaty will also promote global equity, a goal of the UN and many of its member States. The legal status quo in the high seas is highly inequitable, where opportunities to explore, extract and acquire wealth from ocean-based resources are not fairly considered or distributed among nations. Currently, only a few wealthy nations possess the legal, institutional, or research capacities to access high seas areas, leading to disproportional benefits sharing from what is meant to be the 'global commons'.

- 4.3 At the national level, the objectives of the BBNJ Treaty align with Fiji's National Ocean Policy and other national legislation and policies. Following Fiji's signature of the Treaty and eventual ratification the Ministry will conduct the necessary consultations with relevant line ministries to ensure relevant national legislations and policies are amended, as necessary, through the proper processes to give effect to the BBNJ Treaty.
- 4.4 As a small island developing state (SIDS) that has limited capacity and resources, the BBNJ Treaty will assist Fiji when it comes to the monitoring and surveillance of activities that are being carried out in ABNJ which may have adverse impacts within Fiji's national jurisdiction.
- 4.5 The robust notification process that requires all parties to the BBNJ Treaty to declare/notify of any intended activities in the ABNJ and the stringent EIA processes that Treaty entails will ensure that coastal countries like Fiji, are

informed of the proposed activities in the ABNJ that may have potential environmental impacts on marine biodiversity within Fiji's national jurisdiction.

- 4.6 Through the Treaty Fiji is also able to make submissions in response to EIAs conducted by another State, especially if Fiji is of the view that a proposed Activity may in fact adversely impact marine biodiversity within Fiji's waters.
- 4.7 Regionally, the PSIDS member states based in New York actively participated in the BBNJ negotiations, with members sharing similar priorities and vision for what the BBNJ Treaty could achieve.
- 4.8 The positions put forward by the PSIDS was based off national positions that PSIDS members wanted to advance during the negotiations and as a result the final BBNJ Treaty has captured PSIDS priorities including that of Fiji's:

i) Special Circumstances of SIDS

The PSIDS strategy has been to incorporate express references to SIDS throughout the text with a goal to highlighting SIDS special circumstances and requirements as stand-alone and not clustered together with other categories of developing countries like the least developing countries (LDCs) and landlocked least developing countries (LLDCs) etc. The inclusion of special case of SIDS in the text will also unlock mandatory capacity building and transfer of technology (CBTT).

ii) Role of Traditional Knowledge and Indigenous Peoples and Local Communities (IPLCs)

PSIDS have also supported the recognition of traditional knowledge and IPLCs acknowledging that some IPLCs can hold onto relevant traditional knowledge that may be able to unlock marine genetic resources and which can benefit all. The PSIDS want traditional knowledge and IPLCs to be properly reflected in the text and to ensure that their rights are properly protected when it comes to accessing the relevant traditional knowledge they have.

iii) Fair and Equitable Sharing of Benefits Deriving from the Access to and Utilization of Marine genetic resources from Areas Beyond National Jurisdiction (ABNJ)

PSIDS maintain the position that any monetary or non-monetary benefits that arise from the access to and utilization of marine genetic resources

from ABNJ must be fairly and equitably shared amongst the parties to the BBNJ Treaty. In order to ensure fair and equitable sharing of benefits, the PSIDS have aligned themselves with the African Group, Latin American Countries (CLAM) and CARICOM to push for the inclusion of an 'Access and Benefit Sharing Mechanism' that will be triggered when MGRs are accessed and utilized and will oversee how benefits are properly distributed to all State parties to the BBNJ Treaty.

iv) Capacity Building and Transfer of Technology (CBTT)

PSIDS maintained the need to ensure that CBTT would be available for developing countries to help build skills and capabilities and to ensure that developing countries also had the opportunity to explore and potentially exploit marine genetic resources in the high seas thus empowering developed countries.

- 4.9 The Leaders Communique that was also issued at the last PIF Leaders Meeting in Nadi, in 2023 under Fiji's Chairmanship, also highlighted the need for the finalization of the BBNJ Treaty, recognizing how instrumental the BBNJ Treaty would be in managing and protecting the region's marine biodiversity.
- 4.10 At the PIF Leaders Meeting in Cook Islands and in Tonga, Leaders encouraged the ratification of the Biodiversity Beyond National Jurisdiction (BBNJ) Agreement noting the important decisions that are expected to be made at the First BBNJ Conference of the Parties (CoP 1).
- 4.11 In the lead-up to the **3rd UN Oceans Conference in June 2025** in Nice France, the co-hosts France and Costa-Rica are urging all countries and fellow members of the **High-Level Panel on Sustainable Oceans Economy** of which Fiji is a member, to ratify the BBNJ Agreement.

5.0 RECOMMENDATION

- 5.1 It is recommended that Parliament endorse Fiji's ratification of the BBNJ Agreement.