

House of Lords' International Relations and Defence Committee

UNCLOS: the Law of the Sea in the 21st Century

Government Response

Received 31 May 2022

This Government thanks the House of Lords Select Committee on International Relations and Defence for its report on an issue of importance to a wide range of the UK's economic, security and environmental interests.

Please find below the Government's response to the Committee's recommendations and conclusions. The Committee's text is in bold and the Government's response is in plain text. Bracketed paragraph numbers refer to the Committee's report.

General Points about UNCLOS (53, 54, 55, 59, 60, 107)

- 1. The signing of UNCLOS in 1982 was a fundamental step forward for the governance of the oceans. It has been largely successful, and despite the shortcomings explored later in this report, any renegotiation would be dangerous. However, it is clear that in light of its gaps and modern challenges, including human rights at sea, rising sea levels, new technologies and the quest for ever more resource, its provisions need updating and supplementing. It will be important to do this in a way which does not undermine the convention. (Paragraph 53)**
- 2. The UK should reconsider its position that annual meetings of the States Parties to UNCLOS are not an appropriate forum to discuss substantive issues. There is scope for these meetings to be used to come to agreement amongst states on the interpretation of UNCLOS's provisions in the light of emerging challenges. To make the most of this, the UK must ensure it invests in preparatory diplomacy and engagement with likeminded states. (Paragraph 55).**
- 3. The UK, with its strong maritime interests and history, should take on a global leadership role in developing and enforcing the law of sea. The Government should increase its engagement with states and other actors especially in developing areas of the law of the sea, such as human rights at sea, climate change and new maritime technologies. The Government should assist initiatives that further this aim, especially those with connections to the UK. (Paragraph 59).**
- 4. The Government should aim to increase the presence of British judges on institutions like ITLOS, and British personnel in roles in related international institutions. This will show that the UK is committed to upholding the provisions of UNCLOS and the international rule of law. (Paragraph 60)**

5. The Government should consider noncompliance with UNCLOS as a fundamental violation of the international rules-based order. Such violations should give cause for the Government to consider its relationship with noncompliant states. (Paragraph 107)

Response to 53: The Government agrees with the Committee that UNCLOS was a fundamental step forward in the governance of the ocean and has delivered a number of benefits for the UK and the international community as set out in the Government's written and oral evidence to the Committee. We agree that there are a number of modern challenges that require regulatory responses at the international level. However, attempting to do this through amendment to the existing text of UNCLOS would be very difficult to achieve and is not considered the most effective option. The Government is working to address many of these modern challenges through a variety of routes within the framework of UNCLOS, including supplementing its provisions through a new implementing Agreement.

Response to 54: As policy develops around issues such as maritime autonomous vehicles, the UK will use its influence and expertise to ensure that existing laws and guidance keep up with technological developments. The UK initiated the International Maritime Organisation's (IMO) review of regulation to allow the operation of Marine Autonomous Surface Ships (MASS) and is taking a leading role in the IMO's development of a goal-based instrument for MASS.

We will continue to support effective legislation addressing seafarer welfare through minimum standards for health, safety, and living and working conditions, through our membership of the International Labour Organization as well as the IMO.

Response to 55: The Government does not agree the annual meeting of states parties to UNCLOS (SPLOS meetings) is an appropriate forum for discussion of substantive issue. Since its establishment, SPLOS meetings have limited themselves to discussion of budgetary and administrative matters. There is no consensus amongst states parties on whether SPLOS meetings can discuss 'substantive issues', such as the interpretation or implementation of UNCLOS.

Response to 59: The Government agrees that the UK should take on a global leadership role in developing and enforcing the law of sea. In fact, the UK is already doing so. The UK is active in law of- the sea discussions in the UN Legal Committee and the General Assembly and through our engagement with the International Law Commission, for example on the issue of sea level rise. We are playing a prominent role in negotiations to develop a new legally binding instrument under UNCLOS on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction. We are also actively engaged in the negotiations at the International Seabed Authority to develop Regulations, Standards and Guidelines for the exploitation of minerals of the seabed beyond national jurisdiction. We hold law of the sea dialogues bilaterally and in small groups with other states to discuss current issues.

As set out in the FCDO's oral and written evidence, the Royal Navy has deployed to a range of locations across the globe to uphold UNCLOS freedoms. This is in addition to making use of the bilateral and multilateral channels available to us to uphold UNCLOS. We are also delivering capacity building to countries to support effective and sustainable management of their maritime zones.

Response to 60: The Government agrees on the importance of increasing the presence of British Judges and other personnel in international institutions. UK takes a strategic approach to elections to international bodies. We look at the overall picture to identify the priority positions for which the UK will nominate candidates, and the positions where we can secure our interests by supporting the candidates of other countries.

From an international law perspective, our priority in 2021 was ensuring a continued UK presence on the International Law Commission (ILC). UK candidate, Professor Dapo Akande, was elected to the ILC on 12 November, building on our significant election victories in the Judicial and Prosecutorial elections for the International Criminal Court in December 2020 and January 2021. The ILC is an important body for the consideration of UNCLOS issues and we expect Professor Akande to be fully engaged in this work.

With respect to ITLOS, we believe Judge Tomas Heidar of Iceland, the current Vice President of ITLOS, has done a good job to date and we do not propose to contest his re-election in 2023. This does not mean ITLOS will not be a priority for future years. In 2022, the UK's agreed priority is to return to the governing Council of the International Telecommunication Union.

More generally, British influence is strong on law of the sea issues. The IMO is hosted in London. Many of the world-leading maritime law practitioners are based in London. Michael Lodge, a British National, is the Secretary-General of the International Seabed Authority. Dr Gordon Patterson of the Natural History Museum sits as an independent member of the ISA's Legal and Technical Committee.

Response to 107: The Government agrees that violations of UNCLOS are undermining of the wider rules based international system. The UK consistently challenges, publicly and privately, actions that we consider to be incompatible with UNCLOS. We use all the bilateral and multilateral channels available to us to support navigational rights, to challenge excessive claims to maritime zones and to raise violations of environmental provisions.

Flags and Registries (77, 78, 79, 80, 81)

While exclusive flag state jurisdiction is an important principle of the law of the sea, the widespread use of flags of convenience poses a particular challenge for maritime security and the enforcement of laws on the high seas. (Paragraph 77).

The use of flags of convenience is a major barrier to the enforcement of rules on the high seas. Often flag states with the largest registered tonnage do not have the capacity or inclination to fulfil their obligations in terms of management, control or enforcement of their registered fleet. The Government should take a leadership role and work with others to ensure UNCLOS: the law of the sea in the 21st century 81 the link between vessels and the state in which they are registered is genuine and substantial. (Paragraph 78).

The Government should commit to tightening the criteria of its own ship registry, to act as an example to other states. (Paragraph 79).

It remains unclear why the UK Government has not signed the 1986 Convention on Conditions for Registration of Ships, and we regret that this has not happened. We ask that the Government includes in its response to this report more detail on the review they have commissioned into this, including its remit and when it will report. (Paragraph 80).

We welcome the increased appetite for strengthening port state controls, and the International Maritime Organization should be commended for its efforts in this regard. (Paragraph 81).

Response to 77: We recognise some flag states operating Open Registries (so called 'flags of convenience') may pose a challenge to maritime security and enforcement of laws on the high seas by virtue of their inability to, for example, effectively oversee their registered vessels.

The record of compliance with international conventions by vessels on Open Registries is not significantly worse than that of vessels on other registries. Indeed, some of the largest open registries comply with the regional regimes in place (such as the Paris Memorandum of Understanding and the Tokyo Memorandum of Understanding). Under these Memorandum of Understandings, Maritime Administrations check that vessels entering their ports comply with the major IMO Conventions (Safety of Life at Sea (SOLAS), Marine Pollution (MARPOL), Load Lines, Standards of Training, Certification and Watchkeeping for Seafarers (STCW), Collision Regulations (COLREGS), amongst others, as well as with the International Labour Organisation's Maritime Labour Convention.

