Part I Assessing the UN Institutional Structure for Global Ocean Governance: The UN’s Role in Global Ocean Governance, 1 The Role of the United Nations, including its Secretariat in Global Ocean Governance

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The Role of the United Nations, including its Secretariat in Global Ocean Governance

1. Introduction

The United Nations General Assembly (UNGA) resolutions on oceans and the law of the sea and on sustainable fisheries attest to the steady expansion of the scope and number of issues that have arisen in the field of oceans and the law of the sea since 1982, when the United Nations Convention on the Law of the Sea (UNCLOS) was adopted and opened for signature. The broad range and interrelationship between those issues, coupled with predominantly single-sector governance approaches, present a formidable challenge to policy- and decision-makers to achieve the required cooperation and coordination at the national, regional, and global levels and ensure effective ocean governance consistent with the legal framework in UNCLOS and the goals of Agenda 21, as supplemented by the goals in the outcomes of other United Nations (UN) Conferences on sustainable development, and in the ‘Transforming our world: the 2030 Agenda for Sustainable Development’ (2030 Agenda).

Effective ocean governance requires a coherent cross-sectoral, interdisciplinary, and integrated approach to ocean management based on agreed international rules and procedures and principles, such as the precautionary approach and an ecosystem approach, best available science, participatory and inclusive decision-making, regional action based on common principles, and national legal frameworks and integrated policies.

At the global level, the international community has looked to the UNGA as the central intergovernmental organization for global ocean governance, supported by the subsidiary bodies it established and the UN Secretariat, specifically the Division for Ocean Affairs and the Law of the Sea (DOALOS) of the Office of Legal Affairs, to enhance cooperation and coordination at the intergovernmental and inter-agency levels.

This contribution to the overall study project on ‘global ocean governance’ will examine how the UN has performed this role and lived up to the expectations of the international community. It will commence with an overview of the current global issues on the international agenda (section 2) and then describe the current legal and policy framework (section 3) as well as the institutional framework (section 4) at the global level for addressing these issues. Possible ways to enhance global ocean governance will also be explored.

2. Current Issues

There is an increasing recognition of the economic and ecosystem value of oceans and their critical role in addressing many of the current global challenges, including climate change and food security. In a recent study, the Organisation for Economic Co-operation and Development (OECD) indicated that, by 2030, many ocean-based industries will have the potential to outperform the global economy as a whole with regard to growth, both in terms of value added and employment. It is therefore not surprising that States are increasingly looking to the oceans to support their economic growth and social development.

Although the potential of the oceans for economic growth and social development is substantial, an important constraint on the development of the ocean economy is the current deterioration of its health. Pollution from various sources, in particular from land-based activities, unsustainable exploitation of marine resources, such as overfishing, illegal, unreported, and unregulated (IUU) fishing, and destructive fishing practices, the introduction of invasive alien species, and the physical alteration and destruction of habitats can negatively impact the health and resilience of marine ecosystems. These
impacts are further compounded by the impacts of climate change and the effects of ocean acidification.

The UNGA has noted with concern the findings of the First Global Integrated Marine Assessment (the first World Ocean Assessment)\(^9\) that the world’s ocean is facing major pressures simultaneously with such great impacts that the limits of its carrying capacity are being, or, in some cases, have been reached, and that delays in implementing solutions to the problems that have already been identified as threatening to degrade the world’s ocean will lead, unnecessarily, to incurring greater environmental, social, and economic costs.\(^10\) The Assessment, the (p. 5) summary\(^11\) of which was approved by the UNGA in December 2015,\(^12\) identifies a number of capacity and knowledge gaps and underscores that the sustainable use of the ocean cannot be achieved unless the management of all sectors of human activities affecting the ocean is coherent. The Assessment furthermore underlines that the international community cannot afford to delay action to sustainably manage and use the ocean for the benefit of present and future generations.

Concerted action is equally required in order to meet the Sustainable Development Goals (SDGs) in the 2030 Agenda, in particular SDG 14 ‘Conserve and sustainably use the oceans, seas and marine resources for sustainable development’, as well as to enhance the resilience of marine ecosystems and of the communities whose livelihoods depend on them to the impacts of climate change and ocean acidification. With the entry into force of the Paris Agreement,\(^13\) States are also now looking to the oceans to achieve their mitigation and adaptation commitments.

Also critical to the ability of the international community to benefit from the oceans, including in light of their role as the backbone of international trade and communication, is the maintenance and enhancement of security of maritime spaces.\(^14\) A number of current threats to maritime security have been identified by the UNGA in its annual resolutions on oceans and the law of the sea, and include piracy and armed robbery at sea, illicit traffic in narcotic and psychotropic substances, the smuggling of migrants, trafficking in persons and illicit trafficking in firearms, and smuggling and terrorist acts against shipping, offshore installations, and other maritime interests. Other specific ocean issues that require attention and have been identified by the UNGA in its resolutions on oceans and the law of the sea and on sustainable fisheries include the need to combat forced labour and human trafficking in the fishing and aquaculture industries, the importance of the fair treatment of crew members, the need to protect submarine cables, and to protect and preserve underwater, archaeological, cultural, and historical heritage.\(^15\) The list is not exhaustive, as also demonstrated by the challenges identified by the European Union in the context of its recent consultation on international ocean governance.\(^16\)

In its resolutions on sustainable fisheries, the UNGA has consistently recognized the urgent need for action at all levels, relying on scientific advice, to ensure the long-term sustainable use and management of fisheries resources through the wide (p. 6) application of the precautionary approach and ecosystem approaches. It has noted with concern the current and projected adverse effects of climate change on food security and the sustainability of fisheries; that effective management of marine capture fisheries has been made difficult in some areas by unreliable information and data caused by, inter alia, unreported and misreported fish catch and fishing effort and that this lack of accurate data contributes to overfishing in some areas; that basic data on shark stocks and harvests continue to be lacking and that not all regional fisheries management organizations and arrangements (RFMO/As) have adopted conservation and management measures for directed shark fisheries and for the regulation of by-catch of sharks from other fisheries; that marine pollution from all sources constitutes a serious threat to human health and safety, endangers fish stocks, marine biological diversity, and marine and coastal habitats, and has significant costs to local and national economies; that abandoned, lost or otherwise discarded fishing gear, including ghost fishing gear, is an increasingly pervasive and
destructive form of marine debris causing adverse impacts on fish stocks, marine life, and the marine environment and that urgent preventative action is needed as well as removal action; that invasive alien species, such as those carried and transferred by ballast water and by biofouling on ships, pose a significant threat to marine ecosystems and resources; and that only a limited number of States have taken measures to implement, individually and through RFMO/As, the International Plan of Action for the Management of Fishing Capacity adopted by the Food and Agriculture Organization of the United Nations (FAO). The UNGA has also expressed its particular concern that IUU fishing continues to constitute a serious threat to fish stocks and marine habitats and ecosystems, to the detriment of sustainable fisheries as well as the food security and the economies of many States, particularly developing States; and has noted with concern that some operators increasingly take advantage of the globalization of fishery markets to trade fishery products stemming from IUU fishing and make economic profits from those operations. The UNGA has recognized the need for States, individually and through RFMO/As, to continue to develop and implement, consistent with international law, effective port State measures to combat overfishing and IUU fishing, and the critical need for cooperation with developing States to build their capacity. It has also recognized the need to adopt, implement, and enforce appropriate measures to minimize waste, by-catch, and discards, including high-grading, loss of fishing gear, and other factors that adversely affect the sustainability of fish stocks and ecosystems and, consequently, can also have harmful effects on the economies and food security of small island developing States (SIDS), other developing coastal States, and subsistence fishing communities. The Assembly has further called attention to the circumstances affecting fisheries in many developing States, in particular African States and SIDS, and recognized the urgent need for capacity-building, including the transfer of marine technology and in particular fisheries- and aquaculture-related technology, to enhance the ability of such States to exercise their rights in order to realize the benefits from fisheries resources and fulfill their obligations under international instruments.

The UNGA has called upon States that have not done so to become parties to UNCLOS and the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UN Fish Stocks Agreement) in order to achieve the goal of universal participation and also called upon States to implement their obligations set out in international instruments. However, while significant progress has been achieved in the development of a comprehensive legal regime and policy framework for the sustainable development of oceans and their resources, not all treaties are in force and, when in force, may not have reached the goal of universal participation. For example, although the UN Fish Stocks Agreement has a crucial role for the governance of high seas fisheries, the current number of States parties (eighty-seven, including the European Union, as at 31 December 2017) is clearly insufficient, and falls considerably short of the goal of universal participation set by the UNGA. Some States, for example, are participating in the work of RFMO/As, but are not yet party to the Agreement.

Although reporting requirements exist under a few treaties, assessments of implementation generally remain incomplete owing to a low level of responses to reporting requirements and limited available information on how States have discharged their duties under relevant legally-binding instruments or have followed upon the calls for action of the UNGA and
other governing bodies of competent international organizations. In addition, when they exist, compliance mechanisms are rarely used or not used to their full extent. The many ocean issues under consideration in the UNGA demonstrate that effective and full implementation of UNCLOS, the UN Fish Stocks Agreement, and other legal instruments remains a major challenge for all States, in particular for developing countries and especially for SIDS and least developed countries (LDCs). Implementation challenges faced by States are in great part due to insufficient human, financial, institutional, and scientific capacity, lack of dedicated financing, a sector-focused governance framework coupled with ineffective cooperation and coordination at the national, regional, and global levels. While most coastal States already have a variety of sectoral policies in place to manage different uses of the ocean (such as shipping, fishing, oil and gas development), and a good number have undertaken sustained efforts to develop an integrated, ecosystem-based approach for the governance of ocean areas under their jurisdiction—around fifty countries have some form of spatial ocean management initiative(s) underway—the pace at which management and governance of the oceans is proceeding does not match the pace of degradation of the marine environment. State institutions with the capacity to bring ‘order’ into the field of national ocean management are not always determined to do so. In some cases, international law is translated into national law either inadequately or only after long delays. In other cases, implementation fails due to a lack of political will. Moreover, challenges arise from a policy of short-term economic gains without sufficient consideration of social and environmental factors, slow progress in the implementation of ecosystem-based and precautionary approaches, gaps in effectiveness and regional coverage of fisheries management organizations, maritime disputes, and criminal activities at sea, among others. Implementation gaps are now further compounded by new challenges, in particular those resulting from the impacts of climate change on oceans and ocean acidification.

Capacity-building needs have been identified in a wide range of areas, including: uniform and consistent application of UNCLOS, delineation and delimitation of maritime zones, marine science, integrated management of oceans and seas and ecosystem approaches, conservation and management of living marine resources, conservation and sustainable use of marine biological diversity, sustainable use of non-living resources and development of marine renewable energy, protection and preservation of the marine environment from land- and sea-based activities, climate change and oceans, ocean acidification, maritime transport and navigation, maritime security, protection of archaeological and historical objects, and settlement of disputes. It has been noted that many ocean-related governance issues have shortcomings not because rules for better management do not exist, but because some States do not have the capacity to enforce them, which can inevitably lead to environmental degradation and, in some cases can transform into problems with global implications, such as piracy. The UNGA has annually reiterated the essential need for cooperation, including through capacity-building and transfer of marine technology, to ensure that all States, especially developing countries, in particular the LDCs, landlocked developing countries (LLDCs), and SIDS, as well as coastal African States, are able both to implement UNCLOS and to benefit from the sustainable development of the oceans and seas, as well as to participate fully in global and regional forums and processes dealing with oceans and the law of the sea, while recognizing the need to also address the particular challenges faced by developing middle-income countries.
In that regard, the provision of adequate financial resources available for assistance to developing States represents an additional challenge. Since UNCLOS does not, like some other treaties, provide for a specific financial mechanism to support States in its implementation, activities aimed at supporting developing countries, in particular LDCs, SIDS, and LLDCs are dependent on voluntary contributions to trust funds, which have not been sustainable. This is also true of the UN Fish Stocks Agreement, which in its Part VII recognizes the need for financial resources, amongst others, to address the requirements of developing States. In 2003, the UNGA established the Assistance Fund under Part VII of the UN Fish Stocks Agreement to assist developing States parties in the implementation of the Agreement.29 However, in spite of the critical role of the Fund for achieving increased participation in, and implementation of, the Agreement by developing countries by making a wide range of capacity-building tools available to developing States parties, it has not benefited from sustained financing and is currently devoid of funds.

With regard to the institutional framework, the large number of international treaties and soft law instruments, as well as the multitude of organizations addressing ocean issues, has spread the responsibility and authority in international ocean policy far and wide and resulted in fragmented ocean governance.30 In the majority of cases, the individual treaties and organizations only have a mandate for specific sectors.31 This has also been identified as a matter of concern with respect to governance of areas beyond national jurisdiction, together with ineffective implementation and legal and regulatory gaps. It has been noted that governance in such cases is exercised through a multitude of different global and regional organizations and bodies and through legal and regulatory frameworks that are neither comprehensively complied with nor consistently enforceable.32 The UNGA has consistently recognized the need for a more integrated and ecosystem-based approach to, further study of and the promotion of measures for enhanced cooperation, coordination and collaboration relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction.33

3. Legal and Policy Framework

3.1 UNCLOS and related legal instruments

The legal framework underpinning global ocean governance comprises both treaties and non-binding legal instruments. Of all these instruments, UNCLOS is of central (p. 10) importance. It has been described as the ‘Constitution for the oceans’34 and represents one of the most successful international treaties ever negotiated and a keystone for international cooperation. In its 320 articles and nine annexes, the Convention provides a comprehensive, integrated, and widely accepted legal framework, including for the sustainable development of the oceans and their resources. The legal order for the seas and oceans established by UNCLOS is aimed at facilitating international communication, and promoting the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of their living resources, and the study, protection, and preservation of the marine environment.35 UNCLOS sets out the rights and duties of States with respect to, inter alia, marine scientific research, the exploration and exploitation of resources, and navigation and also devotes an entire part to the protection and preservation of the marine environment. The Convention also provides the legal framework for combating criminal activities at sea. Furthermore, UNCLOS requires States to cooperate with respect to capacity-building, the development and transfer of marine technology, and marine scientific research so that all States can realize the full potential of their corresponding rights and benefits and meet their obligations in accordance with the Convention. The three bodies established by UNCLOS are described in section 4.
As at 31 December 2017, there are 168 States parties, including the European Union, to the Convention. Moreover, many of the provisions of UNCLOS are regarded as forming part of customary international law. In its resolutions on oceans and the law of the sea, the UNGA has been annually emphasizing the universal and unified character of the Convention, and reaffirming that it sets out the legal framework within which all activities in the oceans and seas must be carried out and is of strategic importance as the basis for national, regional, and global action and cooperation in the marine sector.

