OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

Independent Expert on the Effects of Foreign Debt and Other International Financial Obligations

Call for Inputs: The Governance of the High Seas and International Financial Obligations

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SUBMISSION

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Date: 20 April 2026

I. PRELIMINARY OBSERVATIONS

The mandate of the Independent Expert has, until now, concentrated principally on sovereign lending relationships, structural adjustment conditionality, and the fiscal obligations arising from bilateral and multilateral debt instruments. The extension of that mandate to the governance of areas beyond national jurisdiction represents a significant and necessary doctrinal development. The United Nations Convention on the Law of the Sea constitutes, as its preamble recites, a legal order for the seas and oceans. Yet the fiscal dimensions of that legal order have been treated, within the mainstream of international financial and human rights discourse, as peripheral. This submission argues that they are anything but peripheral, and that the governance failures examined in this report translate, in concrete and measurable terms, into reductions in the resources available to developing States for the progressive realisation of economic, social, and cultural rights.[12]

This submission draws on international treaty law, customary international law, and comparative institutional practice. It addresses the questions posed by the Independent Expert across Parts A, B, and C of the call for inputs. The author practices public law and regulatory law before the Supreme Court of India, has published on international humanitarian law, AI regulatory policy, and emerging legal frameworks, and has engaged with international institutions on matters of governance and policy design.

II. PART A: INTERNATIONAL FINANCIAL OBLIGATIONS AND THE GLOBAL COMMONS

A.1 The Scope of International Financial Obligations in the Maritime Context

The financial arrangements governing areas beyond national jurisdiction constitute international financial obligations in a substantively meaningful sense. Benefit-sharing mechanisms under the International Seabed Authority, sponsorship obligations assumed by States under UNCLOS,[8] royalty and liability structures embedded in ISA exploitation regulations, and the implicit fiscal exposure generated by open registry arrangements all impose legally cognisable duties with determinable fiscal consequences. The International Covenant on Economic, Social and Cultural Rights obliges each State party, acting individually and through international assistance and cooperation, to take steps to the maximum of its available resources toward the progressive realisation of the Covenant rights.[1] Where international governance arrangements structurally reduce the resource base of developing States, they engage this obligation of cooperation, irrespective of whether the mechanism is a loan instrument, a conditionality regime, or a maritime governance arrangement that permits extraction without equitable fiscal sharing.[2]

The failure to characterise maritime financial arrangements as international financial obligations has allowed them to evade the analytical scrutiny that would ordinarily attend instruments of comparable fiscal significance. This characterisation gap must be addressed explicitly in the thematic report. The mandate of the Independent Expert should be read, consistently with its human rights object and purpose, to extend to any international arrangement that materially affects the fiscal capacity of States to realise Covenant rights, regardless of the doctrinal field in which that arrangement is formally situated.

A.2 The Flag State System and Revenue Loss to Developing States

The flag State system, as it operates at present, permits a structural decoupling of economic activity from fiscal and regulatory jurisdiction. UNCLOS Articles 91 to 94 vest the flag State with exclusive jurisdiction over vessels on the high seas[3] and impose obligations of genuine link, effective control, and investigation of casualties. In practice, open registries maintained by Panama, Liberia, the Marshall Islands, and the Bahamas operate on a commercial basis, offering minimal taxation, attenuated labour standards, and nominal administrative supervision in exchange

for registration fees.[4] The regulatory competition among these registries drives standards downward across the sector as a whole.

The consequences for developing coastal States are severe. Conservative peer-reviewed estimates place the annual commercial value of illegal, unreported, and unregulated fishing, facilitated in part by open registry opacity and the absence of effective flag State control, at between ten billion and twenty-three billion United States dollars.[5] This value is extracted disproportionately from waters adjacent to developing States in West Africa, South Asia, and the Pacific, whose domestic enforcement capacity is structurally constrained. The Port State Measures Agreement[6] and the UN Fish Stocks Agreement[7] provide partial correctives but are oriented toward conservation, not fiscal recovery. Neither instrument establishes mechanisms for revenue redistribution or fiscal accountability toward the States whose adjacent fisheries are most affected.