Response to 78: Open Registries with the largest tonnage feature on the compliant flag states list as part of the previously mentioned Paris Memorandum of Understanding and the Tokyo Memorandum of Understanding. It is not clear that they are not fulfilling their international obligations owing to being an open register.

That said, the UK can use its strong position on the IMO council and its recent excellent audit by the IMO, as an example of excellence in meeting flag state obligations and responsibilities.

We do note that the International Tribunal for the Law of the Sea has stated that: “the purpose of the provisions of the Convention on the need for a genuine link between a ship and its flag State is to secure more effective implementation of the duties of the flag State, and not to establish criteria by reference to which the validity of the registration of ships in a flag State may be challenged by other States.”

Response to 79: In addition to the published criteria for joining the UK ship register, all ships safety records are scrutinised by a flagging-in panel before being accepted on the flag. The UK is able to show a demonstrable link between the UK and the vessels on its flag and demonstrate the implementation of its duties as a flag State through its survey and inspection regimes of vessels on the UK flag.

In October 2021, the IMO examined how the UK meets its flag, coastal and port state obligations and responsibilities. The IMO Member State Audit Scheme (IMSAS) started as a voluntary Scheme in 2006 and became a treaty obligation in January 2016. The audit uses the IMO Instruments Implementation Code (the Code) as the standard for its audit. The Code is mandatory for all IMO Member States and sets out the requirements by which a Member State must demonstrate compliance with, and enforcement of, the international maritime Conventions that it is signatory to. The Code covers the State’s obligations and functions as a Flag State, Port State, and Coastal State.

In the context of the IMO Audit:

- Flag State relates to the implementation, oversight and enforcement of UK domestic and international Convention requirements on vessels, crews and operators of vessels on the UK flag.
- Port State relates to the implementation and enforcement of international Convention requirements for foreign flagged vessels and their crews operating to and from, or within, UK territorial waters.
- Coastal State relates to protection of UK territorial waters and the provision of international obligations as regards search and rescue, navigational safety and pollution prevention and clean-up.

Auditors from other Member States of the IMO and the IMO Secretariat praised the way in which the UK oversees and fulfils its responsibilities. The audit revealed just two findings - the average tends to be in double figures.

Response to 80: The 1986 Convention on Conditions for Registration of Ships, has to date not been ratified by sufficient countries for it to enter into force. For the Convention to enter into force it requires 40 signatories whose combined tonnage exceeds 25% of the world total. As of May 2022, fifteen States had ratified or acceded to the Convention. The UK does not accede to maritime Conventions until they have entered into force, the reason for this is that ratifying such Conventions before it enters into force causes an uneven playing field for UK vessels.

The 1986 Convention on Conditions for Registration of Ships was negotiated at the UN Conference on Trade and Development and is not an IMO convention. The UK has not signed this¹ and since a considerable period of time has passed since this convention was drafted and adopted, the international shipping landscape has changed.

The Government has begun preliminary discussions with the IMO Secretariat as to whether the IMO is a better UN body for the convention to sit under. This would provide an opportunity for the IMO to review the convention. The Maritime and Coastguard Agency are in the early stages of reviewing the UK's position with respect to the 1986 Convention and aim to finish this study this year. This would place the UK in a good position to work with the IMO to revisit this convention should it be accepted as an IMO convention.

Response to 81: We welcome the Committee's position on this. The UK takes its Port State Control responsibility seriously. Between 2019 and 2022, The UK undertook 3496 inspections of 2944 ships. There were 96 detentions, 315 deficiencies detected for International Safety Management (ISM) code violations and 8158 non-ISM deficiencies detected.

We are proud that the UK and Red Ensign Group remain high performing flags on the Paris Memorandum of Understanding.

Human Rights at Sea (32, 190, 191, 192, 193, 214, 219, 231)

UNCLOS has little to say about human rights. Nonetheless, it is clear that international human rights law applies to people at sea. But there are barriers to the application of human rights at sea in practice. The Government acknowledged the existence of these barriers, but did not say how it intended to address them. (Paragraph 190).

We ask that in its response to this report, the Government confirms that it considers international human rights law to apply equally at sea as it does on land, and to commit to taking a clear and unequivocal position on this both domestically and internationally. (Paragraph 191).

We urge the Government to acknowledge that human rights at sea include a wide range of rights, and not just those pertaining to labour conditions, important though these are. In its response to us, we ask that the Government sets out what it considers its obligations to be concerning human rights at sea, including with reference to human trafficking and modern slavery. (Paragraph 192).

The principle of exclusive flag state jurisdiction and the issue of flags of convenience poses a challenge to the effective monitoring and enforcement of 84 UNCLOS: the law of the sea in the 21st century human rights at sea. We

¹ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XII-7&chapter=12&clang=_en

reiterate our request for the Government to provide more detail on its review of this issue. (Paragraph 193).

Forced labour and excessive working conditions are increasing concerns for those working at sea in the fishing and shipping industries. While there are international agreements for the protection of labourers' human rights, the flag state system again stymies their enforcement and realisation in practice. (Paragraph 214).

Victims of human rights abuses at sea, including victims of physical and sexual crimes, do not have sufficient access to timely or effective justice. Their situation is exacerbated by complex questions concerning legal jurisdiction and the flag state's responsibility to investigate and prosecute human rights abuses committed at sea. The obligations of third states to exercise jurisdiction over these abuses and crimes are also not clear: states appear to use the principle of exclusive flag state jurisdiction to avoid intervening on behalf of victims, even if the abuse takes place within their maritime jurisdiction. As a result, victims of human rights abuses at sea are denied access to an effective remedy. (Paragraph 219).

There are a range of mechanisms the Government should investigate for addressing human rights abuses at sea, including port state controls, sanctions, and private arbitration systems. The Government must also ensure that its own domestic legislation fully reflects its obligations under international human rights law, in particular, the Nationality and Borders Bill. (Paragraph 231).

Response to 191: As set out in our response to the Committee previously, the Government is concerned about the human rights abuses that are taking place at sea and recognise the challenges around upholding human rights in view of the jurisdictional complexities that exist at sea. We do consider that the European Convention on Human Rights applies equally to the UK territorial sea as it does on land. Whether human rights law applies will depend on the particular factual circumstances prevailing at the time, and the applicable jurisdictional provisions.

Response to 190: Human rights for workers ashore in the UK are enforced through tribunals/the ECHR. There is scope to clarify where seafarers have access to these. Longer term, the Government will explore whether and how gaps in access may be addressed.

Response to 192: Human trafficking and modern slavery are criminal offences under UK law and there is effective legislation in place to bring to justice those found guilty. The 2015 Modern Slavery Act gives law enforcement agencies, including the police and Border Force, the powers to investigate modern slavery offences at sea, including the power to stop, board, divert, detain and search a vessel, and to make arrests and seize any relevant evidence.

Identifying and acting on cases requires working together between Government departments and efforts have already been made in this area. We will continue to work to improve awareness and collaboration.

Response to 193: This is not something that the UK can tackle unilaterally. The Government supports and fully complies with the measures put in place by the IMO to ensure the effective jurisdiction of administrations over the ships that fly their flag.

The record of compliance with international conventions by vessels on Open Registers is not significantly worse than that of vessels on other registries.

A UN Cross Agency Task Force has been set up which may partially consider this issue. This work was triggered by a resolution of the ILO Special Tripartite Committee of the Maritime Labour Convention following the crew change crisis and associated problems during the COVID pandemic. The Government awaits its outcome with interest.

Response to 214: The Government shares the concerns of the Committee regarding the scourge of forced labour and other labour exploitation abuses of those working at sea. However, we believe that the Maritime Labour Convention, 2006 and the ILO Work in Fishing Convention, 2007 (No.188) provide an effective framework to identify such abuses through port State control. In the UK, where suspected abuses are identified by the Maritime and Coastguard Agency (MCA) through inspections under these Conventions, the MCA works with other relevant enforcement agencies to ensure these are addressed. ILO 188 does not exclude small vessels – indeed it explicitly “applies to all fishers and all fishing vessels engaged in commercial fishing operations”. Some more detailed provisions are aimed at larger vessels, but the general provisions apply to all. Members may, after consultation, exclude “limited categories of fishers or fishing vessels” from the Convention where “special problems of a substantial nature” would be caused by application of the Convention.