The need for a coherent and integrated approach is explicitly recognized in the Preamble to UNCLOS which states that the problems of ocean space are closely interrelated and need to be considered as a whole. It had also been previously recognized by the UNGA when it convened the Third United Nations Conference on the Law of the Sea in 1973. Indeed, it was that recognition which led not only to a very broad agenda for the Conference, but also to the whole conceptual underpinnings of UNCLOS as an integral package aimed at ensuring that the enjoyment of rights and benefits involves the concomitant undertaking of rights and obligations.

Cooperation among States is not only central to the achievement of the objectives of UNCLOS, but also for the further development of its provisions. Over the years, the Convention has demonstrated its dynamic character. It is complemented by two Implementing Agreements, the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (Part XI Agreement) and the UN Fish Stocks Agreement. The latter gives effect to the duty in the Convention to cooperate in the conservation and management of straddling fish stocks and highly migratory fish stocks. Although the Agreement is concerned with straddling fish stocks and highly migratory fish stocks, a number of its provisions, including provisions on application of the precautionary approach and an ecosystem approach to fishing activities are reflected in the UNGA resolutions on sustainable fisheries. Thus, States have, inter alia, been called upon by the UNGA to adopt individually and, as appropriate, through subregional and regional RFMO/As with competence over discrete high seas fish stocks, the measures necessary to ensure the long-term conservation, management, and sustainable use of such stocks in accordance with UNCLOS and consistent with the FAO Code of Conduct for Responsible Fisheries and the general principles set forth in the Agreement.

UNCLOS also specifically mandates the further development of its provisions through international rules and standards. Accordingly, nowadays, UNCLOS is supplemented by many other legal instruments, binding and non-binding, which have been developed under the auspices of a number of organizations and bodies of the UN system dealing with a range of mainly sectoral issues, such as maritime transport and labour conditions, fisheries, pollution, protection of species and habitats, and transnational organized crime. At the regional level, regional fisheries management conventions and regional seas conventions complement the global instruments. A number of global and regional legal instruments already existed before UNCLOS was adopted and have been further developed over time. The annual UNGA resolutions on oceans and the law of the sea and on sustainable fisheries refer to many of the legal instruments that complement UNCLOS and call for or encourage their wider acceptance and effective implementation. Indeed, the effective implementation of UNCLOS is also dependent on the effective implementation or application of the many instruments that have further developed its provisions and are consistent with it.

While the comprehensive legal regime that has been developed over many years provides a solid basis for addressing many of the challenges outlined in section 2, no State has been able to address fully the enormous implementation challenges UNCLOS and the many related instruments present. This is also demonstrated by the repeated calls to effectively implement international law, as reflected in UNCLOS, included in (p. 12) various major policy outcomes at the level of the UN. Moreover, not all States have an ocean policy in
place. It has been noted that there is a lack of incentives to develop a comprehensive marine policy and that the benefits of such approach need to be made clearer.\textsuperscript{44}

Therefore, if meaningful progress is to be made in response to the repeated calls by the UNGA and other intergovernmental bodies to effectively implement international law as reflected in UNCLOS and to adopt an integrated, cross-sectoral, multi-disciplinary and precautionary and ecosystem-based approach at all levels, consideration might need to be given to underpinning such calls with more concrete guidance to States and other stakeholders.

To date, there has been no comprehensive consideration in any intergovernmental organization of how the legal regime for the law of the sea has been further developed and how to address implementation and governance challenges, apart from the discussions in the UNGA subsidiary bodies on the conservation and sustainable use of marine biological diversity which have focused on areas beyond national jurisdiction. The discussions that are taking place in intergovernmental organizations, other than the UN, are focused on the implementation of some specific provisions of UNCLOS that are relevant to the discharge of the mandate of those particular organizations.

The fact that UNCLOS was adopted around thirty-five years ago, coupled with the absence in many States of a comprehensive ocean policy, has led to an increasing lack of awareness and understanding of the legal regime in UNCLOS and its relationship to other legal instruments and has prompted references to the Convention as outdated.\textsuperscript{45} However, an understanding of that comprehensive legal regime is fundamental to any overall consideration of how to progress in its implementation and further development and whether it might be necessary to devise an integrated global strategy\textsuperscript{46} at the level of the UNGA for addressing implementation gaps, in particular through capacity-building. Such strategy could also take into account the 2030 Agenda and the outcomes of the UN Conferences on sustainable development, but would not prejudice the development of an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. It could identify commonalities with respect to the basic requirements for effective governance, while recognizing that a single governance model would not be appropriate for all contexts due to the unique features and challenges existing in each country or region.\textsuperscript{47}

It would be important to involve all relevant stakeholders (including business, researchers, and civil society organizations) in the development of such strategy with a view to achieving a higher level of compliance and facilitate the emergence of complementary governance arrangements, for example voluntary commitments and sharing of best practices.\textsuperscript{48}

### 3.2 UN Conferences and Summit on sustainable development

One of the features of the period following the adoption of UNCLOS has been the articulation by a broad range of stakeholders of principles and approaches for ocean governance, such as sustainable development, the precautionary approach and an ecosystem approach,\textsuperscript{49} which are not explicitly mentioned in UNCLOS but are implicit in its provisions. These principles and approaches were embodied in the Rights Declaration\textsuperscript{50} and in chapter 17 of Agenda 21,\textsuperscript{51} the programme of action for achieving sustainable development of oceans, coastal areas, and seas, adopted at the UN Conference on Environment and Development (UNCED) in Rio in 1992. UNCLOS had not entered into force at that time, but Agenda 21 nonetheless recognized that international law, as reflected in the provisions of UNCLOS, sets forth rights and obligations of States and provides the international basis upon which to pursue the protection and sustainable development of the marine and coastal environment and its resources. This, it stated, required new approaches to marine and coastal area management and development, at the national, subregional, regional, and global levels, approaches that are integrated in content and are precautionary and anticipatory in ambit.\textsuperscript{52} Agenda 21 recognized the need to improve coordination and
strengthen links among the numerous national and international, including regional, institutions, both within and outside the UN system, with competence in marine issues, and the importance of ensuring that an integrated and multi-sectoral approach to marine issues was pursued at all levels.\footnote{53}

Ten years later, in 2002, the Plan of Implementation of the World Summit on Sustainable Development\footnote{54} (Johannesburg Plan of Implementation (JPOI)) invited States to ratify or accede to and implement UNCLOS as the overall legal framework for ocean activities and called for promotion of integrated, multidisciplinary, and multi-sectoral coastal and ocean management at the national level and encouragement and assistance to coastal States in developing ocean policies and mechanisms on integrated coastal management. The JPOI also called for application by 2010 of the ecosystem approach.

In 2012, at the UN Conference on Sustainable Development, at Rio (Rio+20), States committed in the outcome document of the Conference, ‘The future we want’, to inter alia protect, and restore, the health, productivity, and resilience of oceans and marine ecosystems, to maintain their biodiversity, enabling their conservation and (p. 14) sustainable use for present and future generations, and to effectively apply an ecosystem approach and the precautionary approach in the management, in accordance with international law, of activities having an impact on the marine environment, to deliver on all three dimensions of sustainable development. They recognized the importance of UNCLOS to advancing sustainable development and its near universal adoption by States, and in this regard urged all its parties to fully implement their obligations under the Convention. They also urged States Parties to the UN Fish Stocks Agreement to fully implement it, and give, in accordance with its Part VII, full recognition to the special requirements of developing States.\footnote{55}

The SIDS Accelerated Modalities of Action (SAMOA) Pathway\footnote{56} adopted at the Third International Conference on Small Island Developing States in 2014, also reaffirms UNCLOS as the legal framework for the conservation and sustainable use of oceans and their resources. It also, inter alia, strongly supports national, subregional, and regional efforts to assess, conserve, protect, manage, and sustainably use the oceans, seas, and their resources by supporting research and the implementation of strategies on coastal zone management and ecosystem-based management, including for fisheries management, and enhancing national legal and institutional frameworks for the exploration and sustainable use of living and non-living resources.

The capacity and financing for development nexus is addressed in the Addis Ababa Action Agenda adopted in 2016 at the Third International Conference on Financing for Development. It also stresses the importance of the conservation and sustainable use of the oceans and seas for sustainable development, and further reaffirms that international law as reflected in UNCLOS provides the relevant legal framework in this regard.\footnote{57}

The 2030 Agenda adopted in 2015, responds to the call at Rio+20 to build upon commitments already made, and contribute to the full implementation of the outcomes of all major Summits in the economic, social, and environmental fields, including ‘The future we want’. The seventeen SDGs with 169 associated targets are described in the 2030 Agenda as integrated and indivisible, global in nature, and universally applicable.\footnote{58}

SDG 14 ‘Conserve and sustainably use the oceans, seas and marine resources for sustainable development’ includes ten specific time-bound targets by which a number of persistent challenges, many of which had previously been addressed in Agenda 21, the JPOI, ‘The future we want’, and successive resolutions of the UNGA on oceans and the law of the sea and on sustainable fisheries, will need to be addressed. Three of the targets in Goal 14 set out means of implementation and include the commitment to ‘[e]nhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United Nations Convention on the Law of the Sea,'
which provides the legal framework for the conservation and sustainable use of oceans and their resources, as recalled in paragraph 158 of “The future we (p. 15) want”’.\textsuperscript{59} While the commitments made by States in the 2030 Agenda, in particular its Goal 14, do not contain any commitments which specifically mention the need to enhance ocean governance, they nonetheless provide a renewed impetus for enhanced integrated and coordinated action across sectors and across all levels in the implementation of the legal and policy frameworks for the conservation and sustainable use of oceans and their resources, including UNCLOS.

The implementation of the commitments under SDG 14 will also contribute to the implementation of many other SDGs in the 2030 Agenda. Similarly, the implementation of the ocean-related commitments in other SDGs will also contribute to the implementation of SDG 14.

In 2015, following the adoption of the 2030 Agenda, the UNGA decided, in its resolution 70/226, to convene a high-level United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development (the Ocean Conference), co-hosted by the Governments of Fiji and Sweden, from 5 to 9 June 2017, coinciding with World Oceans Day.\textsuperscript{60} In a subsequent resolution adopted in 2016 on the modalities for the Conference, the UNGA decided inter alia that the Conference would contribute to the follow-up and review process of the 2030 Agenda by providing an input to the High-Level Political Forum on Sustainable Development (HLPF), on the implementation of SDG 14, including on opportunities to strengthen progress in the future.\textsuperscript{61}

The outcomes of the Ocean Conference consisted of the following:\textsuperscript{62} the adoption by consensus of an intergovernmentally agreed-upon declaration entitled ‘Our ocean, our future: call for action’;\textsuperscript{63} a report containing the Co-Chairs’ summaries of the seven partnership dialogues, including of Partnership Dialogue 7—Enhancing the conservation and sustainable use of oceans and their resources by implementing international law as reflected in UNCLOS; as well as a list of more than 1,400 voluntary commitments and partnerships that were registered within the context of the Conference and thereafter.\textsuperscript{64}

In the declaration entitled ‘Our ocean, our future: call for action’, which enumerates a comprehensive plan of action to be taken by all stakeholders,\textsuperscript{65} the Ocean Conference addressed many of the ocean challenges in the context of the 2030 Agenda, including some of the required actions towards achieving effective ocean governance. Heads of State and Government and high-level representatives inter alia stressed the need for an integrated, interdisciplinary, and cross-sectoral approach, as well as enhanced cooperation, coordination, and policy coherence, at all levels; emphasized the critical importance of effective partnerships enabling collective action; and reaffirmed their commitment to the implementation of SDG 14 with the full participation of all relevant stakeholders. They also emphasized that actions to implement Goal 14 should be in accordance with, reinforce, and not duplicate or undermine existing legal instruments, arrangements, processes, mechanisms, or entities. They also affirmed the need to enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in UNCLOS, which provides the legal framework for the conservation and sustainable use of oceans and their resources, as recalled in paragraph 158 of ‘The future we want’. All stakeholders were called upon to inter alia: (a) approach the implementation of SDG 14 in an integrated and coordinated way and promote policies and actions that take into account the critical interlinkages among the targets of Goal 14, the potential synergies between Goal 14 and the other SDGs, particularly those with ocean-related targets, as well as other processes that support the implementation of SDG 14; (b) strengthen cooperation, policy coherence, and coordination among institutions at all levels, including between and among international organizations, regional and subregional organizations and institutions, arrangements, and programmes; (c) strengthen and promote effective and transparent
multi-stakeholder partnerships, including public-private partnerships, by enhancing engagement of Governments with global, regional, and subregional bodies and programmes, the scientific community, the private sector, the donor community, non-governmental organizations, community groups, academic institutions and other relevant actors; (d) support the use of effective and appropriate area-based management tools, including marine protected areas and other integrated, cross-sectoral approaches, including marine spatial planning and integrated coastal zone management, based on best available science, as well as stakeholder engagement and applying the precautionary and ecosystem approaches, consistent with international law and in accordance with national legislation, to enhance ocean resilience and better conserve and sustainably use marine biodiversity; and (e) enhance sustainable fisheries management, including to restore fish stocks in the shortest time feasible at least to levels that can produce maximum sustainable yield as determined by their biological characteristics, through the implementation of science-based management measures, monitoring, control and enforcement, supporting the consumption of fish sourced from sustainably managed fisheries, and through precautionary and ecosystem approaches as appropriate, as well as strengthening cooperation and coordination, including through, as appropriate, regional fisheries management organizations, bodies, and arrangements. The Heads of State and Government and high-level representatives also strongly called upon the Secretary-General to continue his efforts to support the implementation of SDG 14 in the context of the implementation of the 2030 Agenda, in particular by enhancing inter-agency coordination and coherence throughout the United Nations system on ocean issues, taking into consideration the work of UN-Oceans—an inter-agency mechanism that seeks to enhance the coordination, coherence, and effectiveness of competent organizations of the United Nations system and the International Seabed Authority.

The HLPF, convened under the auspices of the Economic and Social Council, from 10 to 19 July 2017, on the theme ‘Eradicating poverty and promoting prosperity in a changing world’ reviewed in depth several SDGs, including SDG 14. The Ministerial declaration adopted during the HLPF, welcomed the outcome of the Ocean Conference and took note of its seven partnership dialogues. All stakeholders were called upon to urgently undertake, inter alia, the actions highlighted in the ‘Our ocean, our future: call for action’ and by implementing the respective voluntary commitments pledged by individual Member States and other stakeholders during the Conference. Recent follow-up action to the Ocean Conference includes the appointment by the United Nations Secretary-General of a Special Envoy for the Ocean, aiming at galvanizing concerted efforts to follow up on the outcomes of the Ocean Conference, and maintaining the momentum for action to conserve and sustainably use the oceans, seas, and marine resources for sustainable development. In addition, the United Nations has launched nine thematic multi-stakeholder Communities of Ocean Action, including one on implementation of international law as reflected in UNCLOS, to follow-up on the implementation of the voluntary commitments registered or announced at the Ocean Conference; to catalyze and generate new voluntary commitments; and to facilitate collaboration and networking amongst different actors in support of SDG 14.

