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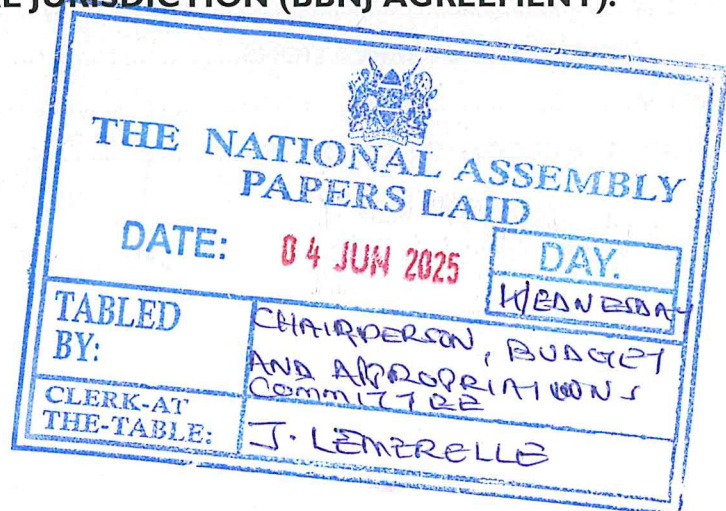
THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

**DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND
IRRIGATION**

.....

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



**CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI**

JUNE 2025



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LIST OF ABBREVIATIONS AND ACRONYMS

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

CHAIRPERSON'S FOREWORD

This Report contains proceedings of the Departmental Committee on Blue Economy, Water and Irrigation on its consideration of the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement).

The Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement) was tabled in the National Assembly on Wednesday, 30th April 2025 and consequently referred to the Committee pursuant to the provisions of Standing Order 170A. The Committee is required to facilitate public participation and make appropriate recommendations on whether the House should approve, approve with reservations or reject ratification of the Agreement. The Agreement provides a comprehensive framework to address the critical gaps in the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.

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

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

The Committee held three (3) meetings, both in-house and stakeholder engagements. The Committee recommends that the House **approves** the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement) subject to entry of two declarations pursuant to Articles 70 and 71 of the Agreement.

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

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

It is therefore my pleasant duty and privilege, on behalf of the Departmental Committee on Blue Economy, Water and Irrigation to table its Report on the consideration the agreement under the United Nations Convention on the law of the sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) agreement.

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

Chairperson, Departmental Committee on Blue Economy, Water and Irrigation

PART I

I.0 PREFACE

I.1 Establishment of the Committee

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

I.2 Subjects of the Committee

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

1.3 Committee Membership

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

Chairperson

Hon. Bowen Kangogo, MP, CBS
Marakwet East Constituency
United Democratic Alliance Party

Vice- Chairperson

Hon. Kemero Maisori Marwa, MP
Kuria East Constituency
United Democratic Alliance Party

Hon. Mohamed Abdikadir Hussein, MP
Lagdera Constituency
Orange Democratic Movement

Hon. Tandaza Kassim Sawa, MP
Matuga Constituency
Amani National Congress

Hon. Chepkwony Charity Kathambi, MP
Njoro Constituency
United Democratic Alliance Party

Hon. William Kamket, MP
Tiaty Constituency
KANU

Hon. Buyu Rozaah Akinyi, MP
Kisumu West Constituency
Orange Democratic Party

Hon. Eng. Paul Nzengu, MP
Mwingi North Constituency
Wiper Democratic Party

Hon. Adow Mohamed Aden, MP
Wajir South Constituency
Orange Democratic Party

Hon. Dorothy Muthoni Ikiara, MP
Nominated
United Democratic Alliance Party

Hon. Nebart Bernard Muriuki, MP
Mbeere South Constituency
Independent Member

Hon. Mnyazi Amina Laura, MP
Malindi Constituency
Orange Democratic Movement

Hon. Eric Wamumbi, MP
Mathira Constituency
United Democratic Alliance Party

Hon. George Gachagua, MP
Ndaragwa Constituency
United Democratic Alliance Party

1.4 Committee Secretariat

4. The Committee is facilitated by the following staff:

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

Ms. Ivy Kageha
Clerk Assistant III

Ms. Lynette A. Otieno
Senior Legal Counsel

Ms. Joyce Wachera
Hansard Officer

Ms. Fridah Ngari
Media Relations Officer

Dr. Benjamin Ngimor
Principal Fiscal Analyst

Ms. Veron D. Aluoch
Research Officer III

Mr. Allan Gituku
Sergeant-At-Arms

Mr. Eugene Luteshi
Audio Officer

PART II

2.0 CONSIDERATION OF THE AGREEMENT

2.1 Background information

5. The Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement) was tabled in the National Assembly 30th April, 2025 and consequently referred to the Committee. The Agreement provides a comprehensive framework to address the critical gaps in the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction addressing issues that include marine genetic resources including a fair and equitable sharing of benefits, conservation measures such as Area Based Management Tools, Environmental Impact Assessment, Capacity Building and the Transfer of Marine Technology.

2.2 Legal and Institutional Framework

2.1.1 Constitutional and Legal Basis

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

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

2.1.2 Role of the National Assembly

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

2.2 Overview of the BBNJ Agreement

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

2.3 Key Provisions of the Agreement

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

PART III

3 PUBLIC PARTICIPATION/ STAKEHOLDER ENGAGEMENT

3.1 Call for submission of memoranda from public

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

- i. The State Department for Blue Economy and Fisheries;
- ii. The Office of the Attorney-General;
- iii. The State Department for Foreign Affairs; and
- iv. The Kenya International Boundary Office.

3.2 State Department for Blue Economy and Fisheries

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

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

of deposit of the sixtieth (60th) instrument of ratification, according to article 68 (1) of the Agreement.

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

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

3.3 Office of the Attorney General and Department of Justice

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

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

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

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

3.4 State Department for Foreign and Diaspora Affairs

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

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

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

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

3.5 The Kenya International Boundary Office (KIBO).

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

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

PART IV

4.0 COMMITTEE OBSERVATIONS

Having engaged and considered submissions from the relevant stakeholders the Committee made the following observations on the agreement under the United Nations Convention on the law of the sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) agreement-

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

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

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

PART V

COMMITTEE RECOMMENDATIONS

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

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

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

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





THE NATIONAL ASSEMBLY

13TH PARLIAMENT - FOURTH SESSION - 2025

DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION

MEMBERS ATTENDANCE SCHEDULE

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

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

Forwarded by:

Signed

Mr. Nicodemus K. Maluki

First Clerk Assistant – Committee Clerk

Approved by:

Signed

Ms. Rose M. Wanjohi,

Principal Clerk Assistant II/ Head of Department- Productive Sector

Directorate of Departmental Committees