Response to 219: The Government accepts that internationally the applicable jurisdiction for victims of human rights abuses at sea may be difficult to ascertain. There is scope to clarify where victims may bring a complaint or case in the UK.

Response to 231: The safety of life at sea will always be the priority for any interceptions of small boats crossing the Channel to facilitate illegal migration, whether under current or future powers. The use of these powers will always be in compliance with international obligations including to promote safety and protect life. All immigration officers receive relevant training before being able to carry out their duties and exercise powers and must in any event exercise those powers in accordance with the requirements of the Human Rights Act as well as UNCLOS article 98.

The Ministry of Defence has taken over primacy in respect of Channel operations with regard to small boat crossings following the Prime Minister announcement on Thursday 14 April 2022. The turnaround policy and procedures have been withdrawn. If a decision were taken to use turnaround tactics in the future, it would only be after a full consideration of all relevant matters, including the evolving nature of the small boats threat, migrant behaviour and organised criminal activity; and new policies, guidance and operational procedures would need to be formulated at that point. The Government's position remains that the policy on the use of the tactic is lawful.

Maritime Security (91, 96, 97, 220)

UNCLOS and related instruments have generally been successful at tackling piracy, but there remain challenges. Acts of piracy often originate from the land and cannot be solved by agreements focused only on the sea. However, supplementary agreements including the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation have enhanced the provisions of UNCLOS, and operations combating piracy along the coast of Somalia provide an example of how piracy can be successfully addressed in practice. The Government should further enhance its capacity building activities to assist other coastal states to maintain the good order of the oceans and suppress maritime security threats, including piracy and armed robbery at sea. (Paragraph 91).

The UK should become an advocate and champion of developing and island states with regard to the protection of their coastal waters, exclusive economic zones, and the resources that they hold. (Paragraph 96).

We ask that in its response to this report the Government sets out more detail about the kind of support (both in terms of capacity building and resources) the UK provides to developing countries to improve the effectiveness of law enforcement within their waters. (Paragraph 97).

The increased use of privately contracted armed security personnel has been effective at deterring piracy, but there have been examples of these contractors harming and killing fishers and alleged pirates. Privately contracted armed security personnel are poorly regulated, and individuals are rarely held accountable for such crimes. (Paragraph 220).

Response to 91, 96 and 97: The UK remains a member of the Friends of the Djibouti Code of Conduct, which seeks to improve coordination on capacity building and information sharing for countering piracy and armed robbery off the East Coast of Africa. In Southeast Asia, we are supporting ASEAN partners to strengthen regional capacity on maritime law and security. This includes training, dialogues and conferences. We are working to establish an enhanced programme of maritime capacity building in Southeast Asia, using part of the £25m for regional resilience

announced by the Prime Minister on 16 February 2022. The UK is a Contracting Party of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) and through the JMSC, provides a Governor and a Focal Point office. The UK shares information on piracy and related matters in accordance with the agreement and actively participates in meetings and capacity building events including through the provision of expertise and advice. As the Foreign Secretary announced on 31 March while in New Delhi, the UK and India have agreed to closer maritime co-operation in the Indo-Pacific. The UK will join India's Indo-Pacific Oceans Initiative and become lead partner for the maritime security pillar, including coordinating work with key partners in Southeast Asia.

Sustainable development and maritime security are closely linked – our £500m Blue Planet Fund will help support developing countries in the Indo-Pacific and elsewhere protect and sustainably use vital marine resources and help mitigate and build resilience to climate change and reduce poverty, including activity to tackle IUU fishing.

Response to 220: The UK government acknowledges that its policy permitting the use of high quality armed guards on board UK-flagged vessels, alongside widespread use of industry produced Best Management Practices (BMP5), joint military responses such as EUNAVFOR and the UK's efforts to promote and increase stability in the region, has helped to suppress the threat of piracy in the High Risk Area (HRA). Since the policy was introduced in 2011 the number of piracy incidents has significantly fallen year on year. To date the UK government is not aware of any instances where fishers or alleged pirates have been killed by PMSCs licenced by the UK.

Since 2011 the UK Government has worked extensively with the Security in Complex Environments Group (SCEG), which is comprised of leading PMSCs, to develop respected industry ISO standards and raise the global standards of PMSCs working in complex and high-risk environments overseas. Through this work, the UK has robust measures in place to ensure that Private Maritime Security Companies (PMSCs) are compliant with international standards including ISO 28007-1:2015 which is accredited by the UK's Accreditation Body, UKAS.

ISO accredited PMSCs must demonstrate best practice and respect the human rights of those affected by the organisation's operations within the scope of this international standard, including by conforming with relevant legal and regulatory obligations and the United Nations Guiding Principles on Business and Human Rights. Article 146 in the United Nations Convention on the Law of the Sea (UNCLOS) reiterates that countries should adhere to international legislation to ensure effective protection of human life in the maritime domain. The UK is in the forefront of adhering to and endorsing UNCLOS in relevant international and domestic fora and engagement with other nations and industry.

The UK has stringent Regulation in place to ensure that PMSCs and armed guards used by UK-flagged vessels and by UK PMSCs guarding on non-UK flagged vessels

are in possession of appropriate licences prior to handling controlled military and dual use goods and that PMSCs have the appropriate licences in place prior to moving controlled goods such as weapons. As part of this work, the UK government has visibility of each UK-flagged vessel that opts to use armed guards and scrutinises the plans submitted, which includes details of agreed rules for the use of force, recording and reporting incidents where firearms are discharged and procedures for assisting relevant authorities in their investigations, should a piracy incident occur and/or someone be seriously injured or killed; these plans are stored for audit purposes. There are appropriate reporting procedures in place to ensure that accurate reporting of any incident is passed on to authorities prior to any investigation if an incident were to take place at sea on a UK-flagged vessel or with involvement of a British National.

The UK is also a signatory to the Montreux Document, which contains recommendations of best practice and compliance with applicable international humanitarian and human rights law in areas of armed conflict. The UK has recently contributed to the creation of the Reference Document, alongside other member states and industry including PMSCs, which aims to make the Montreux Document applicable and relevant to the maritime security environment. Many UK PMSCs are also signatories to the International Code of Conduct for Private Security Service Providers (ICOC) which was created in 2010 and provides a set of principles to guide companies.

Freedom of Navigation (108, 109, 110)

China's actions in the South China Sea directly undermine and are at odds with the principle of freedom of navigation provided for in UNCLOS. (Paragraph 108)

Evidence suggests that it is highly unlikely that China will decide to change its policy of claiming exclusive jurisdiction over the majority of the South China Sea and will continue to reject the principles of freedom of navigation and freedom of innocent passage as outlined by UNCLOS. (Paragraph 109)

China's stance poses a challenge to international law. The UK Government should continue to work with its partners and allies to protect and preserve the principles of freedom of navigation not only in South China Sea, but in every region where it is challenged. (Paragraph 110)

Response to 108 and 109: In the South China Sea our commitment remains to international law, the primacy of UNCLOS, and to freedom of navigation and overflight. We take no sides in the sovereignty disputes and encourage all parties to settle their disputes peacefully through the existing legal mechanisms. China has never clearly articulated the basis of its so-called 'nine dash line' claim in South China Sea. As the former Minister for Asia said in Parliament on 3 September 2020, if the claim is based on 'historic rights' to resources within the 'nine dash line', it is inconsistent with UNCLOS and the UK objects to any claim not founded in UNCLOS. The former Minister for Asia also confirmed in that speech that the UK rejects any

claim by China to approximate the effect of archipelagic baselines around groups of features in the South China Sea as inconsistent with UNCLOS. We welcome that negotiations have restarted between China and ASEAN on a Code of Conduct for the activities of claimant States in South China Sea. We hope that an effective and substantive Code of Conduct is concluded but are clear that it should be consistent with UNCLOS and reflect and respect the rights and interests of third parties.