In its most recent resolution on oceans and the law of the sea, the UNGA affirmed the important role of the declaration entitled ‘Our ocean, our future: call for action’ in demonstrating the collective will to take action to conserve and sustainably use the oceans, seas, and marine resources for sustainable development; and recognized the important contributions of the partnership dialogues and voluntary commitments made in the context of the Ocean Conference to the effective and timely implementation of SDG 14.
3.3 UN General Assembly resolutions on oceans and the law of the sea and on sustainable fisheries

The UNGA annual resolutions on oceans and the sea and on sustainable fisheries provide policy guidance on how to address many of the ocean issues identified in section 2 above. The resolutions reflect the result of a comprehensive and integrated review by the UNGA of developments in the field of ocean affairs and the law of the sea, as will be explained in more detail in the next section. The exceptional scope and (p. 18) depth of the issues reviewed annually by the UNGA is demonstrated by the ever-increasing length of both resolutions, totalling 601 operative paragraphs in 2017. Nonetheless, the UNGA has not been able, within the context of its two-week informal consultations on the draft resolution on oceans and the law of the sea and six-day informal consultations on the draft resolution on sustainable fisheries, to systematically review in-depth progress achieved pursuant to all of its calls for action. Also thus far, there has been no agreement to limit the size of the resolutions.

What is remarkable is that, in spite of its length, the draft resolution on sustainable fisheries has, up to 2016, been adopted annually by the UNGA by consensus, while the draft resolution on oceans and the sea is negotiated in a spirit of consensus, although it is voted on. At the same time, consensus is not reached easily and is at times only achieved at the expense of action-oriented language. In 2017, the draft resolution on sustainable fisheries was voted on for the first time at the request of the United States which strongly rejected the inclusion of references to the World Trade Organization in paragraphs 119 and 120 of the resolution.

Although the resolutions are non-binding, they have the potential to be binding, given the nearly universal membership of the UN and the fact that they can have a major impact on State practice and generate customary international law, as well as stimulate the negotiation of international agreements. This circumstance confers on the UNGA resolutions incomparable political weight. For example, the UNGA's global moratorium on large-scale pelagic drift-net fishing on the high seas led to the adoption of a variety of legal measures at the national and regional levels and exemplified the potential of the resolutions of the UNGA to evolve into binding legal obligations.

In its 2017 resolution on oceans and the law of the sea, the UNGA again sets out a number of measures related to the implementation of UNCLOS, related agreements, and other legal instruments; capacity-building; peaceful settlement of disputes; the Area; effective functioning of the International Seabed Authority and the International Tribunal on the Law of the Sea; the continental shelf and the work of the Commission on the Limits of the Continental Shelf; maritime safety and security and flag State implementation; the marine environment and marine resources; marine biological diversity; marine science; the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects; regional (p. 19) cooperation; the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea; and coordination and cooperation.

In its resolutions, the UNGA has consistently recognized the pre-eminent contribution provided by UNCLOS to the strengthening of peace, security, cooperation, and friendly relations among all nations in conformity with the principles of justice and equal rights and to the promotion of the economic and social advancement of all peoples of the world, in accordance with the purposes and principles of the UN as set forth in the Charter of the UN, as well as to the sustainable development of the oceans and seas. The Assembly has also emphasized the universal and unified character of UNCLOS, and reaffirmed that it sets out the legal framework within which all activities in the oceans and seas must be carried out and is of strategic importance as the basis for national, regional, and global action and cooperation in the marine sector, and that its integrity needs to be maintained. The UNGA
has called upon all States that have not done so to become parties to UNCLOS and the Part XI Agreement. It has also called upon States that have not done so to become parties to the UN Fish Stocks Agreement and other relevant instruments. The UNGA has also acknowledged that the problems of ocean space are closely interrelated and need to be considered as a whole through an integrated, interdisciplinary, and intersectoral approach. It has further reaffirmed the need to improve cooperation and coordination at the national, regional, and global levels, in accordance with UNCLOS, to support and supplement the efforts of each State in promoting the implementation and observance of UNCLOS and the integrated management and sustainable development of the oceans and seas. As noted in section 2, the UNGA has further reiterated the essential need for cooperation, including through capacity-building and transfer of marine technology. It has recognized that the realization of the benefits of UNCLOS could be enhanced by international cooperation, technical assistance, and advanced scientific knowledge, as well as by funding and capacity-building. It has emphasized the need to strengthen the ability of competent international organizations to contribute, at the global, regional, subregional, and bilateral levels, through cooperation programmes with Governments, to the development of national capacity in marine science, and the sustainable management of the oceans and their resources.  

The UNGA has also, inter alia, called upon or urged States to take a number of actions to strengthen maritime safety and security, marine environmental protection, and the conservation and sustainable use of marine biological diversity. For example, it has urged flag States without an effective maritime administration and appropriate legal frameworks to establish or enhance the necessary infrastructure, legislative, and enforcement capabilities to ensure effective compliance with and implementation and enforcement of their responsibilities under international law, in particular UNCLOS, and, until such action is taken, to consider declining the granting of the right to fly their flag to new vessels, suspending their registry or not opening a registry, and has (p. 20) called upon flag and port States to take all measures consistent with international law necessary to prevent the operation of substandard vessels. The UNGA has also urged or called upon States to, inter alia, combat piracy and armed robbery at sea; implement the SDGs outlined in the 2030 Agenda, including Goal 14; implement resolution 2/11 on marine plastic litter and microplastics, adopted by the UN Environment Assembly of the UN Environment Programme (UNEP); ensure that urban and coastal development projects and related land-reclamation activities are carried out in a responsible manner; implement the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities; correct the shortfall of port waste reception facilities; enhance their efforts to reduce eutrophication; take further action to address destructive practices that have adverse impacts on marine biological diversity and ecosystems; and strengthen, in a manner consistent with international law, in particular UNCLOS, the conservation and management of marine biological biodiversity and ecosystems, and national policies in relation to area-based management tools, including marine protected areas. Some of the commitments in the JPOI and in ‘The future we want’ have also provided the basis for further action by the UNGA in the context of its resolutions on oceans and the law of the sea.

The annual resolutions on sustainable fisheries also set out many specific actions which States are urged or called upon by the UNGA to take in relation to sustainable fisheries; the implementation of the UN Fish Stocks Agreement and related fisheries instruments; IUU fishing; monitoring, control, and surveillance and compliance and enforcement; fishing overcapacity; large-scale pelagic drift-net fishing; fisheries by-catch and discards; subregional and regional cooperation; responsible fisheries in the marine ecosystem; and
capacity-building. If effectively implemented, such actions would address many of the challenges outlined in section 2.

As indicated above, many of the provisions in the UN Fish Stocks Agreement are reflected in the UNGA resolutions on sustainable fisheries. Also reflected in the resolutions on sustainable fisheries are the recommendations adopted at the Review Conference on the UN Fish Stocks Agreement which was convened in 2006, and a number of the recommendations which were adopted at the resumed Review Conference in 2010 and 2016.

The inclusion of many of those recommendations in the annual resolutions on sustainable fisheries and the fact that the resolutions have, apart from a vote in 2017, been adopted by consensus, has prompted non-parties to the Agreement to make statements following the adoption of the resolution to point out that none of the recommendations in the resolution could be interpreted to mean that the UN Fish Stocks Agreement was binding on those States which had not expressly indicated their consent to fulfil obligations under that Agreement. Such statements also underline that states recognize the potential role of the UNGA in further developing international law through its annual resolutions.

With regards to the impacts of bottom fishing on vulnerable marine ecosystems (VMEs) and the long-term sustainability of deep-sea fish stocks, the UNGA has maintained under its review the actions taken by States and RFMO/As to address these issues, in response to the specific provisions of its resolutions, as described in more detail in section 4. At the most recent review in 2016, the UNGA welcomed the important progress that had been made by States and RFMO/As to implement the relevant provisions of its resolutions and address the impacts of bottom fishing on VMEs, but it noted with concern the uneven implementation of those provisions and that, in particular, bottom fishing continued to occur in certain areas beyond national jurisdiction without an impact assessment having been completed in the ten years since the adoption of resolution 61/105, in which the UNGA called for such assessments to be undertaken by 31 December 2008. The UNGA decided that it would conduct its next review in 2020 to be preceded by a two-day Workshop.

Apart from the annual resolutions on oceans and the law of the sea and on sustainable fisheries, the UNGA also adopted in 2015 two stand-alone resolutions by consensus: one on the development of an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, described in more detail in section 4, and the other on the Ocean Conference. In 2016, it adopted two further stand-alone resolutions by consensus: one relating to the modalities of the Ocean Conference, and the other designating 2 May as World Tuna Day. In 2017, the UNGA also adopted two additional stand-alone resolutions by consensus, one in which it endorsed the declaration entitled ‘Our ocean, our future: call for action’ adopted by the Ocean Conference, and another resolution wherein it decided to convene an intergovernmental conference, under the auspices of the United Nations, to consider the recommendations of the Preparatory Committee established by resolution 69/292 of 19 June 2015 on the elements of a draft text of 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, and to elaborate the text of such instrument with a view to developing the instrument as soon as possible.

4. Institutional Framework

The institutional framework for ocean governance has a complex, multi-level structure, involving global, regional, sub-regional organizations and national institutions dealing with a number of issues operating for the most part within specific sectors. It (p. 22) has been observed that only a universal body can fulfil the requirement to generate an
integrated global ocean policy, and wield the authority to charge existing mechanisms with implementation.\textsuperscript{92}

In the context of the development of a legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, divergent views have been expressed on the most appropriate decision-making and institutional set up.\textsuperscript{93}

This chapter will generally review how the UN has addressed governance issues at the global level by focusing on the current institutional framework, in particular the intergovernmental processes and institutional mechanisms that have been established. Subsection 4.1 will begin with a review of the intergovernmental processes at the UN, commencing with the bodies established under UNCLOS and the UN Fish Stocks Agreement and then review the role of the UNGA and its subsidiary bodies. The role of the reports of the Secretary-General in supporting the annual review of developments in ocean affairs and the law of the sea and sustainable fisheries will also be presented. Subsection 4.2 will provide an overview of the institutional mechanisms, as well as of UN-Oceans. The section will conclude with a brief presentation of the role of the UN Secretariat in relation to ocean issues, especially that of the Office of Legal Affairs assisted by the Division for Ocean Affairs and the Law of the Sea (DOALOS).

4.1 Intergovernmental processes

(a) UNCLOS bodies

Although the provisions of UNCLOS are closely interrelated, form an integral package, and provide an overarching framework for ocean governance, its drafters did not include any specific provisions or mechanism(s) to ensure that the problems of ocean space will be considered as a whole and that implementation of all the provisions of UNCLOS would be reviewed. The legislative history of article 319 of the Convention indicates that proposals to provide specifically for a periodic review of UNCLOS as a whole were not accepted.\textsuperscript{94}

By incorporating into its framework a number of existing international organizations which had already established their competence in fisheries, protection and preservation of the marine environment, marine scientific research and navigation, including pollution from vessels and by dumping, namely FAO, UNEP, the Intergovernmental Oceanographic Commission (IOC) of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Maritime Organization (IMO), and by not excluding a potential role for other organizations, the drafters of UNCLOS seem to accept as a given that the international community is equipped with an organizational framework which permits the fulfilment of a variety of tasks.\textsuperscript{95} That approach also reflected the fact that historically ocean management had been focused on individual sectors.

Thus, UNCLOS did not establish a general organization akin to the World Trade Organization to review the implementation of the Convention.\textsuperscript{96} It established three bodies to carry out functions for the realization of specific objectives: (1) the International Seabed Authority, as the intergovernmental organization through which States parties to UNCLOS organize and control activities in the Area, particularly with a view to administering the resources of the Area; (2) the International Tribunal for the Law of the Sea, as an independent judicial body to adjudicate disputes arising out of the interpretation or application of the Convention and with jurisdiction over all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal; and (3) the Commission on the Limits of the Continental Shelf to facilitate the implementation of the Convention in respect of the establishment of the outer limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.
The Meeting of States Parties to UNCLOS, which was established when the Convention entered into force, is open to participation by States parties, non-States parties, entities that have received a standing invitation to participate as observers in the work of the UNGA pursuant to its relevant resolutions, intergovernmental organizations with competence in ocean affairs,97 and non-governmental organizations recognized by the Economic and Social Council whose fields of competence are relevant to the law of the sea. Other non-governmental organizations invited by the Meeting of States Parties which have demonstrated their interest in matters under the consideration of the Meeting may also participate as observers.98

The Meeting of States Parties to UNCLOS considers matters relating to the Convention, the International Tribunal for the Law of the Sea, and the Commission on the Limits of the Continental Shelf, including the election of their members and also (p. 24) receives annually information on the activities of the International Seabed Authority. The Meeting also receives the Report of the Secretary-General under article 319 of UNCLOS for the information of States parties on issues of a general nature, relevant to States parties that have arisen with respect to UNCLOS. However, in the Meeting of States Parties to UNCLOS, there has been no comprehensive discussion or review of progress achieved or difficulties encountered in the implementation of the Convention because States disagree over the competence of that Meeting to consider issues of implementation. The Meeting of States Parties to UNCLOS therefore does not resemble conferences or meetings of parties under other multilateral agreements that are given specific governing roles in those agreements to review progress in implementation and in adopting programmes of work through binding decisions.99

(b) Review Conference on the UN Fish Stocks Agreement

In contrast to UNCLOS, the UN Fish Stocks Agreement provides for a Review Conference with the mandate to assess the effectiveness of the Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks by reviewing and assessing the adequacy of its provisions and proposing means of strengthening the substance and methods of implementation of those provisions in order to better address any continuing problems in the conservation and management of these stocks.100 The Review Conference first met in 2006 and was resumed in 2010 and in 2016. Participation is open to all States parties and those States and entities which are entitled to become parties to the Agreement, as well as those intergovernmental and non-governmental organizations entitled to participate as observers. The Review Conference has been assisted in its preparations by the informal consultations of States Parties to the Agreement, which were initially convened by the Secretary-General following the entry into force of the Agreement for the purpose of, inter alia, considering the regional, subregional, and global implementation of the Agreement; making any appropriate recommendations to the UNGA on the scope and content of the annual report of the Secretary-General relating to the Agreement; and preparing for the Review Conference to be convened by the Secretary-General pursuant to article 36 of the Agreement.101 The informal consultations have been convened periodically since that time102 and will become more substantive in the future since the UNGA, upon the recommendation of the resumed Review Conference held in 2016, decided that starting in 2018, the informal consultations of States Parties to the Agreement, would be dedicated on an annual basis to the consideration of specific issues arising from the implementation of the Agreement, with a view to improving understanding, sharing experiences, and identifying best practices for the consideration of States parties, as well as the UNGA and the Review Conference. The Assembly requested the Secretary-General to invite States parties and entities referred to in (p. 25) UNCLOS and in article 1, paragraph 2(b), of the Agreement to propose specific issues to be considered at the thirteenth round of informal consultations of States Parties to the Agreement in 2018, and bring those proposals to the attention of the informal consultations concerning the annual
UNGA resolution on sustainable fisheries through its Coordinator.\(^{103}\) In its most recent resolution on sustainable fisheries, the UNGA requested the Secretary-General to convene the thirteenth round of informal consultations of States Parties to the Agreement for two days in May 2018 to focus on the topic ‘Science-policy interface’, and also requested the Secretary-General to convene the fourteenth round of informal consultations of States Parties to the Agreement in 2019 to focus on the topic ‘Performance reviews of regional fisheries management organizations and arrangements’. The Secretary-General was further requested to invite States parties to the Agreement, as well as States and entities referred to in UNCLOS and in article 1, paragraph 2(b), of the Agreement not parties to the Agreement and others invited to participate in the informal consultations as observers, to submit their views on the topic of the science-policy interface to DOALOS for posting on its website.\(^{104}\)