Reform requires, at a minimum, three linked measures. First, binding flag State obligations to maintain public registries disclosing ultimate beneficial ownership of all registered vessels. Second, obligations on flag States to ensure that vessels on their registers do not operate through holding structures designed primarily to strip revenue from the jurisdictions in which economic value is generated. Third, the establishment of an international monitoring mechanism with authority to assess and publish flag State performance against these standards and to recommend appropriate responses to non-compliance.[24]

A.3 Deep-Sea Mining Sponsorship and SIDS Fiscal Vulnerability

The sponsorship regime under Part XI of UNCLOS requires each contractor seeking to operate in the Area, meaning the seabed and ocean floor beyond the limits of national jurisdiction, to be sponsored by a State party.[8] The Seabed Disputes Chamber of the International Tribunal for the Law of the Sea clarified, in its landmark Advisory Opinion of 1 February 2011 on the responsibilities and obligations of sponsoring States, that this regime imposes due diligence obligations on sponsoring States: they must establish and maintain adequate legislative, administrative, and judicial frameworks to ensure contractor compliance.[9]

The Chamber confirmed that the standard of due diligence does not require the sponsoring State to guarantee the result of contractor compliance in every instance,[10] but the practical effect of the regime for small island developing States is nonetheless severe. The Advisory Opinion was itself

prompted by Nauru, a State with a nominal GDP of approximately 134 million United States dollars, which had sponsored a commercial contractor operating in the Clarion-Clipperton Zone and sought judicial clarification of its potential liability before proceeding.[12] The Chamber acknowledged that its findings might impose obligations that are not appropriate for developing States in all their dimensions,[11] but offered no binding safeguard mechanism capable of capping contingent financial exposure.

The international community should establish, within the ISA framework, a multilateral liability guarantee facility capitalised on a weighted basis according to sponsoring State economic capacity. Small island developing States that sponsor contractors should be entitled to shared liability cover, insulating them from catastrophic sovereign exposure arising from contractor non-compliance or environmental damage. The design of this facility should be treated as a matter of urgency in the current negotiations on ISA exploitation regulations.

III. PART B: THE COMMON HERITAGE PRINCIPLE AND REDISTRIBUTIVE OBLIGATIONS

B.1 The 1994 Restructuring of Part XI and Its Human Rights Significance

The common heritage of mankind principle, as elaborated through General Assembly declarations and incorporated into UNCLOS Articles 136 to 140,[13] was given institutional expression through Part XI's mechanisms: the Enterprise, which was to conduct mining operations on behalf of the international community; mandatory technology transfer from industrialised to developing States; production controls protecting land-based mineral exporters in the Global South; and a finance committee designed to ensure equitable revenue sharing. This was, in design if not in full operation, a genuine instrument of redistributive multilateralism.

The 1994 Implementation Agreement[14] restructured this regime comprehensively. The Enterprise's independent operational capacity was suspended; mandatory technology transfer was replaced with an obligation to make technology available on commercially reasonable terms; production controls were eliminated; and decision-making structures in the ISA Council were modified to enhance the effective veto power of industrialised States and contractor interests.[15] The Agreement was necessary, in the pragmatic sense, to secure the participation of major industrialised States

that had declined to ratify UNCLOS. Its costs, however, were borne disproportionately by developing States that had negotiated Part XI as a matter of developmental entitlement.[16]

The restructuring constitutes, in the submission of the author, a failure of international cooperation with direct implications for the right to development.[17] Article 29 of the Charter of Economic Rights and Duties of States is unambiguous: the benefits derived from seabed resources beyond national jurisdiction are to be shared equitably among all States, with particular regard for the interests and needs of developing countries.[18] Arrangements that eliminate the institutional mechanisms through which this sharing was to occur, and that substitute a regulated licensing regime oriented primarily toward capital-exporting interests, are irreconcilable with this standard.

The BBNJ Agreement of 2023, which establishes a benefit-sharing mechanism for marine genetic resources in areas beyond national jurisdiction and provides for a multilateral fund financed by user contributions,[19] offers a partial model for what equitable governance of the common heritage might now look like. Its institutional logic, though not its precise mechanism, should be extended to the deep seabed. Restoring the redistributive content of Part XI requires, at minimum: a reinvigorated Enterprise with independent operational capacity over at least a reserved portion of mining sites; technology transfer obligations calibrated to present-day conditions; and a seabed revenue fund, financed from contractor royalties, disbursed according to developmental need and equitable geographic distribution.