Response to 110: The UK has worked closely with partners and allies over many years to uphold and defend the navigational rights contained in UNCLOS. The FCDO's written and oral evidence set out examples of the UK's diplomatic engagement and Royal Navy operations in support of UNCLOS. The Integrated Review reaffirmed the UK's commitment to ensuring freedom of navigation in various regions of the world, including the Gulf of Aden, the Indian Ocean and the Pacific and that we will deploy more of our naval assets across the world to protect shipping lanes and uphold freedom of navigation. We will continue to work diplomatically through the UN, the G7 and other relevant organisations to call out those who seek to unlawfully restrict navigation and to shore up global support for these important rights.

Maritime Autonomous Vehicles (92, 244, 249, 256, 264, 265, 266)

The advent of maritime autonomous vehicles provides a direct challenge to UNCLOS, which assumes vessels are crewed and cannot be operated remotely. The Government should monitor such developments carefully, and advocate for a clarification of the existing rules if there is an increase in the use of autonomous vehicles for piratical acts. (Paragraph 92).

The Royal Navy is currently adopting a “principle of equivalence” approach to determine how maritime autonomous vehicles can fit into the existing legal regime. In the absence of international agreement, and as one of the leaders in the development of this technology, this seems a sensible approach and the Royal Navy should be commended for its careful consideration of these issues. The Government should monitor other state's responses to the Royal Navy's treatment of its maritime autonomous vehicles, and work with partner states to ensure the changes under discussion at the IMO reflect the sensible approach adopted by the Royal Navy. (Paragraph 244).

Whether maritime autonomous vehicles can be classified as warships or not will have significant implications for their use, including their protection from seizure by other states. In the absence of international regulation, the Royal Navy's practice has been to register vessels in such a way to emphasise they are state owned and operated, providing them with sovereign immunity while ensuring the state can be held accountable for their actions. As other states begin to develop and use maritime autonomous vehicles, it will be important for the UK to work with like-minded partners to regulate these technologies with reference to these principles. Once again, the Royal Navy's practical

approach to ensuring equivalency with the provisions of UNCLOS is sensible and to be commended. (Paragraph 249).

Criminals are already making use of maritime autonomous vehicles, and in the absence of updated and specific regulation on their use, it is difficult to determine culpability for such acts. The principle of equivalency is a good starting point but there will be circumstances which warrant new regulation. As well as developing international regulations, states will need to ensure the use of maritime autonomous vehicles for criminal purposes is included in domestic legislation. We ask that the Government provide us with information in its response to this report on whether maritime autonomous vehicles have been used for criminal activities in British waters to date, and whether domestic legislation has proved adequate to tackle such breaches. (Paragraph 256).

The UK is a leader in the use of maritime autonomous vehicles and is in a position to set a strong international example. Domestic legislation and state practice, including through the Royal Navy, will be important for establishing customary rules about the use of MAVs. These will be important for guiding the work of the IMO on maritime autonomous vehicles. We ask that the Government updates us in its response to this report on the outcome of its 'Future of transport regulatory review' and provides a timeline for the development of domestic legislation. (Paragraph 264).

In order to contribute effectively to the IMO's new code for maritime autonomous vehicles, it is important that the UK Government comes to clear positions on issues including how terms such as 'crew' and 'master' can be applied to autonomous maritime vehicles. The Royal Navy's practice provides a sensible example of how this can be done. (Paragraph 265).

We urge the Government to be vigilant to cybersecurity issues relating to maritime autonomous vehicles which might cause serious operational and accountability issues. (Paragraph 266).

Response to 92: The UK Government is of the view that the international regulatory framework for autonomous vehicles can be developed within the framework of UNLCOS. The Government monitors the development of autonomous and remotely operated vessels and has proposed the instigation of The Future of Transport regulatory review which aims to address areas of regulation that are outdated, or not designed with new technologies and business models in mind. It will address security concerns raised by autonomous technologies, and its implication for use by organised crime groups and piracy incidents. Developing a legal framework for remotely operated and autonomous vessels when parliamentary time allows, would prevent regulatory hurdles becoming a blocker for the pace of innovation, and would showcase the UK's long-term, long-standing commitment to fostering technological innovation and updating potential threats to maritime security.

Response to 244: The proposed legal framework for remotely operated and autonomous vessels would prepare our domestic law for anticipated changes to international law to ensure that the UK will be at the forefront of wide-ranging sectoral developments. The Government will continue to engage with partner states at IMO and use its experience legislating remotely operated and autonomous vessels to influence the IMO in the future instruments they develop.

The Maritime and Coastguard Agency (MCA), using a similar 'principle of equivalence', are currently updating the UK Workboat Code. The Code expects a standard to be achieved which is equivalent to that of full compliance with Merchant Shipping regulation for vessels of <24m Load Line Length (although vessel operators have the right to instead comply with the full MSA requirements if they choose). The Workboat Code deals with matters such as construction, stability, safety equipment and staffing. Edition 2 Amendment 1 is the latest version, but Edition 3 will come into force in 2023. In preparation for updating the Workboat Code to Edition 3, a review to identify key areas of the Code, including agreed interpretation requests, was undertaken. Consideration was also given to which emerging technologies, applicable to the <24m sector, warranted the inclusion of appropriate requirements within Edition 3. A review of the current MASS market indicated that the majority of vessels being bought into operation were less than 24m, and would therefore fall within the Work Boat Code regime, and would be remotely operated. Therefore, Edition 3 includes a new Annex to provide all additional information needed for Remotely Operated Unmanned Vessels of <24m Load Line Length operating as a Workboat. Remotely Operated Unmanned Vessels are defined as vessels with no persons on board, that are operated from a location remote to the vessel.

For vessels >24m Load Line Length, the MCA currently use an exemption that is available through The Merchant Shipping (Load Line) Regulations 1998, which allows remotely operated and autonomous vessels to operate within UK waters and under the UK Flag. These vessels are assessed on a case-by-case basis, and must meet certain criteria. The MCA have recently introduced a robust approach to support the issuing of UK Load Line exemptions which facilitates a systematic evaluation of risk and compliance against applicable regulations and standards to ensure equivalent levels of safety are achieved by innovative technologies. This new process is documented in the recently published MGN 664 Certification process for vessels using innovative technology.

In 2019, the MCA's Maritime Autonomy Regulation Lab (MARLab), undertook a review of the UK domestic regulatory landscape with regards to: i) enabling the safe testing of MASS technologies; and ii) promoting regulatory innovation in maritime technologies. The findings of this report have been used as the basis for the proposal to legislate autonomous and remotely operated vessels when parliamentary time allows.

Response to 249: The Defence Maritime Regulator provides assurance and delivers regulation of ships owned by, operated by or operated on behalf of the

Ministry of Defence, including maritime autonomous vessels which may, once the technology has been developed, be classified as warships

The proposed regulatory framework is in relation to Merchant Shipping and where appropriate should mirror legislation for conventional ships when parliamentary time allows. There will be no change or impact to Defence Shipping as the proposed legislation is limited to Merchant Shipping only. Of note, given that any UK Government non-commercial vessel is regarded as sovereign immune (UNCLOS Arts 32, 95 and 96), that same principle will need to be applied to autonomous vessels owned and operated by other states for non-commercial purposes.

Response to 256: The security risks for autonomous and remotely operated vessels are similar to conventional ships but it is considered that MASS may present novel security issues that the Department will address in the proposed legislation. The proposed legislation would provide the UK Government the powers to ensure autonomous and remotely operated vessels operate safely in UK waters and under the UK flag.

Within the General Maritime policing environment there is no awareness of any incidents involving the criminal use of autonomous vessels in UK waters. There is an appreciation of the threat they pose and how they may be used for criminal purposes however, there are no known examples of their practical use to date.

Response to 264: The Future of Transport regulatory review of maritime autonomy and remote operations consultation concluded on 22 November 2021. The consultation received feedback from a wide range of stakeholders across the sector and industry broadly supported the proposals to legislate for autonomous and remotely operated vessels. A government response to the consultation will be published later this year. The Department for Transport (DfT) is proposing to establish a legislative framework for autonomous and remotely operated vessels when parliamentary time allows. We will update the inquiry on our progress and the timeline of the legislative activity that will follow.