**c) UN General Assembly**

It has been noted that many of those negotiating UNCLOS intended the UNGA to fulfil the role of the general forum for UNCLOS issues.\(^{105}\) Such role was instituted by the UNGA immediately following the adoption of UNCLOS in resolution 37/66,\(^{106}\) followed by resolution 38/59,\(^{107}\) which had the effect of placing the agenda item ‘Law of the sea’ on the agenda of the UNGA.\(^{108}\) The Economic and Social Council, which had been monitoring economic and technological developments relating to marine affairs from 1966 onwards,\(^{109}\) adopted its last resolution on economic and technological aspects of marine affairs on 8 July 1987. Thereafter, economic and technological developments were considered in the context of the resolutions on the ‘Law of the sea’. But, it was not until shortly after the entry into force of UNCLOS in 1994, that the UNGA, emphasizing the principle in UNCLOS that the problems of ocean space are closely interrelated and need to be considered as a whole, and convinced therefore of the importance of its annual consideration and review of developments in the law of the sea as the global institution having the competence to undertake such a review, decided in its resolution 49/28 to undertake an annual review and evaluation of the implementation of UNCLOS and other developments relating to ocean affairs and the law of the sea.\(^{110}\)

\(^{(p. 26)}\) Prior to the adoption of resolution 49/28 by the UNGA, the representative of Fiji in introducing the draft resolution on the ‘Law of the sea’,\(^{111}\) noted that while States parties to UNCLOS constituted the supreme body in relation to the Convention, UNCLOS did envisage a continuing role for the UN by assigning a number of functions to the Secretary-General which went beyond the usual depository functions. At the same time, the UNGA was the only global body that had the competence to review developments relating to the law of the sea on a regular basis. He also, inter alia, underlined the significance of the draft resolution having been sponsored by delegations from all regions of the world, including delegations of States which were parties to the Convention and those of States which were not, and a number of delegations of States which in previous years opposed or otherwise expressed reservations on resolutions on the law of the sea.\(^{112}\)

In 1995, following the adoption of the UN Fish Stocks Agreement, all the items relating to fisheries that had been considered by the Second Committee of the UNGA were henceforth considered by the Assembly directly under the agenda item ‘Law of the sea’.\(^{113}\) In 1996, the UNGA decided to broaden the agenda item to ‘Oceans and the law of the sea’.\(^{114}\)

In spite of the fact that the UNGA has formed the solid core and served as the coordinator of activities and the originator of developments in oceans and the law of the sea,\(^{115}\) this does not imply that there has been a common understanding among States regarding its role in reviewing the implementation of UNCLOS. The relationship between the review role by the UNGA and the role of the Meeting of States Parties to UNCLOS has been periodically addressed in the Meeting of States Parties to UNCLOS and also on other occasions. For example, in the past, some States pointed out that the UNGA’s subsidiary body, the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea, should not
consider issues that are within the competence of the Meeting of States Parties to UNCLOS.¹¹⁶

It can be noted that, from 2005 onwards, the UNGA has no longer specifically mentioned in its resolutions the evaluation of the implementation of UNCLOS as part of its review mandate, even though it continued to reaffirm its previous annual resolutions on oceans and the law of the sea.¹¹⁷

The annual review by the UNGA has been assisted by the input provided by its subsidiary bodies and by the reports of the Secretary-General. As described in section 3, the results of its review are then incorporated in the annual resolutions on oceans and the law of the sea and on sustainable fisheries.

(p. 27) For more than twenty years now, UNGA has directly reviewed all ocean issues under one consolidated agenda item ‘Oceans and the law of the sea’, without reference to one of its main committees. However, during 2016 and 2017, three resolutions relating to the Ocean Conference were submitted both under the agenda item on ‘Sustainable development’ of the Economic and Financial Committee (Second Committee) of the General Assembly and under the agenda item on ‘Oceans and the law of the sea’. Moreover, the resolution convening the Ocean Conference was adopted by the UNGA on the report of the Second Committee.¹¹⁸ While the declaration, entitled ‘Our ocean, our future: call for action’ was adopted directly by the UNGA. It remains to be seen how the commitment in the ‘Our ocean, our future: call for action’ to consider further ways and means to support the timely and effective implementation of SDG 14, taking into account the discussions at the HLPF during its first cycle, will be followed up and in which forum. Ultimately, it will be important to ensure for the sake of coherence and the maintenance of the integrity of UNCLOS that the review of oceans issues within the UN remains concentrated within the UNGA under its agenda item ‘Oceans and the law of the sea’.

(i) UNGA subsidiary organs dealing with ocean issues

Three subsidiary organs of UNGA have addressed specific ocean issues from a cross-sectoral and integrated perspective and thus facilitated the discharge of its mandate, namely the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea, the Ad Hoc Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects (Regular Process), and the Preparatory Committee established by resolution 69/292: Development of an international legally binding instrument under the UN Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, and before that the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. The meetings of each of these organs have been open to a broad range of stakeholders and in particular have enabled relevant intergovernmental organizations and non-governmental organizations to also participate in the discussions on oceans at the level of the UNGA.

(ii) The role of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea

In 1999, based on decision 7/1 of the Commission on Sustainable Development,¹²⁰ the UNGA decided, consistent with the legal framework provided by UNCLOS and the goals of chapter 17 of Agenda 21, to establish an open-ended informal consultative process in order to facilitate its annual review, in an effective and constructive manner, of (p. 28) developments in ocean affairs by considering the Secretary-General’s report on oceans and the law of the sea and by suggesting particular issues to be considered by it, with an emphasis on identifying areas where coordination and cooperation at the intergovernmental and inter-agency levels should be enhanced. All States Members of the United Nations, States members of the specialized agencies, all parties to UNCLOS, entities that have
received a standing invitation to participate as observers in the work of the General Assembly pursuant to its relevant resolutions, and intergovernmental organizations with competence in ocean affairs can participate in the meetings of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea (ICP). In addition, the format of ICP ensures the opportunity to receive input from representatives of the major groups as identified in Agenda 21, in particular through the organization of discussion panels.121

The ICP is a unique forum in that it provides an opportunity for comprehensive, cross-sectoral and multi-stakeholder discussions on a given topic and enhancing awareness of topics, including emerging issues, while promoting the three pillars of sustainable development. For example, in 2017, the ICP was the first intergovernmental forum to discuss ‘The effects of climate change on oceans’.122

Over the years, the ICP has discussed a range of topics,123 which, apart from the first meeting,124 were selected by the UNGA. For example, integrated ocean management formed part of the topics considered at the third meeting.125 Since 2009, the outcome of the meetings has consisted of a summary of discussions, while previously the ICP adopted recommendations which were then forwarded to the UNGA.

The recommendations of the ICP proved to be particularly effective and led to actions addressing for example, IUU fishing, protection and preservation of the marine environment, conservation and sustainable use of marine biological diversity, protection of VMEs from destructive fishing practices, ecosystem approaches, sustainable use of marine resources, piracy, maritime safety and security, the genuine link, capacity-building, marine science and technology, and integrated ocean management.126 In particular, its 2003 recommendations relating to the protection of VMEs led not only to its consideration of the conservation and management of biological diversity of the seabed in areas beyond national jurisdiction one year later and the subsequent establishment by the UNGA of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, but also to the adoption of UNGA resolution 61/105 regarding the impacts of bottom fisheries on VMEs, which provided an impetus for the adoption by the FAO of the International Guidelines for the Management of Deep-sea Fisheries in the High Seas.127 The recommendations of the ICP also resulted in the UNGA assuming a central policy-making role with respect to the Regular Process. In addition, the recommendations of the ICP led to actions addressing IUU fishing, in particular, the development within the framework of the Code of Conduct for Responsible Fisheries of the International Plan of Action to Prevent, Deter and Eliminate IUU Fishing in 2001, which in turn led to the negotiation within the FAO and its subsequent adoption in 2009 of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.128

However, at the tenth meeting of the ICP in 2009, it was, inter alia, stressed by some delegations that the ICP should not consider issues that were within the competence of the Meeting of States Parties to UNCLOS since it was neither an authoritative forum for the progressive development of the law of the sea nor the interpretation of UNCLOS.129 As a result of those discussions, the UNGA decided that going forward the primary role of the ICP would be to integrate knowledge, the exchange of opinions among multiple stakeholders and coordination among competent agencies, and the enhancement of awareness of topics, including emerging issues, while promoting the three pillars of sustainable development.130

Since that time, the ICP has continued to provide a valuable platform for States and other stakeholders to discuss topics which are of topical interest for the international community, including the following recent topics: the effects of climate change on oceans (2017); marine debris, plastics and microplastics (2016); oceans and sustainable development: integration of the three dimensions of sustainable development, namely, environmental,
social, and economic (2015); the role of seafood in food security (2014); the impacts of ocean acidification on the marine environment (2013); marine renewable energies (2012); and capacity-building in ocean affairs and the law of the sea, including marine science (2010). The ICP has also considered the nature of its contribution to the World Summit on Sustainable Development and Rio+20. For example, in preparation for Rio+20, the UNGA decided that the ICP would focus its discussions in 2011 on the topic entitled ‘Contributing to the assessment, in the context of the UN Conference on Sustainable Development, of progress to date and the remaining gaps in the implementation of the outcomes of the major summits on sustainable development and addressing new and emerging challenges’.

Undoubtedly, without the ICP, there would have been no other forum in the UN system where specific ocean issues would have been considered in depth on an annual basis from the perspective of the three pillars of sustainable development. Also the decision not to have a negotiated outcome has enabled the allocation of more time for an informal exchange of views. However, it has not necessarily resulted in a reflection in the UNGA resolutions on oceans and the law of the sea and on sustainable fisheries of a convergence of views on a particular topic that emerged during a meeting, even though such convergence might be reflected in the summary of discussions of the meeting. Furthermore, the level of representation at the meetings of the ICP has decreased over the years. Although the ICP has facilitated multi-stakeholder participation and interactive dialogue, meetings are not well attended. While States used to be represented mainly by representatives from capitals especially during the negotiations of the recommendations of the ICP to the General Assembly, several States are now mainly represented by delegates from their Permanent Missions, who often have to also cover other meetings taking place at the same time as the ICP. The UNGA has repeatedly expressed its serious concern regarding the lack of resources available in the voluntary trust fund established pursuant to resolution 55/7 for the purpose of assisting developing countries, in particular LDCs, SIDS and LLDCs, in attending the meetings of the ICP, and urged States, international financial institutions, donor agencies, intergovernmental organizations, non-governmental organizations, and natural and juridical persons to make additional contributions to the trust fund.

In that regard, it will be important to not replicate the experience of the Commission on Sustainable Development where the inability to attract participation from representatives of all three dimensions of sustainable development, coupled with the diminished participation of developing countries, including the LDCs, in the sessions of the Commission, due to lack of funding, were deemed major shortcomings. (p. 31) Going forward, it will also be important to further explore the relationship between the ICP and the review by the HLPF of the implementation of the ocean-related SDGs in the 2030 Agenda, including Goal 14. In its resolution convening the Ocean Conference, the UNGA specifically recognized the central role of the UNGA, the Economic and Social Council, and the HLPF held under their auspices, as well as the role of the ICP and the important contribution of all relevant specialized agencies, funds, and programmes of the UN in the implementation of SDG 14. At the seventeenth meeting of the ICP in 2016, a number of delegations suggested that the Consultative Process could provide an appropriate forum to review on a regular basis the implementation of SDG 14 and other ocean-related goals of the 2030 Agenda. It was recalled that the ICP had also contributed to the follow-up to the UN Conferences on sustainable development. Some other delegations recalled, however, that the HLPF was the central body for the review and follow-up of the 2030 Agenda. In response, some delegations considered that the role of the HLPF did not
preclude existing processes to follow-up on the implementation of the 2030 Agenda and that a discussion on the issue by the ICP would not undermine the role of the Forum.\textsuperscript{141} The mandate of the ICP was renewed by the UNGA in December 2016 following its biennial review of the effectiveness and utility of the Process. However, the relationship between the IPC and the HLPF was not addressed in the resolution. A further review of the effectiveness and utility of the ICP will be carried out by the UNGA at its seventy-third session.\textsuperscript{142} In June 2018, the ICP will hold its nineteenth meeting and focus in its deliberations on the report of the Secretary-General on oceans and the law of the sea, on the theme ‘Anthropogenic underwater noise’.\textsuperscript{143}

It is clear from the extensive list of issues that have been identified by States since the fourth meeting of the ICP as benefiting from attention in the future work of the UNGA on oceans and the law of the sea\textsuperscript{144} that more time could usefully be devoted to the consideration of ocean issues. Moreover, in view of its important role in identifying areas where coordination and cooperation at the intergovernmental and inter-agency levels should be enhanced, the ICP could devote some more time to a discussion and further identification of such areas, including in relation to the oceans-related SDGs of the 2030 Agenda, especially since it had been observed that the ICP has lost its primary purpose in promoting inter-agency and intergovernmental cooperation due to excessive diversification of topics for discussion, and repetition of topics already discussed in previous meetings.\textsuperscript{145} Overall, by providing an effective mechanism for comprehensive and cross-sectoral multi-stakeholder discussions, the ICP certainly has the potential to enhance ocean governance.

\textbf{(p. 32) (iii) Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects}

The Regular Process can support the work of the UNGA and its subsidiary bodies, including the ICP, and the implementation of the 2030 Agenda, amongst others, by providing the required scientific basis for policy-making. Established by the UNGA in 2002, pursuant to a recommendation of the World Summit on Sustainable Development,\textsuperscript{146} as the global mechanism for reviewing the state of the marine environment, including socioeconomic aspects, on a continual basis, the Regular Process is mandated to provide regular assessments at the global and supraregional levels and an integrated view of environmental, economic, and social aspects. The institutional mechanism established by the UNGA to support the Regular Process under its authority comprises the Ad Hoc Working Group of the Whole which is mandated to oversee and guide the Regular Process, assisted by its Co-Chairs and a 15-member Bureau, the Group of Experts, the Pool of Experts, and the secretariat, which functions are carried out by DOALOS. States have also been invited by the General Assembly to designate national focal points to facilitate the implementation of the second cycle of the Regular Process. The meetings of the Ad Hoc Working Group of the Whole are open to Member States and observers of the United Nations; and in accordance with past practice of the UN, relevant intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council; as well as relevant scientific institutions and major groups identified in Agenda 21 that request an invitation to participate in the meetings of the Ad Hoc Working Group of the Whole.