B.2 High Seas Fisheries and the Fiscal Governance Gap

No binding international instrument addresses the fiscal treatment of commercial fisheries on the high seas.[20] The questions of where profits derived from high seas fishing are taxed, whether a portion of those profits should be shared with humanity as a whole, and how developing States whose populations are disproportionately affected by industrial fleet depletion of shared stocks should be compensated, are entirely unaddressed in the multilateral framework. The global marine fish catch is estimated to have a commercial value exceeding 130 billion United States dollars annually at the first point of sale.[21] A significant portion of this value is captured by the fleets of wealthy OECD States, structured through holding companies registered in non-cooperative jurisdictions, and subject to no fiscal obligation toward the common pool from which the value is extracted.[23]

Legal and institutional arrangements addressing this gap should include: first, the negotiation of a multilateral instrument establishing a high seas fisheries revenue-sharing mechanism, administered through the FAO, with contributions assessed on the basis of catch volume and commercial value attributable to high seas operations; second, the introduction of binding flag State obligations to collect and remit a fiscal levy on commercial high seas fishing profits into a common fund; and third, the enhancement of regional fisheries management organisations with explicit mandates to recommend fiscal measures and to provide technical assistance to developing coastal State members in capturing greater value from shared stocks.

B.3 Coherence with the Emerging UN Tax Cooperation Framework

The General Assembly, by resolution 78/230 of December 2023, initiated a process toward the development of a United Nations Framework Convention on International Tax Cooperation.[22] This is the most significant structural development in international fiscal governance in a generation, and it reflects the persistent dissatisfaction of developing States with the architecture of existing coordination instruments. The thematic report should recommend that the intergovernmental negotiating process for this Convention explicitly address maritime fiscal governance.

Specific provisions warranting inclusion are: first, rules on taxing rights allocation for profits derived from commercial activities conducted in areas beyond national jurisdiction, including high seas fisheries and deep seabed mining; second, flag State fiscal obligations with respect to vessel operators registered under open registries; and third, mechanisms for coordinating ISA revenue-sharing obligations with the broader international tax architecture. The failure to address these questions in the Tax Convention would reproduce, in a new multilateral instrument, the same structural omissions that characterise existing regimes.

IV. PART C: ACCOUNTABILITY, TRANSPARENCY, AND AFFECTED COMMUNITIES

C.1 Beneficial Ownership Transparency in the Maritime Sector

Beneficial ownership opacity is endemic to the maritime sector. The layered use of flag State registries, ship management companies, bareboat charter arrangements, and holding structures incorporated in non-cooperative jurisdictions enables the simultaneous extraction of value from

common resources and evasion of fiscal, regulatory, and accountability obligations.[23] The Financial Action Task Force has identified trade-based money laundering through the maritime sector as a high-risk vector that exploits precisely the beneficial ownership structures at issue in this report. The opacity is not incidental: it is the product of deliberate regulatory design by flag State registries competing for vessel registration on the basis of permissiveness.[4]

The minimum transparency requirements applicable to entities operating in areas beyond national jurisdiction should include: public disclosure of ultimate beneficial ownership of all vessels registered under any flag, to be maintained in a publicly accessible international registry administered jointly by the ISA and the International Maritime Organization;[24] mandatory country-by-country reporting of profits, taxes paid, and jurisdictions through which revenue from high seas activities is routed; and automatic exchange of financial information between flag States, port States, and the States in whose adjacent waters value is predominantly generated. Compliance with these requirements should be a condition of ISA contractor registration and flag State operational authorisation for commercial fishing on the high seas.