Legislating for autonomous and remote operations ahead of the IMO will assist the UK when trying to influence discussions at an international level.

Response to 265: The proposals to legislate for autonomous and remotely operated vessels includes seeking powers to define maritime autonomous terminology. In current legislation the Master performs a key role and holds overall responsibility for the ship, crew, cargo, passengers and regulatory compliance. With the growth and adoption of autonomous vessels a similar arrangement should be mirrored in legislation for a person having command or charge of an autonomous vessel. The definition of a "Master" in the Merchant Shipping Act (1995), does not stipulate that the Master must be on board a vessel. There is, however, a case for using a different term for Masters operating autonomous vessels as there is a need to have an

individual with overall, unambiguous and clear responsibility for the safety of autonomous vessels. In the proposed legislation the term Remote Operator (RO) (which could include a MASS Master) is being considered as the term used to identify an individual or role responsible for operating all or part of a function of a MASS.

Response to 266: In 2017 the IMO passed Resolution MSC.428(98) affirming that Safety Management Systems (SMS) should account for cyber risks. From the 1 January 2021 ship owners and operators must comply with the Resolution. High-level guidelines were also provided internationally at the IMO in MSC-FAL.1/Circ.3 on Maritime Security Risk Management. The aim of the guidelines is to support safe and secure shipping which is operationally resilient to cyber risks.

Domestically the Workboat Code Ed.3 includes elements of cyber security. The UK Ship Security Instructions² includes cyber security and the Cyber Security for Ships Code of Practice³ is due to be updated this year.

The proposed UK legislation seeks a power for the Secretary of State (SoS) to make specific security regulations that can be updated, with parliamentary approval, at pace with developments in the market. The maritime autonomous and remotely operated market is still in its infancy but developing rapidly and at this stage, we do not know how this technology will transform over the coming years. The proposed power would ensure that if circumstances change, and the nature of the technology changes in the future, SoS could alter the security regulations to ensure regulations remain fit for purpose.

Arctic (113, 159, 160)

Climate change is likely to lead to additional maritime security challenges, particularly in the Arctic. We ask that in its response to this report the Government provides us with information about how it is monitoring security-related developments in the Arctic. (Paragraph 113).

The Arctic is a fragile and valuable marine environment that is facing significant climate change impacts. It is vital that the increased economic opportunities are not prioritised over protecting the marine environment. (Paragraph 159).

We welcome the recent 16-year international agreement banning commercial fishing in the Central Arctic Ocean. The UK, in its role as an observer at the Arctic Council, should continue to advocate for the prevention of unregulated

² [Ship security - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

³ [Code of practice: cyber security for ships \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)

fishing in the Arctic Ocean, and for the establishment of marine protected areas. (Paragraph 160).

Response to 113: The Government shares the Committee's concern over the additional maritime security challenges that may arise as a result of climate change, particularly in the Arctic. The Ministry of Defence's High North [strategy](#)⁴, '*The UK's Defence Contribution in the High North*', published on 29 March 2022, notes that the Arctic is warming three times faster than the rest of the world, and that the further opening-up of the Arctic region presents a greater risk of accidents and environmental disasters, such as oil spills, as well as heightened economic competition and the potential for defence and security concerns. Such concerns do not emanate only from within the region itself, but also from state competition and conflict elsewhere around the globe spreading into the Arctic region.

The UK is committed to improving our understanding of the High North environment, in conjunction with close Allies and partners in the region. We will further develop our strong bilateral defence relationships with the majority of Arctic states, including on increasing holdings of geospatial data in the region and its effective exploitation. We remain committed to supporting our Allies and partners through appropriate regional forums such as the Arctic Security Forces Roundtable (ASFR)⁵ where we will share information on the changing environment, improve collective awareness of and de-conflict activity in the Arctic, and identify opportunities for further co-operation.

We will continue to monitor closely and assess the approach adopted by both Arctic and non-Arctic states, including Russia, not least their military postures and any activity that violates international norms and agreements such as UNCLOS.

Response to 159: The Government is committed to protecting the Arctic's marine environment and its biodiversity. From 2017-2022, the £20m NERC Changing Arctic Ocean Programme explored the effects of changes to the physical environment (ice and ocean) on the marine ecosystem and the associated biogeochemical functioning of the Arctic Ocean. The UK has played a prominent role in the Arctic Council's Protection of the Arctic Marine Environment (PAME) working group, helping frame the Polar Shipping Code (an international code to ensure ships operate safely and with minimal environmental impact in the inhospitable Polar waters), and establishing the Arctic Shipping Best Practice Information Forum to support the exchange of information and best practice. We supported the development of the Marine Litter Regional Action Plan, which works to reduce the impact of marine litter, including micro-plastics in the Arctic seas.

Response to 160: The UK was supportive of the development of the Agreement to prevent unregulated high seas fisheries in the Central Arctic Ocean (also known as

⁴ <https://www.gov.uk/government/publications/the-uks-defence-contribution-in-the-high-north>

⁵ ASFR membership: Canada, Denmark, Finland, France, Germany, Iceland, the Netherlands, Norway, Russia, Sweden, the United Kingdom, and the United States. While Russia remains part of the ASFR framework, it has not participated since 2014.

the Central Arctic Ocean Fisheries Agreement – CAOFA) which came into force in 2021. This Agreement is important for the UK as, due to the integrated nature of ecosystems, changes in the Arctic Ocean will have an impact on the distribution of North Atlantic biological resources. Protecting vulnerable habitats and species in the Arctic ecosystems will support building resilience in the North Atlantic. The UK will therefore seek to join the Agreement as an independent State at the earliest opportunity, and is keen to contribute to the international cooperation on relevant scientific research and monitoring. We are also a Contracting party and strong voice at OSPAR, the regional seas convention for the North East Atlantic, which has committed to protecting at least 30% of its waters by 2030, which include a large portion of the Arctic.

The changing distribution of global fish stocks may result in challenges to manage fish stocks and may spur Illegal, Unreported and Unregulated (IUU) fishing. The UK acknowledges the threat that IUU fishing poses globally and will take a strong participatory and influential role bilaterally and within international fora to strengthen measures to prevent and deter IUU fishing and affording greater protection of the marine environment in areas beyond national jurisdiction.

Over 60% of the global ocean lies in areas beyond national jurisdiction – and this includes part of the Arctic. The UK Government is continuing to work to conclude negotiations as soon as possible in 2022 on a new implementing Agreement under UNCLOS for the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction (the BBNJ Agreement).

Climate Change (125, 126, 129, 143, 144, 152, 153)

Sea levels will continue to rise over the coming century as a result of climate change. This will have significant impacts on the traditional mechanisms of establishing maritime entitlements for coastal and island states. In particular, it will impact low-lying and small island states, which face an existential threat. The UK and its Overseas Territories will also be affected by this issue. (Paragraph 125).

The Government should take a formal position that baselines should remain fixed in their current position. This would ensure that no states, including the UK and its Overseas Territories, lose their current maritime entitlements. The Government should work with partners to advance agreement amongst States Parties to UNCLOS and create supplementary legal mechanisms that secure maritime baselines and entitlements. (Paragraph 126).

We are encouraged that the Government recognises that climate change will become a significant driving factor for migration, but ask that it provides further detail in its response to this report on the ways in which the UK is preparing to support these people in light of the real risk some may lose their territories and statehood. This is an immediate and growing problem which needs global leadership and political will. We ask that the response includes

details of those territories most likely to be at risk and the number of people likely to be adversely affected. (Paragraph 129)

UNCLOS places states under an obligation to “prevent, reduce and control pollution of the marine environment” from all sources, including greenhouse gas emissions. This obligation is increasingly important because of the inter-related nature of climate change and environmental degradation, including via ocean acidification and the displacement of marine species. Despite success in managing marine sources of pollution, there has been less attention paid to the impacts of greenhouse gas emissions and climate change on the oceans. In part, this results from a lack of coordination between the UNCLOS and UNFCCC processes. The Government should continue to push for recognition of the oceans within the UNFCCC, and for greater coordination between the UNFCCC and UNCLOS processes. (Paragraph 143).