The output of the first cycle of the Regular Process, which covered the years 2010–2014 and which was preceded by a preparatory phase (2002–2005) and start-up phase called the ‘Assessment of Assessments’ (2005–2009), is the First Global Integrated Marine Assessment. It was completed by the Group of Experts of the first cycle in 2014. In 2015, the UNGA welcomed with appreciation the Assessment and approved its summary.\textsuperscript{147}
The Assessment provides the UNGA for the first time with a global cross-sectoral and integrated picture of the state of the marine environment and socioeconomic aspects. The fact that it was the UNGA which considered the Assessment provides opportunities and an impetus for a more effective science-policy interface.

In 2015, following its launch of the second cycle of the Regular Process for the period 2016–2020, the UNGA mandated its Ad Hoc Working Group of the Whole on the Regular Process to provide recommendations on the follow-up to the First Global Integrated Marine Assessment, the implementation of the second cycle of the Regular Process, including its budget and duration, and any adjustments that might be necessary in the light of lessons learned from the first cycle, including with regard to resource requirements, and taking into full consideration the discussions on lessons learned and the way forward. In December 2016, the UNGA endorsed the recommendations of the Ad Hoc Working Group of the Whole, including the Programme of Work for the period 2017–2020 for the second cycle of the Regular Process. That Programme (p. 33) includes two Outputs: the second World Ocean Assessment(s) scheduled to be completed in 2020; and Regular Process support for other ocean-related intergovernmental processes (including Technical Abstracts) specifically tailored to the requests and needs of the processes, including the following: (a) the 2030 Agenda; (b) UNGA resolution 69/292 on the development of an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction; (c) the UN Framework Convention on Climate Change process; and (d) the ICP. Activities in support of making the second cycle operational include awareness-raising and capacity-building.148

The Technical Abstracts were completed in 2017 and taken note of with appreciation by the UNGA.149 The outline for the second World Ocean Assessment, which is being prepared by the Group of Experts on the basis of a single comprehensive assessment, is expected to be considered and approved by the Ad Hoc Working Group of the Whole at its tenth meeting scheduled to be held from 28 February to 1 March 2018.150

Through the provision of integrated scientific information on the state of the marine environment, including socioeconomic aspects, the Regular Process can support the implementation of the 2030 Agenda, inform decision-making in various intergovernmental processes, and generally support the achievement of effective ocean governance.

(iv) Conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

In 2015, having considered the recommendations of its Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, which it had established in 2004, the UNGA, stressing that there was a need for the comprehensive global regime to better address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, decided to develop an international legally binding instrument under UNCLOS.151 It established a preparatory committee which was to recommend to the UNGA elements of a draft text of an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, taking into account the various reports of the Co-Chairs on the work of the Ad Hoc Open-ended Informal Working Group. The UNGA would then decide before the end of its seventy-second session on the convening and on the starting date of an intergovernmental conference, (p. 34) under the auspices of the UN, to consider the recommendations of the Preparatory Committee.
The UNGA decided that the negotiations in the Preparatory Committee were to focus on a package of issues, namely the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, in particular, together and as a whole, marine genetic resources, including questions on the sharing of benefits, measures such as area-based management tools, including marine protected areas, environmental impact assessments and capacity-building, and the transfer of marine technology. The Process was not to undermine existing relevant legal instruments and frameworks and relevant global, regional, and sectoral bodies. The Preparatory Committee, which was open to all Member States of the UN, members of the specialized agencies and parties to the Convention, with others invited as observers in accordance with past practice of the UN, started its work in 2016 and held four sessions.\textsuperscript{152}

The Preparatory Committee adopted, by consensus, recommendations to the UNGA on the elements of a draft text of an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. The Committee also recommended that the UNGA take a decision, as soon as possible, on the convening of an intergovernmental conference, under the auspices of the United Nations, to consider the recommendations of the Preparatory Committee on the elements and to elaborate the text of an international legally binding instrument under UNCLOS.\textsuperscript{153}

The elements contained in the recommendations of the Preparatory Committee do not reflect consensus. Section A includes non-exclusive elements that generated convergence among most delegations. While section B highlights some of the main issues on which there was a divergence of views. The recommendations indicate that sections A and B are for reference purposes because they do not reflect all options discussed. Both sections do not prejudice the positions of States during the negotiations.\textsuperscript{154}

The elements that have been suggested to the UNGA include several possible general principles and approaches guiding the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. Among those are a number of principles and approaches of good governance: integrated approach, precautionary approach, ecosystem approach, science-based approach, transparency and availability of information, public participation and relevant stakeholders’ engagement.\textsuperscript{155}

Already during the discussions in the Ad Hoc Open-ended Informal Working Group, several delegations had suggested that a legally binding agreement should incorporate widely accepted principles of ocean governance and that it should move from sectoral and fragmented approaches to a global and more coherent approach.\textsuperscript{156}

(p. 35) ‘Good governance’ was initially included in the list of guiding principles and approaches for inclusion in a future instrument.\textsuperscript{157} During the discussions in the informal working group on measures such as area-based management tools, including marine protected areas, it was also noted that there had been some commonality around the need to apply principles of good governance, such as: transparency, accountability, inclusiveness, public participation, and public access to environmental information.\textsuperscript{158} However, the text of the elements submitted to the UNGA does not specifically mention ‘good governance’.

Having noted the report of the Preparatory Committee and the recommendations contained therein, the UNGA decided in December 2017 to convene an intergovernmental conference, under the auspices of the United Nations, to consider the recommendations of the Preparatory Committee on the elements and to elaborate the text of an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, with a view to developing the instrument as soon as possible. It also decided that negotiations shall address the aforementioned topics identified in the package agreed in 2011. The UNGA reaffirmed that the work and results of the conference should be fully consistent with the provisions of...
UNCLOS. It also recognized that this process and its result should not undermine existing relevant legal instruments and frameworks and relevant global, regional, and sectoral bodies.

Initially with respect to 2018, 2019, and the first half of 2020, the conference shall meet for four sessions of a duration of ten working days each, with the first session taking place in the second half of 2018, the second and third sessions taking place in 2019, and the fourth session taking place in the first half of 2020. Preceding the first session, a three-day organizational meeting will be held from 16 to 18 April 2018, to discuss organizational matters, including the process for the preparation of the zero draft of the instrument.\textsuperscript{159}

\textbf{(p. 36) (v) Fisheries issues}

The issues addressed in the UNGA's annual resolutions on sustainable fisheries have increased substantially over time.\textsuperscript{160} Apart from the direct review by the UNGA of developments relating to large-scale pelagic drift-net fishing, and the impacts of bottom fishing on VMEs and the long-term sustainability of deep-sea fish stocks, and its consideration of some required follow-up action in relation to the recommendations of the Review Conference on the UN Fish Stocks Agreement, and the work of the informal consultations of States Parties to the Agreement, the Assembly’s annual resolutions on sustainable fisheries mainly reflect its review of developments in other fora, in particular the FAO, with respect to a wide range of issues.

As indicated in section 3, the UNGA has played a particularly critical role in relation to governance of high seas fisheries. It had already assumed such role even before the entry into force of UNCLOS when it took decisive policy action with respect to large-scale pelagic drift-net fishing on the high seas. The UNGA imposed a moratorium on that type of fishing gear in its resolutions 44/225 and 45/197 and called upon all members of the international community in its resolution 46/215 to implement those resolutions by, inter alia, ensuring that a global moratorium on all large-scale pelagic high seas drift-net fishing was fully implemented on the high seas of the world’s oceans and seas, including enclosed and semi-enclosed seas, by 31 December 1992. Members of the international community, intergovernmental and non-governmental organizations, and well-established scientific institutions with expertise in relation to living marine resources were requested to submit to the Secretary-General information concerning activities or conduct inconsistent with the terms of resolution 46/215. The Secretary-General was requested to submit a report to the forty-seventh session of the UNGA on the implementation of the resolution.\textsuperscript{161} Further reports were requested by the UNGA in its decisions adopted in 1992 and 1993.\textsuperscript{162} In 1994, in its decision 49/436, the UNGA urged all authorities of members of the international community to take greater enforcement responsibility to ensure full compliance with resolution 46/215 and to impose appropriate sanctions, consistent with their obligations under international law, against acts contrary to the terms of that resolution.\textsuperscript{163} In 2000 and 2002, the UNGA noted that there had been a marked decrease in the number of incidents of reported large-scale pelagic drift-net fishing activities in most regions of the world’s oceans and seas.\textsuperscript{164} Although non-binding, the above-mentioned UNGA resolutions were nonetheless supported by a variety of legal measures at the national and (p. 37) regional levels,\textsuperscript{165} also due to the continuous monitoring of implementation through the reports of the Secretary-General to which all relevant stakeholders were invited to contribute.\textsuperscript{166}

Nonetheless, in its annual resolutions on sustainable fisheries adopted since 2003, the UNGA has continued to express concern that the practice of large-scale pelagic drift-net fishing still exists and remains a threat to living marine resources, and has inter alia urged States, individually and through RFMO/As, to adopt effective measures, or strengthen existing measures, to implement and enforce the provisions of resolution 46/215 and
subsequent resolutions on large-scale pelagic drift-net fishing in order to eliminate the use of large-scale pelagic drift nets in all seas and oceans.\textsuperscript{167}

As indicated in section 3, another issue in respect of which the UNGA has adopted a central policy-making and governance role relates to the impacts of bottom fishing on VMEs and the long-term sustainability of deep-sea fish stocks. The calls by the UNGA on States and RFMOs/As to address the impacts of bottom fishing on VMEs and the long-term sustainability of deep-sea fish stocks in response to specific provisions in its resolutions have been instrumental in prompting action to regulate such fishing practices.

The UNGA addressed the issue for the first time in the context of its resolution 59/25, having considered the information provided by the Secretary-General\textsuperscript{168} pursuant to its request in resolution 58/14 and upon the recommendation of the ICP following its consideration of the topic ‘New sustainable uses of the oceans, including the conservation and management of the biological diversity of the seabed in areas beyond national jurisdiction’, at its fifth meeting.\textsuperscript{169} The UNGA, inter alia, called upon States, either by themselves or through RFMO/As, where these are competent to do so, to take action urgently, and consider on a case-by-case basis and on a scientific basis, including the application of the precautionary approach, the interim prohibition of destructive fishing practices, including bottom trawling that has adverse impacts on VMEs, including seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, until such time as appropriate conservation and management measures have been adopted in accordance with international law. It also agreed to review within two years progress on action taken in response to its requests with a view to making further recommendations, where necessary, in areas where arrangements are inadequate.\textsuperscript{170} The Secretary-General was requested to report, in collaboration with FAO, on the actions that had been taken.\textsuperscript{(p. 38)}

Two years later, having reviewed progress made to give effect to the relevant paragraphs of resolution 59/25, the UNGA, in its resolution 61/105,\textsuperscript{171} adopted by consensus, called upon RFMO/As with the competence to regulate bottom fisheries to adopt and implement the measures set out in its resolution 61/105, in accordance with the precautionary approach, ecosystem approaches, and international law, for their respective regulatory areas as a matter of priority, but not later than 31 December 2008. The UNGA also, inter alia, called on flag States and RFMOs to take action immediately, both individually and through RFMO/As to manage fish stocks sustainably and protect VMEs from destructive fishing practices, through assessing the impacts of individual bottom fishing activities; by preventing significant adverse impacts on VMEs, closing areas of the high seas to bottom fishing where VMEs are known or likely to occur, unless fisheries in these areas can be managed to prevent significant adverse impacts; and ensuring the long-term sustainability of deep-sea fish stocks. The UNGA decided to conduct a further review of actions taken in response to the relevant paragraphs of its resolution 61/105 in 2009 with a view to making further recommendations, where necessary.

Further reviews took place in 2009,\textsuperscript{172} 2011,\textsuperscript{173} and 2016.\textsuperscript{174} The reviews in 2011 and 2016 were preceded respectively by a two-day Workshop which also enabled intergovernmental and non-governmental organizations, including representatives of the fishing industry, to participate.\textsuperscript{175} The reviews by the UNGA were also informed by reports prepared, in response to its requests, by the Secretary-General in collaboration with FAO. The most recent report of the Secretary-General concludes, inter alia, that overall, while a number of actions have been taken, implementation of resolutions 64/72 and 66/68 on a global scale continues to be uneven and further efforts are needed. Unless timely actions are taken by all the stakeholders concerned, overfishing of deep-sea species is likely to continue and some VMEs will not be adequately protected from significant adverse impacts. If fully implemented, however, resolutions 64/72 and 66/68 and the Guidelines continue to provide
a good basis for protecting VMEs from significant adverse impacts resulting from bottom fishing and ensuring the long-term sustainability of deep-sea fish stocks.176

The outcome of the UNGA's review in 2016 demonstrates that the UNGA agreed with the assessment by the Secretary-General that the implementation of the relevant (p. 39) provisions of the resolutions had been uneven. In response, the UNGA emphasized the need for full implementation by all States and relevant RFMO/As of their commitments under the relevant paragraphs of its resolutions on an urgent basis. It called for several actions to be taken, including the following: (a) it urged States and RFMO/As to ensure that their actions in implementing the relevant paragraphs of the UNGA resolutions are consistent with the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas; (b) it called upon States and RFMO/As with the competence to regulate deep-sea fisheries, and States participating in negotiations to establish such organizations or arrangements to take, in particular, a number of urgent actions regarding bottom fishing in areas beyond national jurisdiction; (c) it called upon States, individually and through RFMO/As, to take into account the potential impacts of climate change and ocean acidification in taking measures to manage deep-sea fisheries and protect VMEs; and (d) it called upon States, individually and through RFMO/As with the competence to regulate deep-sea fisheries, to adopt conservation and management measures, including monitoring, control, and surveillance measures, on the basis of the best available scientific information, including stock assessments, to ensure the long-term sustainability of deep-sea fish stocks and non-target species and the rebuilding of depleted stocks, consistent with the Guidelines and, where scientific information is uncertain, unreliable, or inadequate, to ensure that conservation and management measures are established consistent with the precautionary approach, in particular with regard to vulnerable, threatened, or endangered species.177

(vi) Reports of the Secretary-General

The Secretary-General has since 1983 been reporting to the UNGA on developments relating to the law of the sea which later also included ocean affairs. As noted above, the successive reports of the Secretary-General on the implementation of resolution 46/215 which had imposed a moratorium on large-scale pelagic drift-net fishing on the high seas, provided a critical basis for policy action by the UNGA.