C.2 Participatory Rights of Affected Communities

The communities most directly affected by high seas governance failures, including small-scale fishing communities in West Africa, South Asia, and Southeast Asia; indigenous coastal peoples in Pacific small island developing States; and populations in least developed countries dependent on adjacent fisheries for food security and livelihoods, have minimal participatory access to the international negotiations and regulatory processes that determine governance of the commons upon which they depend.[25]

The ISA's Legal and Technical Commission, which reviews contractor applications and develops exploitation regulations, operates with limited transparency and has been subject to sustained criticism for structural barriers to civil society and community participation.[26] Its meetings are held in closed session as a default, its working documents are not published in advance in all official languages, and affected communities lack the financial and logistical resources to participate meaningfully even where formal access exists. This is inconsistent with Principle 10 of the Rio Declaration and the participatory standards elaborated in the Aarhus Convention.[27]

A rights-consistent approach to institutional reform must address the participatory deficit at its structural root. The ISA should establish a formal consultative mechanism providing structured and funded access for fishing-dependent communities, indigenous peoples' representatives, and civil society organisations from developing States, with mandatory advance publication of regulatory proposals, guaranteed time for submissions, and a right to receive reasoned responses. Participation that is merely formal, without resources, advance disclosure, or a legal obligation of response, does not satisfy the standard of meaningful influence over decisions affecting human rights.[26]

States that facilitate the governance arrangements examined in this submission, including those that maintain open registries, those that sponsor contractors without adequate domestic regulatory capacity, and those that resist fiscal transparency reforms in international negotiations, may bear responsibility under the general rules of State responsibility to the extent that their conduct constitutes aid or assistance in conduct incompatible with the international obligations of other States.[28]

V. CONCLUDING OBSERVATIONS

The governance of areas beyond national jurisdiction presents the international community with a structural test of whether the obligations of cooperation embedded in the human rights framework are capable of disciplining the fiscal behaviour of powerful actors in spaces beyond sovereign jurisdiction. The evidence reviewed in this submission suggests that existing arrangements fail this test in three mutually reinforcing respects: they permit the systematic extraction of value from common resources without equitable fiscal sharing; they impose disproportionate contingent liabilities on the most economically vulnerable States; and they exclude from meaningful participation the communities whose rights and livelihoods are most directly at stake.

The reforms proposed in this submission are neither novel nor technically infeasible. The restoration of Part XI's redistributive architecture, the introduction of mandatory beneficial ownership disclosure, the creation of multilateral liability safeguards for sponsoring small island developing States, the development of a high seas fisheries fiscal instrument, and the integration of maritime governance into the UN Tax Convention process are, in aggregate, a return to the normative vision that the common heritage principle was designed to realise. The mandate of the

Independent Expert, precisely because it attends to the structural effects of international financial obligations on human rights, is well placed to give this vision the institutional specificity that the current moment requires.

The author respectfully urges the Independent Expert to recommend, in the thematic report, that the General Assembly and the Secretary-General treat maritime fiscal governance as an integral component of the reform of the international financial architecture currently under negotiation, and to convene, under the auspices of the relevant United Nations bodies, a dedicated intergovernmental process to develop binding standards for beneficial ownership transparency, flag State fiscal obligations, and equitable benefit-sharing from the global commons.

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ENDNOTES

1. International Covenant on Economic, Social and Cultural Rights, adopted 16 December 1966, 993 UNTS 3, Art. 2(1).
2. Committee on Economic, Social and Cultural Rights, General Comment No. 3: The Nature of States Parties' Obligations (Art. 2(1)), UN Doc. E/1991/23 (1990), paras. 9-11 (minimum core obligations exist irrespective of available resources; State must demonstrate it has used the maximum of available resources toward progressive realisation).
3. United Nations Convention on the Law of the Sea (UNCLOS), adopted 10 December 1982, 1833 UNTS 3, Arts. 91-94 (flag State jurisdiction: nationality of ships, conditions for grant, duties of flag State including effective exercise of jurisdiction and control in administrative, technical, and social matters).
4. UNCTAD, Review of Maritime Transport 2023 (United Nations, Geneva, 2023), Chapter 2, pp. 30-40. Panama, Liberia, the Marshall Islands, and the Bahamas together account for over 60 per cent of the world's registered gross tonnage. Registration fees generate revenues substantially exceeding those States' contributions to maritime enforcement capacity.
5. David J. Agnew et al., 'Estimating the Worldwide Extent of Illegal Fishing' (2009) 4(2) PLOS ONE e4570, p. 7 (central estimate USD 10-23.5 billion per annum globally). See also FAO, The State of World Fisheries and Aquaculture 2022 (FAO, Rome, 2022), p. 47 (corroborating the range and noting disproportionate impact on developing coastal States).
6. Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA), adopted 22 November 2009, entered into force 5 June 2016. As of April 2026, 78 States are party. The

Agreement governs port access and inspection procedures but establishes no mechanism for fiscal recovery or revenue redistribution to affected developing States.

7. Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UN Fish Stocks Agreement), adopted 4 August 1995, 2167 UNTS 88. Arts. 18-19 address flag State duties in relation to vessels on the high seas; no revenue-sharing or fiscal obligation is established in favour of developing coastal States.

8. UNCLOS, Art. 153(4): 'The Authority shall exercise such control over activities in the Area as is necessary for the purpose of securing compliance with the relevant provisions of this Part'; Annex III, Art. 4(4): sponsoring States shall ensure that the contractor carries out activities in the Area in conformity with the terms of the contract and the Convention.

9. Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area (Advisory Opinion), ITLOS Seabed Disputes Chamber, Case No. 17, 1 February 2011, ITLOS Reports 2011, p. 10, paras. 110-120 (establishing that sponsoring States bear obligations of due diligence, including the duty to maintain adequate legislative, administrative, and judicial frameworks to ensure contractor compliance).

10. Ibid., paras. 131-132. The Chamber held that the due diligence obligation 'is not an obligation to achieve, in each and every case, the result that the sponsored contractor complies with the aforementioned obligations,' but requires the sponsoring State to maintain the domestic regulatory architecture necessary to secure compliance.

11. Ibid., para. 159. The Chamber acknowledged that certain due diligence obligations may require 'different standards of conduct' as between developed and developing State sponsors, but the Advisory Opinion contains no binding mechanism to cap or ring-fence the contingent financial exposure of developing State sponsors. See D. Anton, R. Makgill and C. Payne, 'Advisory Opinion on Responsibility and Liability for International Seabed Mining (ITLOS Case No. 17)' (2011) IUCN-CEL Occasional Paper, p. 11.

12. World Bank, World Development Indicators 2023 (World Bank, Washington DC, 2023) (Nauru nominal GDP approximately USD 134 million, 2022-23). The Metals Company (formerly DeepGreen Metals) holds ISA exploration contract ISBA/16/C/13 in the Clarion-Clipperton Zone through Nauru Ocean Resources Inc., sponsored by Nauru under the UNCLOS framework.

13. Statement by Ambassador Arvid Pardo, Malta, UN General Assembly, First Committee, 1 November 1967, UN Doc. A/C.1/PV.1516 (first articulation of common heritage of mankind as a juridical principle for seabed governance). UNCLOS, Art. 136 ('The Area and its resources are the common heritage of mankind'); Art. 137(2) ('No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources'); Art. 140(1) ('Activities in the Area shall... be carried out for the benefit of mankind as a whole').

14. Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, adopted 28 July 1994, entered into force 28 July 1996, 1836 UNTS 3.

15. 1994 Implementation Agreement, Annex: Section 1(5)(g) (restructuring Finance Committee veto power); Section 2(1) (Enterprise to conduct initial deep-sea mining activities only through joint ventures, suspending its independent operational capacity); Section 5 (elimination of mandatory technology transfer under Annex III, Art. 5 of UNCLOS; substitution of obligation to seek technology on 'fair and reasonable commercial terms'); Section 6 (elimination of production ceiling regime under UNCLOS Art. 151).

16. Satya Nandan, 'Administering the Mineral Resources of the Deep Seabed' in David Freestone (ed), The 1982 Law of the Sea Convention at 30 (Brill, Leiden, 2013), pp. 75-92; Nele Matz-Luck, 'The Concept of the Common Heritage of Mankind: Its Viability as a Management Tool for Deep Sea Genetic Resources' (2010) 64 Netherlands International Law Review 173, pp. 181-185 (documenting the substantive dilution of redistributive content through the 1994 Agreement).

17. Declaration on the Right to Development, UNGA Res. 41/128 (4 December 1986), Art. 3(3): 'States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development. States should fulfil their rights and duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States.'