The obligations in UNCLOS and related instruments to protect the marine environment relating to land-based sources of pollution are weaker than those relating to marine-based pollution, which is successfully managed by the MARPOL treaty. Strengthening the duties relating to land-based sources of pollution will require greater cooperation between the UNFCCC and UNCLOS processes. The UK Government should aim to be a leader in this regard. (Paragraph 144).

Climate change is already altering the distribution of fish stocks in the global ocean and will continue to do so. This creates the potential for disputes, as fish stocks move away from traditional fishing grounds. (Paragraph 152).

Cooperation with partners, especially neighbouring states, will be crucial to manage the implications of changing distributions of fish stocks. (Paragraph 153).

Response to 125 and 126: The Government acknowledges the potential impact of sea level rise (SLR) on the determination of maritime zones. This is a complex matter that will affect all coastal countries to different degrees over varying timescales. The IPCC estimate that Global Mean Sea Level (GMSL) will rise between 17 and 40 cm by 2050 and between 29 and 110 cm by 2100 depending on emissions reductions. But the effects are highly regionally variable by +/-30%. And currently non-climatic anthropogenic drivers, such as subsidence, outpace effects of SLR often by an order of magnitude making it very hard to attribute current observed impacts to SLR in many places.

Given the complexity of the issue and the implications for navigational rights and the integrity of UNCLOS, the Government intends to take a cautious approach to the question of whether baselines should be fixed in place in the face of climate change induced sea-level rise. Our general view, consistent with our practice, is that baselines are ambulatory. We will keep this position under review as we continue to discuss the matter with international partners. We will actively engage with the International Law Commission’s work in this area. We will remain open to pragmatic and creative solutions given that the challenge of sea-level rise through climate change was not expressly considered during the negotiations of UNCLOS.

The UK acknowledges that this is a matter of considerable importance to SIDS, who are uniquely vulnerable to the impacts of climate change. We will continue to work with SIDS to drive global ambition of emissions reductions, and support adaptation and resilience in SIDS including through accessing finance. The UK Government has a number of programmes which will support SIDS and which aim to strengthen resilience against climate change, such as the £500 million Blue Planet Fund, the £40m Small Island Developing State Capacity and Resilience (SIDAR) programme, as well as providing significant support through the Green Climate Fund (GCF).

Response to 129: Evidence shows that climate extremes and environmental degradation are often amplifiers of other principal migration drivers (economic, social and political). We should recognise the complexity of causes of migration and seek to provide people with options for sustainable livelihoods that do not compel them to migrate.

Migration in response to climate vulnerabilities should be considered both as a form of adaptation and as involving social losses; greater attention should also be paid to the plight of 'trapped populations'. Greater attention should be paid to the risks of climate change maladaptation including those that contribute to displacement and migration.

We recognise the need to better understand the complex links between migration, climate change and environmental degradation to inform our policy and action. We have commissioned and recently published an assessment of existing evidence of how climate change impacts migration to better understand these links. [Rapid Evidence Assessment \(REA\)](#)⁶ found that climate-related shocks can amplify other stressors that contribute to increases and decreases in migration, but that there is little evidence of existing impacts of long-term climatic and related changes on migration. The REA also contains some information on the territories and people that may be affected.

The FCDO is considering the recommendations from the Rapid Evidence Assessment, which outlines that policy and programming responses should explicitly consider the particular migration pressures and barriers to movement impacting poverty-affected individuals and households, and young people, as well as gendered vulnerabilities and barriers.

We are supporting countries in a number of ways. Firstly through our global leadership on tackling climate change. Through COP26, the prospect of limiting temperature rise to 1.5°C remains in sight with concerted and immediate global efforts. All countries agreed to revisit their emissions targets in 2022, as well as developed countries agreeing to double support for action on adapting to climate change by 2025.

Over 80 countries are now covered by either Adaptation Communications or National Adaptation Plans to increase preparedness to climate risks, with 45 submitted over the last year. Over \$450 million has been mobilised for initiatives and programmes

⁶ <https://www.gov.uk/research-for-development-outputs/rapid-evidence-assessment-on-the-impacts-of-climate-change-on-migration-patterns>

enhancing locally-led approaches through the Least Developed Countries Initiative for Effective Adaptation and Resilience (LIFE-AR), Financing Locally-Led Climate Action Program (FLLoCA), Community Resilience Partnership Program (CRPP) and the Taskforce on Access to Climate Finance.

We are also supporting countries with adaptation and resilience planning through major international climate funds such as the Green Climate Fund (GCF) and programme funding. We are fulfilling our pledge to attain the goals of the Sendai Framework for Disaster Risk Reduction through our contributions to the Risk-informed Early Action Partnership. Through this, the UK is leading the way in scaling up early-warning systems to make 1 billion people safer from disaster by 2025. We have also supported the efforts for the establishment of a High-Level Panel on Internal Displacement, which will look at climate change as a compounding factor contributing to internal displacement.

We have committed to doubling our International Climate Finance to £11.6 billion over the next 5 years, with an extra £1 billion if fiscal conditions allow. Overall, the UK will spend more than £10 billion this year to tackle climate change, improve global health and fight poverty – making us one of the biggest aid donors in the G7. This will support developing countries to adapt to the impacts of climate change, including to avert, minimize and address loss and damage, adopt clean growth pathways, and reduce or avoid carbon emissions.

Response to 143 and 144 The Government is taking ambitious international action in multiple fora to address the impacts that climate change and pollution are having on the ocean. We agree that climate change and the adverse changes we are seeing to the ocean are inextricably linked. Under the UK's Presidency, COP26 agreed the Glasgow climate pact. We now have net zero commitments for over 90% of the world's economy - up from 30% two years ago, when the UK took on the COP26 Presidency. Securing global net zero emissions no later than 2050 and keeping a rise of no more than 1.5°C is vital for the health of the ocean.

The Pact also gave a more prominent role to the ocean within the UNFCCC by inviting work programmes and constituted bodies under the convention to consider how to strengthen integration of the ocean into their work, and by setting up an annual ocean dialogue to strengthen action. This follows a one-off UNFCCC ocean dialogue under Chile's COP25 Presidency, which included on its agenda how the UN system – including UNCLOS – can bring together work on ocean and climate change.

At COP26, the UK Presidency used its focus on Nature to call for ambitious action to protect and restore ocean health and resilience, hosting a series of events on Ocean Action Day on 5 November. The Government continues to champion the benefits of tackling biodiversity and climate crises together in this critical year. This includes advocating for the goal of protecting at least 30% of the global ocean by 2030 in the Convention on Biological Diversity negotiations and supporting delivery of this via a new legal instrument under UNCLOS to protect biodiversity beyond areas of national jurisdiction (the BBNJ Agreement). Evidence indicates that effective protection of at

least 30% of the global ocean will help increase ocean resilience to climate change. The UK will also take an active role in the UN Ocean Conference to ensure that progress is made toward the effective implementation of Sustainable Development Goal 14: Life Below Water, including target 14.C to enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in UNCLOS.

The UK also supported the proposal by Rwanda and Peru that led to the ambitious resolution agreed at the United Nations Environment Assembly this year to start negotiating a new treaty to end plastic pollution. We will continue to work with partners on a global level on this important issue including through the High Ambition Coalition to End Plastic Pollution, which the UK joined in March.

152. The changing distribution of global fish stocks may result in new fishing opportunities as stocks move into coastal States' waters, including in the UK. Equally, we recognise that it will pose challenges to the sustainable management of fisheries. This could include a rise in Illegal, Unreported and Unregulated (IUU) fishing, especially where there is increased competition for scarcer stocks.

The UK acknowledges the threat that IUU fishing poses globally and will take a strong role to strengthen measures to prevent, deter and eliminate such activity.