In 1994, following the entry into force of UNCLOS, the UNGA mandated the Secretary-General to, inter alia, (1) prepare annually a comprehensive report, for the consideration of the Assembly, on developments relating to the law of the sea, taking into account relevant scientific and technological developments, which could also serve as a basis for reports to all States Parties to UNCLOS, the International Seabed Authority, and competent international organizations, which the Secretary-General is required to provide under article 319 of UNCLOS; (2) to formulate recommendations for the consideration of, and for action by, the UNGA or other appropriate intergovernmental forums; and (3) to prepare periodically special reports on specific topics of current interest, including those requested by intergovernmental conferences and bodies.178

The UNGA has annually underlined the importance of the constructive and timely input by intergovernmental organizations, the specialized agencies, funds, (p. 40) and programmes of the UN engaged in activities relating to ocean affairs and the law of the sea, as well as funding institutions, to the report of the Secretary-General.179 Indeed, the terms of reference of UN-Oceans include among its mandate the facilitation, as appropriate, of inputs by its participating organizations to the annual reports of the Secretary-General on oceans and the law of the sea and on sustainable fisheries to be submitted to the Secretariat.
Whereas the review by the UNGA of progress achieved in the implementation of its resolution 46/215 on the basis of the report of the Secretary-General clearly benefited not only from the input received from Member States and intergovernmental organizations, but also from the input of non-governmental organizations, the UNGA has since that time and up to 2016 not mandated the Secretary-General to seek inputs from non-governmental organizations to any of his reports on sustainable fisheries. However, as noted in section 4.1(b) above, in its 2017 resolution on sustainable fisheries, the UNGA specifically requested the Secretary-General to seek the views on the topic of the science-policy interface of observers at the meetings of the informal consultations of States Parties to the UN Fish Stocks Agreement, including relevant non-governmental organizations that have participated in those consultations in accordance with past practice, for posting on the DOALOS website.  

The meetings of the subsidiary bodies of the UNGA, in particular the panel discussions during the ICP, the meetings of the Preparatory Committee established by resolution 69/292, the meetings of the Ad Hoc Working Group of the Whole on the Regular Process, the workshops to review actions taken by States and RFMO/As to give effect to the provisions of its resolutions relating to the impacts of bottom fishing on VMEs and the long-term sustainability of deep-sea fish stocks, the Review Conference on the UN Fish Stocks Agreement, the informal consultations of States Parties to the UN Fish Stocks Agreement, and the Meeting of States Parties to UNCLOS have also benefited from the input of non-governmental organizations participating in those meetings.

The reports of the Secretary-General on oceans and the law of the sea have included not only an overview of relevant developments within the UN, but also an overview of the activities of the UN system and of other intergovernmental organizations, taking into account also the information received from those organizations. For example, the report on oceans and the law of the sea to the seventy-second session of the UNGA which was made available to the informal consultations on the draft resolution on oceans and the law of the sea, provides information on recent developments relating to UNCLOS and other legal and policy instruments; people at sea; shipping and maritime security; outlines challenges and opportunities for the conservation and sustainable use of the oceans and their resources; and provides information on recent developments aimed at strengthening implementation through integrated and cross-sectoral approaches.

The role of the report as an essential basis for the annual review by the UNGA was underlined in the resolution establishing the ICP. The Secretary-General has (p. 41) supported the work of the ICP by including in his annual report on oceans and the law of the sea to the UNGA information on the topic(s) of focus of the ICP. That information has in recent years been made available in advance to the meeting of the ICP and also to the Meeting of States Parties to UNCLOS in part one of the annual report. Whereas the information on all other developments has constituted part two of the annual report of the Secretary-General on oceans and the law of the sea.

The annual reports on oceans and the law of the sea of the Secretary-General have also been complemented periodically by special reports, in particular reports relating to sustainable fisheries. Before the adoption of the UN Fish Stocks Agreement, the Secretary-General had been requested to present separate reports on the impact of fisheries by-catch and discards, unauthorized fishing in zones under national jurisdiction, and large-scale pelagic drift-net fishing. But after 1995, the Secretary-General presented one consolidated report on these issues. Since the entry into force of the UN Fish Stocks Agreement, the reports of the Secretary-General to the General Assembly have focused
generally on sustainable fisheries, including through the UN Fish Stocks Agreement and related instruments.\textsuperscript{185}

Comprehensive reports have been prepared by the Secretary-General in cooperation with FAO in advance of the Review Conference on the UN Fish Stocks Agreement in 2006, 2010, and 2016. Those reports of the Secretary-General have assisted the Review Conference in reviewing the effectiveness of the Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks.\textsuperscript{186}

As noted above, the reports of the Secretary-General have also facilitated the review by the UNGA of actions taken by States and RFMO/As to give effect to the provisions of its resolutions relating to the impacts of bottom fishing on VMEs and the long-term sustainability of deep-sea fish stocks.

In addition to these reports, the Secretary-General has also submitted other special reports to the UNGA,\textsuperscript{187} including a report which was the product of the Consultative Group on Flag State Implementation, an inter-agency task force formed by the Secretary-General in response to calls from Greenpeace International, the International Transport Workers’ Federation, and the World Wide Fund for Nature addressed to the Secretary-General of the UN for an investigation into the causes of the failure of some vessels to conform to international requirements regarding ship (p. 42) safety, labour conditions, fisheries conservation, and protection of the marine environment.\textsuperscript{188} More recent special reports included reports relating to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction\textsuperscript{189} and a study prepared by the Secretariat on available assistance to and measures that may be taken by developing countries, in particular the LDCs and SIDS, as well as coastal African States, to realize the benefits of sustainable and effective development of marine resources and uses of the oceans within the limits of national jurisdiction.\textsuperscript{190} However, limitations placed on the word count of the reports of the Secretary-General, due to financial considerations, have become increasingly restrictive and have also prevented the Secretary-General from preparing any additional special reports unless specifically mandated by the UNGA.

In its resolutions on oceans and the law of the sea, the UNGA has consistently emphasized the critical role of the annual report of the Secretary-General, which integrates information on developments relating to the implementation of UNCLOS, and the work of the Organization, its specialized agencies, and other institutions in the field of ocean affairs and the law of the sea at the global and regional levels, and as a result constitutes the basis for the annual consideration and review of developments relating to ocean affairs and the law of the sea by the UNGA as the global institution having the competence to undertake such a review.\textsuperscript{191}

Nevertheless, it has been observed that while the annual report has imprinted a level of coherence to ocean governance by pooling together in a single document the work of the various ocean-related agencies and programmes, the report does not assess the efficiency of the system as a whole, in particular as regards inter-agency cooperation.\textsuperscript{192}

### 4.2 Institutional mechanism

The UN followed the path of specialization when setting up its institutional framework, which now comprises many intergovernmental organizations and other entities which include ocean issues as part of their mandate.\textsuperscript{193} However, the multi-dimensional and interrelated nature of ocean problems have become much more apparent since 1982 and organizations have been challenged to deal with issues that do not fall neatly (p. 43) within their mandates but are nevertheless connected directly or indirectly to them.\textsuperscript{194} There are various lines of authority and the primary duty of each organization and entity is to respond
to its governing body from which it received its mandate potentially leading to disparities in approaches within the UN system.\textsuperscript{195}

It has been noted that the high level of autonomy enjoyed by UN agencies has contributed to impeding the designation of a single body with leadership over ocean matters that could centralize and streamline the work of the various organizations.\textsuperscript{196}

Furthermore, since no single institution is charged with monitoring and collecting national, regional, and global data on the full range of oceans-related issues, particularly on cross-cutting efforts, no global evaluation framework exists.\textsuperscript{197} Periodic data collection does take place in specific sectors, such as biodiversity conservation, fisheries issues, and marine pollution, but critical gaps remain.\textsuperscript{198}

It has been observed that ocean governance is expected to continue to evolve along mainly sectoral lines rather than through comprehensive approaches.\textsuperscript{199} At the same time, the quest by the international community for appropriate and efficient instruments to bring relevant organizations together is growing, in particular at the regional level where there is an increased focus on how to improve coordinated horizontal ocean governance between, in particular, RFMOs and the Regional Seas Programme.\textsuperscript{200} UNEP has been requested to step up its work, including through its Regional Seas Programme, on assisting countries and regions in the application of an ecosystem approach to managing the marine and coastal environment, including through enabling intersectoral cooperation in integrated coastal zone management and marine spatial planning.\textsuperscript{201}

It has been suggested that there is a need for an overarching global institution with enough power to be able to coordinate a fragmented system of ocean governance.\textsuperscript{202} The responses to the consultation on international ocean governance conducted by the European Union indicated that most respondents considered that rather than creating an overarching body to act as coordinator, better coordination should be achieved by making better use of existing structures and that any coordinating body should ensure closer cooperation between organizations involved in ocean affairs, thus reducing potential conflicts and overlaps.\textsuperscript{203}

\textbf{(p. 44) (a) Inter-agency cooperation and coordination}

There were strong calls for inter-agency cooperation and coordination after UNCED and in 2003, the High-Level Committee on Programmes of the United Nations System Chief Executives Board for Coordination approved the creation of an Oceans and Coastal Areas Network, subsequently named ‘UN-Oceans’, composed of the relevant programmes, entities, and specialized agencies of the UN system and the secretariats of the relevant international conventions, including the secretariat of the Convention on Biological Diversity, as well as the International Seabed Authority. In 2011, the UNGA invited the Joint Inspection Unit (JIU) to review UN-Oceans and submit a report for consideration at the sixty-seventh session of the UNGA.\textsuperscript{204} In its report on UN-Oceans to the UNGA, the JIU found that ocean affairs had received low visibility and priority in the UN system.\textsuperscript{205} Further, the inspectors noted that UN-Oceans had not yet been able to demonstrate its full ‘value added’ due to its structural weaknesses and lack of resources and should be given a fair chance, with the proper resources, to carry out the work it was mandated to do in order to fully realize its potential. The report contained five recommendations, including a recommendation to the UNGA that a national focal point on oceans and related issues in each country be established, if it did not exist, to enhance communication between delegates of the same country with the various UN meetings/entities dealing with oceans and coastal issues, to ensure coherence of the relevant national positions. The inspectors also recommended that the legislative and governing bodies of the organizations that are members of UN-Oceans should, not later than 2013, direct their executive heads to mobilize
the necessary resources to establish a small dedicated secretariat to work on UN-Oceans, taking into consideration the experience of other UN mechanisms.

In 2013, the UNGA approved new terms of reference for UN-Oceans as an ‘inter-agency mechanism that seeks to enhance the coordination, coherence, and effectiveness of competent organizations of the UN system and the International Seabed Authority, within existing resources, in conformity with UNCLOS, the respective competences of each of its participating organizations and the mandates and priorities approved by their respective governing bodies’. It decided that the mandate of UN-Oceans will be to: (a) strengthen and promote coordination and coherence of UN system activities related to ocean and coastal areas; (b) regularly share ongoing and planned activities of participating organizations within the framework of relevant UN and other mandates with a view to identifying possible areas for collaboration and synergy; (c) facilitate, as appropriate, inputs by its participating organizations to the annual reports of the Secretary-General on oceans and the law of the sea and on sustainable fisheries to be submitted to the Secretariat; and (d) facilitate inter-agency information exchange, including sharing of experiences, best practices, tools and methodologies, and lessons learned in oceans-related matters. Furthermore, the UNGA identified the United Nations Legal Counsel/DOALOS as the Focal Point for UN-Oceans with the mandate in particular to represent UN-Oceans at relevant meetings, including those (p. 45) under the UNGA and those of the United Nations System Chief Executives Board for Coordination and its High-level Committee on Programmes.

The UNGA also decided that it would review the terms of reference of UN-Oceans at its seventy-second session in 2017, in light of the work of UN-Oceans.

To fulfil its mandate, the members of UN-Oceans initially agreed on a biennial work programme for 2014–2015 which focused in particular on the preparation of an inventory of the mandates and activities approved by the respective governing bodies of organizations participating in UN-Oceans with a view to facilitating the identification of possible areas for collaboration and synergy. The inventory was launched at the meeting of the ICP in 2016 and will not only assist UN-Oceans in discharging its mandate but will also assist Member States and relevant stakeholders in identifying opportunities for synergies and greater coherence, as well as to determine the support available from UN-Oceans members to assist them in the implementation of relevant instruments.

UN-Oceans informs the ICP annually of its progress and also presents to it its biennial work programme. The programme for 2016–2017 reflects UN-Oceans’ commitment to assist States in the implementation of the 2030 Agenda, the SAMOA Pathway, and the Paris Agreement. It indicates, for example, that UN-Oceans will contribute to the follow-up and review processes of the HLPF as regards SDG 14 targets and indicators; and provide inputs, as mandated, to assist States in the implementation of the 2030 Agenda. Following their joint identification and submission of the indicator for target 14.c of SDG 14, members of UN-Oceans also committed in the work programme to support the preparation of metadata for that indicator and the related data collection. DOALOS was designated as the focal point in that regard.

As reported by the Secretary-General to the seventy-second session of the UNGA, UN-Oceans members contributed substantively to the Ocean Conference through, among other things, the provision of input to the background note of the Secretary-General for the preparatory process of the Conference, leading seven informal preparatory working groups and actively contributing to the review of draft concept papers (p. 46) for the seven partnership dialogues held at the Ocean Conference. UN-Oceans also registered a voluntary commitment at the Conference that would focus on awareness-raising briefings by its members of relevant regulatory and policy frameworks and the activities of UN-Oceans members in support of their implementation, to be provided in the margins of major
intergovernmental meetings. They also held a side event in the margins of the Conference.\(^{210}\)

In their statement to the ICP, at the Ocean Conference, and at the HLPF, among others, the UN-Oceans’ members indicated their readiness to build on the activities already undertaken to strengthen and promote coordination and coherence of United Nations system activities related to oceans and coastal areas. UN-Oceans members indicated that, as a multisectoral and multidisciplinary partnership, UN-Oceans was well placed to enhance in an integrated manner the required assistance to States. In particular, through joint projects and products, UN-Oceans members could deliver effective assistance to support States in the implementation of the 2030 Agenda and also respond to the request in ‘Our ocean, our future: call for action’ for the Secretary-General to continue his efforts to support the implementation of SDG 14 in the context of the implementation of the 2030 Agenda, in particular by enhancing inter-agency coordination and coherence throughout the United Nations system on ocean issues, taking into consideration the work of UN-Oceans.

UN-Oceans members also identified a need to enhance coordination in addressing pressing issues, such as the nexus between oceans, on the one hand, and climate change and variability, ocean acidification, and disaster risk reduction, on the other.

At the same time, UN-Oceans members considered that an enhanced role for UN-Oceans would benefit from inter alia financial support. In that regard, UN-Oceans noted the successful examples of UN-Water and UN-Energy.\(^{211}\)

At its seventy-second session, the UNGA recognized the work undertaken by UN-Oceans. However, it did not undertake a review of the terms of reference of UN-Oceans as it had previously intended\(^{212}\) and instead decided to defer such review to its seventy-third session.\(^{213}\)

(b) Role of the UN Secretariat

The UN has always been actively engaged in encouraging international efforts to address ocean issues and promote the development of the international law of the sea (p. 47) and safeguard the rule of law in the oceans. UNCLOS did not provide for the establishment of a secretariat, but assigned a number of responsibilities to the Secretary-General of the UN. The UNGA approved the Secretary-General’s assumption of responsibilities under UNCLOS following the adoption of the Convention\(^{214}\) and has since then expanded on the mandate of the Secretary-General in its annual resolutions on oceans and the law of the sea and on sustainable fisheries. The functions of the Secretary-General were performed initially by the Office of the Special Representative of the Secretary-General for the Law of the Sea which was strengthened in 1987 with the addition of the UN secretariat unit that had been supporting the Economic and Social Council in its review of economic and technological developments relating to marine affairs, namely the Ocean Economics and Technology Branch of the then Department of International Economic and Social Affairs. The Office of the Special Representative for the Law of the Sea was subsequently renamed Office for Ocean Affairs and the Law of the Sea.\(^{215}\)

In 1992, the functions of the Office for Ocean Affairs and the Law of the Sea were transferred to the Office of Legal Affairs. To date, its Division for Ocean Affairs and the Law of the Sea continues to discharge the responsibilities entrusted to the Secretary-General pursuant to UNCLOS and the UN Fish Stocks Agreement, as well as the continuously growing mandates contained in the resolutions of the UNGA on oceans and the law of the sea and on sustainable fisheries.
DOALOS provides a wide range of services to States and intergovernmental organizations. It, inter alia, promotes the wider appreciation of UNCLOS and the UN Fish Stocks Agreement, and assistance with their implementation, through the provision of information, advice, and assistance to States and intergovernmental organizations. It also provides substantive and technical services to the Commission on the Limits of the Continental Shelf and to its subcommittees.

The Division maintains a broad overview of developments in oceans and seas and as indicated in section 4.1(c)(vi) above, prepares on behalf of the Secretary-General comprehensive reports for the UNGA, as well as for the Meeting of States Parties to UNCLOS, and the Review Conference on the UN Fish Stocks Agreement. The Division has been organizing and providing substantive support to various intergovernmental oceans-related meetings at the UN. In particular, it has been organizing and substantively servicing the Meetings of States Parties to UNCLOS, the ICP, the Preparatory Committee established by resolution 69/292, the Ad Hoc Working Group of the Whole on the Regular Process, the Review Conference on the UN Fish Stocks Agreement, and the informal consultations of States Parties to the UN Fish Stocks Agreement. Furthermore, the Division has also been providing substantive support to the informal consultations of the UNGA on the draft resolutions on oceans and the law of the sea and on sustainable fisheries. In 2018, it will be providing the intergovernmental conference, under the auspices of the United Nations, to consider the recommendations of the preparatory committee on the elements and to elaborate the (p. 48) text of an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, with the necessary assistance for the performance of its work.216

Furthermore, DOALOS performs the functions of secretariat of the Regular Process and also provides support for the implementation by UN Member States of the oceans-related SDGs in the 2030 Agenda. In particular, in 2017, the Division provided extensive substantive support to the preparation of the documentation for the Ocean Conference217 and to the servicing of the Conference, including support to the special advisor to the Presidents of the Ocean Conference on oceans and legal matters, Mr Miguel de Serpa Soares, Under-Secretary-General for Legal Affairs and United Nations Legal Counsel. DOALOS also acted as the focal point for the organization and substantive servicing of Partnership Dialogue 7—Enhancing the conservation and sustainable use of oceans and their resources by implementing international law as reflected in UNCLOS.218

DOALOS manages or administers a number of Voluntary Trust Funds. It provides technical cooperation services to Member States which include a range of capacity-development activities, in particular, assistance to States, upon their request, with the application and implementation of the provisions of UNCLOS and the Implementing Agreements. It also manages and administers two Fellowship Programmes: the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea and the UN-The Nippon Foundation of Japan Fellowship Programme. The latter Programme and its Network of Alumni (numbering over 130 individuals, since 2004) has proven to be a successful model of multi-disciplinary and cross-sectoral capacity-building over a decade of implementation by DOALOS, in partnership with some fifty institutions worldwide. At the Ocean Conference, the Nippon Foundation announced the launch of a new United Nations-Nippon Foundation Sustainable Ocean Programme aimed at building capacities to reinforce ocean governance towards achieving the implementation of the SDGs starting in 2018. The new Programme, to be managed and administered by DOALOS, aims to provide over 200 nationals from developing countries with advanced training and research opportunities over the next three years.219
The Division supports the United Nations Legal Counsel as focal point for UN-Oceans. In that capacity, DOALOS convenes and organizes the meetings of UN-Oceans, facilitates communication among UN-Oceans participants, maintains and updates information on UN-Oceans and makes it available to Member States, represents UN-Oceans at relevant meetings, and coordinates the input of UN-Oceans in relation to the indicator for target 14.c of the 2030 Agenda.

It can be noted that while DOALOS is the only unit in the UN Secretariat working exclusively on ocean issues, there are also units in other Departments and Offices that deal with certain aspects. The following UN Secretariat units are members of UN-Oceans: the Department for Economic and Social Affairs which established a SIDS, Oceans and Climate Branch; the Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and the Small Island Developing States; the Office of Disarmament Affairs; and the UN Economic and Social Commission for Asia and the Pacific.

Also outside the context of UN-Oceans, the Division cooperates with competent UN intergovernmental organizations and entities at the subregional, regional, and global levels. It also interacts with other relevant intergovernmental organizations, civil society, and relevant non-governmental organizations and academic institutions, and participates in international and national conferences and workshops on ocean affairs and the law of the sea.

In the context of World Oceans Day, the Division organizes a series of activities to highlight the importance of oceans. In particular, it organized the commemoration of World Oceans Day, on 8 June 2017, in the context of the Ocean Conference, under the theme ‘Our oceans, our future’, to promote collaboration and the continued sharing of information and best practices.

Overall, the mandate of the Division has substantially grown since 1994, as also acknowledged by the UNGA. The Assembly has noted in its annual resolution on oceans and the law of the sea, the continuously growing responsibilities of the Secretary-General under UNCLOS and related resolutions of the UNGA, and in this context the unprecedented substantial increase in activities of DOALOS, in particular in view of the growing number of requests to the Division for additional outputs and servicing of meetings, the provision of technical assistance and capacity-building, the need for enhanced support and assistance to the Commission on the Limits of the Continental Shelf and the role of DOALOS in carrying out the functions in resolution 69/292, as the secretariat of the Regular Process, in relation to the functions as focal point for UN-Oceans, and in relation to support for the implementation by Member States of the oceans-related SDGs in the 2030 Agenda.

Therefore, while DOALOS has through the long-standing performance of the functions of the Secretary-General under UNCLOS, the UN Fish Stocks Agreement, and the many UNGA resolutions acquired a comprehensive and integrated perspective on ocean issues, and would be well placed to provide assistance to States in relation to ocean governance issues, upon their request, it would only be able to do so in an effective manner if supported through appropriate resources.

5. Concluding Remarks

The interconnected nature of ecosystems, expanding economic activity, increasing competing uses of ocean space, over-exploitation of resources, and degradation of the marine environment underscore the imperative of effective governance of the oceans. A sector-by-sector approach to ocean governance is ineffective in the face of cumulative impacts and pressures from human activities. Ocean governance thus needs to be pursued in the context of the holistic use of ocean space with an understanding of use interactions...
The Regular Process can support these objectives by providing the scientific basis for policy making.

The review of the international legal and policy framework underpinning the effective governance of oceans indicates that, notwithstanding the progress that has been achieved in its development, with UNCLOS at its core, implementation gaps, coupled with insufficient progress in the adoption of national or regional ocean policies, have prevented the emergence of more efficient and results-oriented ocean governance. Urgent action is required to ensure the integration of the three pillars of sustainable development and coherent management of the world’s oceans. In that regard, SDG 14 of the 2030 Agenda provides a roadmap for action through its ten targets, including the renewed commitment to enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in UNCLOS.

The UNGA, as the only intergovernmental organization that regularly reviews the entire spectrum of ocean issues from a comprehensive and integrated perspective, with the support of its subsidiary bodies and the UN Secretariat, has a critical role in fostering an integrated, cross-sectoral, multidisciplinary, precautionary, and ecosystem-based approach to ocean management based on the legal framework in UNCLOS and the best science available, cooperation, transparency, and accountability and with the participation of all relevant stakeholders.

When assessing the UNGA's progress to date in enhancing global ocean governance, it is important to appreciate the exceptional breadth and scope of ocean issues it reviews on an annual basis, as attested to by the length of its annual resolutions, and how its in-depth and periodic reviews of issues have resulted, in several instances, in decisive policy action leading to enhanced ocean governance. For example, the UNGA's actions in response to large-scale pelagic drift-net fishing and the impacts of bottom fishing on VMEs and the long-term sustainability of deep-sea fish stocks; (p. 51) as well as its recommendation to expand the application of the provisions of the UN Fish Stocks Agreement to discrete high seas fish stocks, have contributed to enhanced governance with respect to fisheries on the high seas. In addition, the decision by the UNGA to develop an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction represents a concrete step towards more effective ocean governance with respect to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

The establishment by the UNGA of the Regular Process as a mechanism to integrate existing environmental, social, and economic scientific information to support policy-making, its approval of the summary of the First Global Integrated Marine Assessment, and launch of the second cycle of the Regular Process, represent further examples of the UNGA's unique potential to take a holistic and integrated view of ocean issues and its ability to take decisive action towards enhancing global ocean governance.

However, the many ocean issues requiring attention as identified in section 2 and during the meetings of the ICP suggest that the UNGA's potential to take decisive action in furtherance of effective ocean governance has not been fully utilized to date. Therefore, it is perhaps not surprising that it has been argued that the UNGA needs to engage in further in-depth policy-oriented deliberations when discussing ocean issues, in particular those issues which require cooperation and coordination and integrated approaches at the intergovernmental and inter-agency levels. Such in-depth deliberations by the UNGA, based on reports of the Secretary-General, could assist it in assessing whether its calls upon States or encouragement or invitation to them to take action in its resolutions could be replaced with more decisive and action-oriented policy decisions coupled with a robust review process through a mechanism involving all relevant stakeholders. To that end, more effective use could be made of the ICP. It could support the General Assembly in fostering...
an integrated, cross-sectoral, multi-disciplinary, precautionary, and ecosystem-based approach to the management of activities in the oceans. Given the number of issues that require urgent attention, consideration could be given to extending the duration of its meetings and reviewing whether the current format and structure of the ICP best meets its objective. For example, it has been suggested that the stature of the ICP could be enhanced if it were upgraded to a committee of the whole of the UNGA. The creation of a commission under the authority of the UNGA, or ocean assembly, which would perform a role focused on achieving coherence and integration has also been suggested. Whatever form it takes, it would be of great importance to continue to provide for broad participation by all relevant stakeholders in the work of the ICP and to encourage their active participation. There are several precedents that could also be explored in that regard. In addition, Governments and other stakeholders could be encouraged to designate national focal points for ocean governance.

However, ultimately, any action aimed at enhancing ocean governance at the global level will not be successful unless it is complemented by similar efforts at the regional and national levels. The development of an integrated global strategy by the UNGA to address implementation gaps with respect to UNCLOS and related instruments, in particular in relation to capacity-building, and to identify commonalities with respect to the basic requirements for effective governance, could complement efforts to strengthen coordination at other levels.

Clearly, multi-disciplinary and cross-sectoral capacity-building will play an important role in any solution to address shortcomings in ocean governance. Awareness-raising of the legal, policy, and institutional framework at the global and regional levels is a necessary first step which can be addressed in a variety of ways, including through fellowships, academic courses and studies, training programmes and/or capacity-building workshops at the regional, subregional, or national level involving relevant stakeholders. Networking among entities providing capacity-building in the field of oceans will be important in order to enhance synergies between existing programmes, capitalize on the respective areas of expertise, maximize on the limited resources available for capacity-building and ensure that the impact of capacity-building interventions are complementary. Such efforts could be greatly facilitated through coordination at the global level, including through UN-Oceans.

Undoubtedly, the assignment of a more influential oversight role to the UNGA with respect to the actions of the specialized agencies, programmes, and funds and other entities of the UN system would need to have the support and input of those organizations and bodies. The secretariats of those organizations and entities could assist in that process through the provision of information from and to their governing bodies, and through their collaboration within the framework of UN-Oceans and thereby play a vital role in supporting efforts to help overcome inadequate coherence in ocean governance. But to be truly effective, UN-Oceans would need to be mandated to that end and adequately resourced.

This is also true of the UN Secretariat, which through DOALOS, already has a central role in supporting the work of the UNGA in enhancing global ocean governance. With the required resources, DOALOS could, without prejudice to its current mandate, enhance its substantive support to the UNGA and UN-Oceans and expand its capacity-building activities.

(p. 53) The First Global Integrated Marine Assessment has underscored that the international community cannot afford to delay action to sustainably manage and use the oceans for the benefit of present and future generations. Building on the momentum for the
The implementation of SDG 14 generated at the Ocean Conference, the UNGA could now seize the opportunity to consider how it could further strengthen global ocean governance.

**Footnotes:**

* Director, Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, United Nations. The opinions expressed are personal and do not necessarily represent the views of the United Nations.


3 UNGA Res 70/1 (25 September 2015) UN Doc A/RES/70/1.


8 ibid.


10 UNGA Res 71/257 (23 December 2016) UN Doc A/RES/71/257, para 289; and UNGA Res 72/73 (5 December 2017) UN Doc A/RES/72/73, para 300.


15 The most recent resolution on oceans and the law of the sea adopted by the UNGA in 2017 is UNGA Res 72/73 (n 10); and the most recent resolution on sustainable fisheries adopted by the UNGA in 2017 is UNGA Res 72/72 (5 December 2017) UN Doc A/RES/72/72.


of Straddling Fish Stocks and Highly Migratory Fish Stocks (adopted on 4 August 1995, entered into force on 11 December 2001) UNTS 2167, 3.


UNGA ‘Preparatory process of the United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development: Note by the Secretary-General’ (n 19).

ibid.

B Cicin-Sain, D VanderZwaag, and M.C. Balgos (eds), Routledge Handbook of National and Regional Ocean Policies (Routledge Taylor & Francis Group 2015) xxv.


ibid.

UNGA ‘Report of the Secretary-General on oceans and the law of the sea.’ UN Doc A/65/69 (2010); UNGA ‘Preparatory process of the United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development: Note by the Secretary-General’ (n 19), paras 74–77.