153. The Government agrees that regional cooperation is crucial to managing changing distributions of fish stocks. We will continue to engage bilaterally, multilaterally, and within international fora to secure sustainable management of global fish stocks. This includes protecting vulnerable habitats and species to support greater resilience of the marine ecosystem.

Shipping Emissions (145)

The UK should continue its efforts to be an international leader in net zero shipping, and work through the IMO to get multilateral agreement on more ambitious measures. (Paragraph 145).

Response to 145: The government agrees that it is crucial for the UK to continue both leading the way in net zero shipping domestically and pressing for greater ambition in reducing emissions from shipping internationally.

The Transport Decarbonisation Plan, published in July 2021, builds on the 2019 Clean Maritime Plan and further develops our plans to support the sector to achieve net zero emissions. To deliver on the ambitions of the Transport Decarbonisation Plan, in 2022 we will launch a series of public consultations which includes steps towards establishing a 'Course to Zero' and a refresh of the Clean Maritime Plan. Our call for evidence on shore power was published in February and will run until April. Further, the UK Shipping Office for Reducing Emissions (UK SHORE), announced in March 2022, will work in partnership with the maritime industry to tackle supply and demand side barriers and to develop the infrastructure and market confidence to support zero emission technologies.

The UK is committed to working through the IMO to reduce emissions from international shipping in line with the Paris Agreement. The government is actively working to build consensus to raise the levels of ambition in the Initial IMO Strategy on Reduction of Greenhouse Gas Emissions from Ships when it is revised in 2023. The IMO will need a suite of solutions to deliver on increased ambitions, and the UK will help lead the development of effective policy measures in the mid- and long-term to achieve this.

Negotiations under UNCLOS

BBNJ (171)

The Government should continue to support the ongoing negotiations for the BBNJ Agreement and work to ensure that the obligations of states are not diluted. This will be vital for ensuring the 30by30 target can be met. The Government will need to engage with states which are reticent to expand the marine protected area network. (Paragraph 171).

The Government is fully committed to working with other states to conclude an ambitious BBNJ Agreement in 2022. The last round of the Intergovernmental Conference (IGC) concluded on Friday 18 March 2022 on a positive note, with progress made on some aspects of the text and a generally constructive and collaborative approach taken by delegations. The UK fully supports the convening of a further session of the IGC – expected to be in August 2022. We will work closely with partners across regional groups in the period before the fifth session of the IGC to narrow areas of disagreement in support of the aim of concluding an ambitious Agreement at the next session. We will make full use of upcoming international ocean events to further these discussions in the intersessional period.

Deep Sea Mining (289, 290)

We would like to hear more about the FCDO's evidence review of the potential risks and benefits of deep seabed mining, and would like further detail on what the Government is doing to assure that ISA's regulation on deep seabed mining is evidenced and supported by science. We would also like to hear what assessment the Government has made of the potential future risk of disputes over deep-sea resources. (Paragraph 289).

Deep-sea mining should only be authorised when the minerals in question cannot be recovered in sufficient quantity from existing products, as in a circular economy model, and when the deep-sea mining of those minerals is less environmentally damaging than extraction on land. We therefore welcome the Government's cautious position and ask that it continues to encourage other states to do the same in order to ensure protection of the marine environment. (Paragraph 290).

Response to 289 and 290: The report of the independent evidence review of existing data and information related to deep sea mining commissioned by the Government and its Terms of Reference will be published in due course.

The UK will maintain its policy position of not sponsoring or supporting the issuing of any exploitation licences for DSM projects until there is sufficient scientific evidence about the potential impact on deep sea ecosystems, and strong enforceable environmental Regulations, Standards and Guidelines have been developed by the International Seabed Authority (ISA) and are in place. As a responsible international actor and Party to UNCLOS, the UK is fully engaged in the negotiations underway at the ISA and will work closely with partners who are committed to ensuring the highest environmental standards are embedded in the Regulatory framework of the ISA.

The UK has nominated Dr Jon Copley, an Associate Professor in Ocean Exploration & Public Engagement at the University of Southampton for election to the Legal and Technical Commission of the ISA. Dr Copley brings 28 years of experience in the ecology of deep-sea habits and is currently involved in a UK research programme investigating the potential impacts of harvesting polymetallic nodules in the Clarion-Clipperton Zone, for election to the Legal and Technical Commission of the ISA.

The Seabed Mining And Resilience To EXperimental impact (SMARTEX) Project, funded by the Natural Environment Research Project and led by the National Oceanography Centre in partnership with UK Seabed Resources, the Joint Nature Conservation Committee and seven UK research institutions aims to provide the critical scientific understanding and evidence- base to reduce the risks of any future deep sea mining in the Clarion-Clipperton Zone. Many UK academic institutions and scientists are also involved in other projects and programmes designed to advance our understanding of deep sea ecosystems and the potential impacts of deep sea mining, including engagement with the International Seabed Authority.

Overseas Territories (172)

We commend the Government for the Blue Belt Programme, but it should provide further support for those Overseas Territories more reliant on marine resources for their economies, not least in the areas of control and enforcement. (Paragraph 172).

The UK led on the establishment of the first MPA to be adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), on the South Orkney Islands Southern Shelf, in 2009. The UK also gave strong support to the Ross Sea region MPA, which was adopted in 2016, and we are co-proponents of further MPA proposals for East Antarctica and the Weddell Sea. The UK launched the Blue Belt programme in 2016 and achieved its initial objective of protecting over 4 million square kilometres of waters around the UK's Overseas Territories by 2020. During this first phase of the programme, the Blue Belt supported the establishment of new MPAs and enhanced protection, monitoring and surveillance capabilities in existing MPAs, with a particular focus on supporting and building local capacity to

manage large-scale MPAs. Blue Belt funding was also used to uplift the UK's Darwin Plus initiative, which funds projects aiming to protect the unique biodiversity and improve resilience to climate change within the UK Overseas Territories, to support marine management projects in other Overseas Territories.

Since 2020, in addition to supporting the ongoing management, monitoring, surveillance and enforcement of Blue Belt MPAs, the programme has worked with other Territories to identify opportunities to support sustainable marine management, coupled with enhanced protection. Two new initiatives were launched under the Blue Belt programme in 2021. The Global Ocean Wildlife Analysis Network, which uses baited remote underwater video systems (BRUVS) to support a better understanding of biodiversity in Overseas Territory waters, has been rolled out to 11 Overseas Territories; and the Blue Shield programme, which provides the maritime awareness, including surveillance and enforcement support, elements of the Blue Belt package. Bermuda was the first Territory to join the Blue Shield. The Government is currently engaged in discussions with a number of other Territories who have expressed a desire to join the Blue Belt programme.

The Darwin Plus initiative has also been increased to over £10m per year and continues to be available as a further funding source for Overseas Territories who wish to develop marine protection frameworks outside of the Blue Belt Programme.

Refugees and Asylum Seekers (204, 205)

Migration at sea is increasingly undertaken by vulnerable groups, including refugees and asylum seekers, in unseaworthy vessels which frequently need emergency assistance. Under UNCLOS states have a duty to render assistance to persons in distress at sea, but this obligation is increasingly side-lined by security and immigration policies. (Paragraph 204).

Despite the Minister's assurances, we are not convinced that provisions relating to maritime migration and 'turnaround tactics' in the Nationality and Borders Bill are compliant with the UK's duties under UNCLOS, in particular Article 98. We therefore ask that in its response to this report, the Government provides us with a full assessment of the compatibility of the provisions in the Nationality and Borders Bill dealing with so-called forced turnarounds with the UK's international responsibilities under Article 98 of UNCLOS. (Paragraph 205).

Response to 204 ad 205: The safety of life at sea will always be the priority for any interceptions of small boats crossing the Channel to facilitate illegal migration, whether under current or future powers. The use of these powers will always be in compliance with international obligations including to promote safety and protect life. All immigration officers receive relevant training before being able to carry out their duties and exercise powers and must in any event exercise those powers in accordance with the requirements of the Human Rights Act as well as UNCLOS article 98.