UNGA Res 72/73 (n 10).


WGBU Secretariat (n 24) 105.

ibid.

OECD (n 7) 240.

Eg by the UN Secretary-General during the commemoration of the twentieth anniversary of the entry into force of UNCLOS. See UN ‘Report of the twenty-fourth Meeting of States Parties’ UN Doc SPLOS/277* (2014), para 15.


Most recently in UNGA Res 72/73 (n 10).


UNGA Res 72/72 (n 15), para 44.


See eg UNGA Res 72/73 (n 10) and UNGA Res 72/72 (n 15).


Eg by the Council on Foreign Relations (n 27).


See also ‘UN Open-ended Informal Consultative Process established by the General Assembly in its resolution 54/33 in order to facilitate the annual review by the Assembly of developments in ocean affairs. Third meeting (New York, 8–15 April 2002). Summary of the Discussion Panels A and B (in English) for the areas of focus: (a) the protection and preservation of the marine environment, and (b) capacity-building, regional cooperation and coordination and integrated ocean management’ <www.un.org/Depts/los/consultative_process/3rdMeetingPanels.htm#PartIII_B> last accessed 22 January 2017.

Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (n 16).

Rothwell and Stephens (n 6) 474.


ibid annex II.

ibid para 17.1.

ibid para 17.115.


58 UNGA Res 70/1 (n 3).

59 ibid, target 14.c.

60 UNGA Res 70/226 (22 December 2015) UN Doc A/RES/70/226.

61 UNGA Res 70/303 (23 September 2016) UN Doc A/RES/70/303.

62 ibid. In the resolution, the UNGA had decided on the following outcomes of the Ocean Conference: the adoption by consensus of a concise, focused, intergovernmentally agreed upon declaration in the form of a call for action to support the implementation of Goal 14, a report containing the Co-Chairs’ summaries of the partnership dialogues, as well as a list of voluntary commitments for the implementation of SDG 14.


64 For further information about the Conference, including documentation, see <https://oceanconference.un.org> last accessed 14 January 2018.


66 UNGA Res 71/312 (n 63).

67 UN ‘Ministerial declaration of the high-level segment of the 2017 session of the Economic and Social Council on the annual theme “Eradicating poverty in all its forms and dimensions through promoting sustainable development, expanding opportunities and addressing related challenges” ’ (20 July 2017) UN Doc E/HLS/2017/1, para 19.


69 For further information, see <https://oceanconference.un.org/coa> last accessed 14 January 2018.

70 UNGA Res 72/73 (n 10), preambular paras 10 and 11.


72 ibid.


74 Rothwell and Stephens (n 6), 481.


77 UNGA Res 72/73 (n 10).


79 ibid.


81 UNGA Res 72/73 (n 10).

82 The most recent resolution is UNGA Res 72/72 (n 15).


84 UNGA Res 71/123 (7 December 2016) UN Doc A/RES/71/123.


86 UNGA Res 70/226 (n 60).

87 UNGA Res 70/303 (n 61).


89 UNGA Res 71/312 (n 63).

90 UNGA Res 72/249 (24 December 2017) UN Doc A/RES/72/249.

91 Rothwell and Stephens (n 6) 478.


93 Three main approaches have been put forward in the meetings of the Preparatory Committee established by resolution 69/292: a global model with scientific advice, decision-making, review, and monitoring of implementation done at the global level; a hybrid model with general guidance, criteria, and standards set at the global level and a reliance on regional and sectoral organizations for scientific advice and implementation and compliance, with a level of oversight as regards decision-making and implementation at the global level; and a regional or sectoral approach envisaging a global mechanism that 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. See Chair’s overview of the third session of the Preparatory Committee established by General Assembly resolution 69/292, eg Appendix 5 ‘Informal working group on cross-cutting issues. Oral report of the Facilitator to the plenary (Thursday, 6 April 2017)’ <http://www.un.org/Depts/los/biodiversity/prepcom_files/Chair_Overview.pdf> last accessed 14 January 2018.


99 Rothwell and Stephens (n 6) 479.

100 UN Fish Stocks Agreement, article 36 (n 17).


103 UNGA Res 71/123 (n 84).

104 UNGA Res 72/72 (n 15), paras 54–58.


108 Center for Oceans Law and Policy, University of Virginia (n 94).


112 UNGA Provisional verbatim records, UN Doc A/49/PV.77 (1994).


114 UNGA Res 51/34 (9 December 1996) UN Doc A/RES/51/34.

UN ‘Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its tenth meeting’ UN Doc A/64/131 (2009), para 68. Other delegations expressed a contrary view, see para 70.

UNGA Res 60/30 (29 November 2005) UN Doc A/RES/60/30.

UNGA Res 70/226 (n 60); UNGA Res 70/303 (n 61), and UNGA Res 71/312 (n 63).


The resolution was entitled ‘Results of the review by the Commission on Sustainable Development of the sectoral theme of “Oceans and seas”: international coordination and cooperation’ UNGA Res 54/33 (24 November 1999) UN Doc A/RES/54/33.

The documents prepared for or emanating from the meeting of the ICP and the presentations made at the meeting are available on the website of DOALOS at <www.un.org/Depts/los/consultative_process/consultative_process.htm> last accessed 13 January 2018, and include the ‘Report of the Secretary-General on oceans and the law of the sea’ prepared for the meeting UN Doc A/72/70 (2017); the ‘Format and annotated provisional agenda’ UN Doc A/AC.259/L.18 (2017); and the ‘Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its eighteenth meeting’ UN Doc A/72/95 (2017).


Topics were selected following consultations with delegations, at an informal meeting convened by the co-chairpersons prior to the scheduled meeting of the Informal Consultative Process.

UNGA ‘Report on the work of the United Nations Open-ended Informal Consultative Process established by the General Assembly in its resolution 54/33 in order to facilitate the annual review by the Assembly of developments in ocean affairs at its third meeting’ UN Doc A/57/80 (2002).

In 2009, at the tenth meeting of the Informal Consultative Process focused on the implementation of its outcomes, including a review of its achievements and shortcomings in its first nine meetings, several delegations provided examples of how the outcomes of the meetings had been incorporated into relevant General Assembly resolutions, or identified subsequent actions taken by States and intergovernmental organizations pursuant to those resolutions in UNGA. See UN Doc A/64/131 (n 116), para 29. A list of agreed elements of the Informal Consultative Process and corresponding paragraphs in General Assembly resolutions, as well as agreed elements that were not included in resolutions of the General Assembly covering the period 2000–2008 are provided in the ‘Report of the Secretary-General on oceans and the law of the sea to the sixty-fourth session of the General Assembly’, UN Doc. A/64/66 (2009), annex.

UN Doc A/64/131 (n 116) para 34.

ibid para 33.

ibid para 68.

UNGA Res 69/245 (29 December 2014) UN Doc A/RES/69/245.
For information on other topics which have been discussed by the Informal Consultative Process and summaries of the discussions on those topics, see <www.un.org/Depts/los/consultative_process/consultative_process.htm> last accessed 28 January 2017.


See eg UNGA Res 69/245 (n 130); and UNGA Res 69/109 (9 December 2014) UN Doc A/RES/69/109, which only noted that a discussion took place at the fifteenth meeting of the ICP on the role of seafood in global food security.

Eg, the meeting of the ICP in 2010 was attended by representatives of eighty-nine Member States, twenty-seven intergovernmental organizations and other bodies, and eleven non-governmental organizations. Whereas the meeting in 2016 was attended by representatives of sixty States, twelve intergovernmental organizations and other bodies and entities, and eight non-governmental organizations.

Elisabeth Mann Borgese, ‘UNICPOLOS: The Second Session’ in Elisabeth Mann Borgese, Aldo Chircop, and Moira L McConnell (eds), Ocean Yearbook 16 (University of Chicago Press) 22.

Most recently in UNGA Res 72/73 (n 10), para 352.


UNGA Res 70/226 (n 60).

ibid.


UNGA Res 71/257 (n 10) ; and UNGA Res 72/73 (n 10), para 354.

ibid.


Nogueira de Souza Patu (n 73) 211.


UNGA Res 70/235 (n 12).


UNGA Res 72/73 (n 10), para 305. The following technical abstracts of the First Global Integrated Marine Assessment were prepared by the Group of Experts of the Regular Process: ‘The Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction’; ‘The Ocean and the Sustainable Development Goals under
the 2030 Agenda for Sustainable Development’; and ‘The Impacts of Climate Change and Related Changes in the Atmosphere on the Oceans’.

150 ibid.

151 UNGA Res 69/292 (n 85).


153 ibid.

154 ibid, chapter III of the report.

155 ibid, section A, subsection III.1.


157 Preparatory Committee established by General Assembly resolution 69/292: Development of 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. Chair’s overview of the second session of the Preparatory Committee, annex I, appendix 5 ‘Chair’s understanding of possible areas of convergence of views and possible issues for further discussion emanating from the discussions in the Informal working group on cross-cutting issues. As read out by the Chair in plenary on 9 September 2016’ <http://www.un.org/depts/los/biodiversity/ prepcom_files/Prep_Com_II_Chair_overview_to_MS.pdf> last accessed 28 January 2017.


159 UNGA Res 72/249 (n 90).

160 See eg UNGA Res 58/14 (n 29), the first resolution which consolidated all the resolutions on sustainable fisheries into a single resolution. It contains twenty-four preambular and fifty-eight operative paragraphs, whereas UNGA Res 72/72 (n 15), contains sixty-five preambular and 231 operative paragraphs.

161 UNGA Res 46/215 (n 76).


The reports of the Secretary-General are available at the website of DOALOS <www.un.org/Depts/los/general_assembly/general_assembly_reports.htm> last accessed 13 January 2018.

See eg the most recent General Assembly resolution, UNGA Res 72/72 (n 15), paras 121–23.


UNGA Res 64/72 (4 December 2009) UN Doc A/RES/64/72.


UNGA Res 71/123 (n 84).

For the outcome of the 2016 Workshop, see UNGA ‘Letter dated 9 September 2016 from the moderator of the workshop to discuss the implementation of paragraphs 113, 117 and 119 to 124 of resolution 64/72 and paragraphs 121, 126, 129, 130 and 132 to 134 of resolution 66/68 on sustainable fisheries, addressing the impacts of bottom fishing on vulnerable marine ecosystems and the long-term sustainability of deep-sea fish stocks addressed to the President of the General Assembly’ UN Doc A/71/377 (2016).

UNGA ‘Report of the Secretary-General on Actions taken by States and regional fisheries management organizations and arrangements in response to paragraphs 113, 117 and 119 to 124 of General Assembly resolution 64/72 and paragraphs 121, 126, 129, 130 and 132 to 134 of General Assembly resolution 66/68 on sustainable fisheries, addressing the impacts of bottom fishing on vulnerable marine ecosystems and the long-term sustainability of deep-sea fish stocks’ UN Doc A/71/351 (2016).

All of the actions taken by the UNGA are set out in UNGA Res 71/123 (n 84).

UNGA Res 49/28 (n 110).

See eg UNGA Res 72/73 (n 10).

UNGA Res 72/72 (n 15), paras 56 and 57.


UNGA Res 54/33 (n 121).

See, eg, the report of the Secretary-General which was prepared with a view to facilitating the discussions on the topic of focus at the seventeenth meeting of the ICP, ‘Marine debris, plastics and microplastics’, UNGA ‘Report of the Secretary-General on oceans and the law of the sea’ UN Doc A/71/74 (2016); and the report on the topic of focus.


185 ibid.


190 UNGA ‘Oceans and the law of the sea. Available assistance to and measures that may be taken by developing States, in particular the least developed States and small island developing States, as well as coastal African States, to realize the benefits of sustainable and effective development of marine resources and uses of the oceans within the limits of national jurisdiction. Study prepared by the Secretariat’ UN Doc A/63/342 (2008).

191 See eg UNGA Res 72/73 (n 10), para 367.

192 Nogueira de Souza Patu (n 73) 333.


194 Nogueira de Souza Patu (n 73) 298.

195 UN Doc A/57/80 (n 125).


197 Council on Foreign Relations (n 27).

198 ibid.

199 OECD (n 7).

200 An increasing number of memoranda of understanding are being concluded, such as the recent memorandum of understanding between the Mediterranean Action Plan under the Convention for Protection of the Marine Environment and the Coastal Region of the Mediterranean and the General Fisheries Commission for the Mediterranean and the memorandum of understanding between the Commission on the Protection of the Black Sea against Pollution and the United Nations Environment Programme/Mediterranean Action
Plan. See also UNEP, Regional Oceans Governance UNEP Regional Seas Reports and Studies No 197 (2016).


202 José Manuel Pureza, ‘International Law and Ocean Governance: Audacity and Modesty’ [1999] RECIEL 8, 75; Kullenberg (n 92), 352; WGBU Secretariat (n 24).


210 UNGA ‘Report of the Secretary-General on oceans and the law of the sea’ (n 181).

212 UNGA Res 68/70 (n 206), para 279.
213 UNGA Res 72/73 (n 10), paras 360 and 361.
214 See in particular UNGA Res 49/28 (n 110); UNGA Res 52/26 (26 November 1997) UN Doc A/RES/52/26.
216 UNGA Res 72/249 (n 90), para 22.
217 In UNGA Res 70/303 (n 61), paras 19 and 20, the Secretary-General of the United Nations was requested to prepare a background note by the end of January 2017, including a proposal for themes of the partnership dialogues, for the preparatory meeting of the Ocean Conference held from 15 to 16 February 2017. While the Secretary-General of the Conference was requested to prepare concept papers on each of the themes of the partnership dialogues, taking into account the relevant oceans-related processes of the General Assembly, and to invite the stakeholders entitled to participate in the Conference to submit inputs. Mr Wu Hongbo, Under-Secretary-General for Economic and Social Affairs, was appointed by the Secretary-General as the Secretary-General of the Conference.
220 Information on conferences/meetings/workshops/training courses attended by the United Nations Legal Counsel or a representative of DOALOS to provide information on the legal regime in UNCLOS and related agreements, as well as policy developments in ocean affairs and the law of the sea at the UN is available on the website of DOALOS. For information on events attended during 1 September 2016 to 31 August 2017, see <http://www.un.org/Depts/los/general_assembly/capacity_building2017.pdf> last accessed 14 January 2018. For information on events attended during 1 September 2015 to 31 August 2016, see <http://www.un.org/Depts/los/general_assembly/capacity_building2.pdf> last accessed 14 January 2018.
221 UNGA Res 72/73 (n 10), fifty-fourth preambular para.
222 OECD (n 7) 222.
227 Corell (n 225) 351.
229  See eg the UNGA's Open Working Group on Sustainable Development Goals in which States and observers actively participated. For more information, see <https://sustainabledevelopment.un.org/owg.html> last accessed 14 January 2018.

230  Yankov and Ruivo (n 228).