The Ministry of Defence has taken over primacy in respect of Channel operations with regard to small boat crossings following the Prime Minister announcement on Thursday 14 April 2022. The turnaround policy and procedures have been withdrawn. If a decision were taken to use turnaround tactics in the future, it would only be after a full consideration of all relevant matters, including the evolving nature of the small boats threat, migrant behaviour and organised criminal activity; and new policies, guidance and operational procedures would need to be formulated at that point. The Government's position remains that the policy on the use of the tactic is lawful.

Dispute Settlement (276)

Where there are overlapping claims to territorial seas and exclusive economic zones, UNCLOS includes provisions for delimiting them, but these were the result of considerable compromise and in reality, they are vague. Nonetheless, the majority of maritime boundaries between states have been agreed. In some instances where agreement has not been reached, dispute settlement is needed, but as the 2013 arbitration brought by the Philippines against China shows, states may not cooperate with the findings of dispute settlement mechanisms. This repeats the need for states to engage in dialogue with each other and work together to resolve difficulties peacefully. (Paragraph 276).

Response to 276: Although the rules in UNCLOS on the methodology for effecting delimitation of overlapping maritime claims are not detailed, international courts and tribunals have developed a body of jurisprudence that provides greater elaboration as to the approach to be adopted in determining maritime boundary disputes. When states are negotiating maritime boundary delimitations, they are often able to reach more flexible solutions than those which a court or tribunal might adopt. The Government therefore agrees that dialogue between states is important for the peaceful resolution of maritime disputes, and it has been the Government's consistent position that issues of overlapping maritime claims should be resolved in accordance with international law as reflected in UNCLOS. Where a maritime boundary dispute exists between other states, the UK generally avoids taking sides although the UK does protest excessive baseline claims and the maritime zones generated from them. Where a tribunal has made a ruling, we consistently call on the relevant parties to abide by the ruling and to avoid unilateral actions that would escalate the dispute.

Regional Fisheries Management Organisations (301, 302, 303, 312, 313)

UNCLOS and the UN Fish Stocks Agreement require states to cooperate to ensure the effective management and conservation of fish stocks that are migratory or straddle exclusive economic zones and the high seas. Many Regional Fisheries Management Organisations have been formed, but they do not cover all fish stocks. There are also examples of failed management,

including in regional fisheries management organisations the UK is party to. (Paragraph 301).

We urge the Government to mark the 40th anniversary of the Falklands War with a serious effort to establish a regional fisheries management organisation that would address the current fishing challenges in the waters between the Falkland Islands and Argentina. (Paragraph 302).

We ask the Government to confirm why it is yet to ratify the 2019 Protocol to the International Convention for the Conservation of Atlantic Tunas. (Paragraph 303).

The Government should be a leader in strengthening the management and enforcement powers of regional fisheries management organisations. This would apply for both signatory states and those non-signatory states that fish in the area of the RFMO or fish the species covered by an RFMO. (Paragraph 312).

Illegal, unregulated and unreported fishing is one of the biggest threats to the effective management of fish stocks and a major cause of overfishing. We ask the Government to provide us with more detail on the actions it is taking to address IUU fishing, particularly in Regional Fisheries Management Organisations of which the UK is a member. (Paragraph 313).

302: We share concerns over the lack of governance in high seas fisheries in the Southwest Atlantic, and the impact unregulated fishing will have on the long-term sustainability of fishing in the region. We will continue to support approaches that will secure long-term sustainable management of high seas fisheries.

303: The UK was among the first fifteen Contracting Parties to ICCAT that, in November 2019, signed the Palma Protocol to amend the ICCAT Convention, which strengthens ICCAT's ability to regulate for and hence protect important tunas and tuna-like species in the Atlantic Ocean. The UK's signing was on behalf of our Overseas Territories that participate in ICCAT. Metropolitan UK was still an EU Member State when the Protocol was open for signing (the EU also signed the Protocol in November 2019).

As it stands the 2019 Palma Protocol has not yet entered into force – its entry into force requires it to have been approved, ratified or accepted by $\frac{3}{4}$ of the 52 Contracting Parties to ICCAT. At present fifteen Contracting Parties have signed the protocol, including the UK on behalf of its OTs.

Technical questions arose regarding the precise arrangements for entry into force of the 2019 Palma Protocol. These questions were the subject of correspondence between the UN Food and Agriculture Organisation and the ICCAT Secretariat in 2020 and pending their resolution, the UK was not in a position to complete the domestic procedures necessary to enable acceptance of the 2019 Palma Protocol. It was therefore agreed with the FAO secretariat at the time that the UK would accede to the ICCAT Convention on behalf of Metropolitan UK but not to accept the 2019

Palma Protocol. It is now possible for the UK to proceed with acceptance of the 2019 Palma Protocol, once it has completed the necessary domestic procedures.

312. Acknowledging the threat that IUU fishing poses globally, the UK is taking a strong participatory and influential role within international forums, including through its membership of Regional Fisheries Management Organisations (RFMOs) where the UK will advocate for strengthened measures to prevent IUU fishing.

313. The UK is committed to ending IUU fishing by ensuring strong measures are effectively implemented and enforced, such as the Catch Documentation Schemes (CDS) to increase traceability, including those used by Regional Fisheries Management Organisations (RFMOs) and other relevant bodies for certain species. The UK requires Catch Certificates for imports for most fish and fishery products into the UK.

The UK is also committed to develop and enforce robust Port State measures by effectively implementing the United Nations Food and Agricultural Organisation's (FAO) Agreement on Port State Measures (PSMA), the first binding international agreement to specifically target IUU fishing, as well as increasing Monitoring, Control and Surveillance (MCS) activities, such as Vessel Monitoring Systems (VMS) to help tackle IUU fishing.

The UK recognises the urgent efforts needed to prohibit harmful fisheries subsidies that contribute to overfishing, overcapacity and IUU fishing. We commit to the prioritisation of concluding the ongoing WTO negotiations as swiftly as possible in order to ensure that an agreement is reached to deliver effective disciplines.

The UK's Blue Belt Programme supports the UKOTs with the protection and sustainable management of their marine environments, including tackling IUU fishing. While the Blue Shield Programme is a newly launched initiative aimed at tackling the challenges of illegal fishing and unlawful marine activities around the UKOTs.

Subsea cables (328)

Subsea cables are a critical element of the UK's communications infrastructure. While UNCLOS places obligations on states to allow for the laying and repair of such cables, these are not always followed in practice. It is crucial that the laws are clear where responsibilities lie for the maintenance and protection of subsea cables. The international regulatory regime is unclear, and this must change, considering their significance. The Government should work with partners and others to address this. The UK should work to improve domestic legislation for cables in the UK's territorial waters, as well as working with partners to strengthen the international regulatory regime. (Paragraph 328).

The Government welcomes the Committee's recommendations on subsea communications cables. This is an important and complex area, and we will continue to support the application of UNCLOS provisions and the development of supportive

regulatory and legislative regimes for cables resilience and protection, both nationally and internationally.

Regulation of the seabed encompasses a range of subsea infrastructure and marine operators. The connectivity subsea cables provide for both communications and energy are essential to our modern way of life. Subsea cables present both opportunities and challenges for governments, not least as they are privately owned and operated and often international in nature posing supervisory and regulatory challenges. Furthermore, the seabed is a complex environment with a multiplicity of marine user needs, multiple agencies, and legislative and regulatory regimes. For subsea communication cables, regulation must address a sector that is inherently international and where technology is developing rapidly.

The government takes the security and resilience of subsea communication cables very seriously, focusing on the full range of hazards, threats and risks to inform policy and regulation. The Government is considering the best options to take forward to improve and ensure the security and resilience of subsea communications cables and maintain the UK as an attractive destination for transnational cables.

The Government agrees with the Committee's observation on the value of sharing information on cable breaks, and supports industry-lead approaches to identify damage, conduct repairs and deliver overall resilience. Internationally, the Government is not alone in regarding undersea communications cables and infrastructure as critical to national and international connectivity. We continue to work with like-minded allies and partners both in government and in industry to identify and adopt best practice to improve the resilience, maintenance and protection of subsea communication cables.