18. Charter of Economic Rights and Duties of States, UNGA Res. 3281(XXIX) (12 December 1974), Art. 29: 'The sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction, as well as the resources of the area, are the common heritage of mankind. On the basis of the principles adopted by the General Assembly in resolution 2749 (XXV) of 17 December 1970, all States shall ensure that the exploration of the area and exploitation of its resources are carried out exclusively for peaceful purposes and that the benefits derived therefrom are shared equitably by all States, taking into account the particular interests and needs of developing countries.'

19. Agreement under UNCLOS on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement), adopted 19 June 2023, UN Doc. A/CONF.232/2023/4. Arts. 9-14 (area-based management tools and environmental impact assessments); Arts. 15-33 (marine genetic resources and benefit-sharing, including monetary and non-monetary benefits); Art. 52 (special fund into which monetary benefits are paid and from which capacity-building assistance and technology transfer are disbursed to developing State parties).

20. David Freestone, 'Governance of Areas Beyond National Jurisdiction' in Donald Rothwell et al. (eds), The Oxford Handbook of the Law of the Sea (Oxford University Press, Oxford, 2015), pp. 701-726; FAO, The State of World Fisheries and Aquaculture 2022 (FAO, Rome, 2022), pp. 165-175 (total value of global marine fish production at the first point of sale estimated at USD 130 billion in 2020, of which a disproportionate share is captured by industrialised country fleets operating on the high seas).

21. FAO, The State of World Fisheries and Aquaculture 2022, pp. 170-171. OECD-flag fleets account for a substantially higher share of the commercial value of high seas catches than their vessel numbers would suggest. Considerable catch volumes are extracted from waters adjacent to developing States whose own fleets are excluded by capital constraints, distance, and the depletion of stocks attributable to industrial fishing.

22. Promotion of Inclusive and Effective International Tax Cooperation at the United Nations, UNGA Res. 78/230 (22 December 2023). The resolution established an intergovernmental committee with a mandate to elaborate a United Nations Framework Convention on International Tax Cooperation. See also Report of the Secretary-General, 'Promotion of Inclusive and Effective International Tax Cooperation at the United Nations,' UN Doc. A/78/235 (2023), paras. 31-45.

23. Financial Action Task Force (FATF), Trade-Based Money Laundering: Vulnerabilities and Good Practices (FATF, Paris, June 2021), Chapter 3, pp. 28-36; FATF, Maritime Drug Trafficking Risk Assessment (FATF, Paris, 2022), pp. 11-17. The FATF identifies the maritime sector as a high-risk vector for trade-based money laundering and profit shifting, exploiting the structural beneficial ownership opacity of open registry arrangements.

24. International Maritime Organization (IMO), Sub-Committee on Implementation of IMO Instruments, III 9/13 (2023) (flag State performance audit data). The IMO's Voluntary IMO Member State Audit Scheme (IMSAS), though operationally useful, remains voluntary and does not address the fiscal dimensions of flag State performance. See also International Transport Workers' Federation (ITF), Flags of Convenience: Undermining Shipping Standards (ITF, London, 2022), pp. 4-12.

25. Yoshifumi Tanaka, The International Law of the Sea (3rd edn, Cambridge University Press, Cambridge, 2019), pp. 396-402 (community interests and the structural challenge of governing global commons in the absence of effective supranational authority); James Harrison, Making the Law of the Sea: A Study in the Development of International Law (Cambridge University Press, Cambridge, 2011), pp. 211-230.

26. International Seabed Authority, Rules of Procedure of the Legal and Technical Commission, ISBA/6/C/9; Duncan Currie, 'Transparency and Access to Information in the International Seabed Authority' (2022) 37 International Journal of Marine and Coastal Law 411, pp. 418-427 (finding that the LTC's default closed-session meetings, restricted document access, and inadequate civil society accreditation procedures structurally disadvantage developing State participants and affected communities).

27. Rio Declaration on Environment and Development, UNCED, Rio de Janeiro, 14 June 1992, UN Doc. A/CONF.151/26, Principle 10 ('Environmental issues are best handled with the participation of all concerned citizens, at the relevant level'). Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), adopted 25 June 1998, 2161 UNTS 447, Arts. 6-8 (mandatory public participation in decisions on specific activities, plans and programmes, and the preparation of legally binding normative instruments).

28. International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, UNGA Res. 56/83 (12 December 2001), Art. 16: 'A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) that State does so with knowledge of the circumstances of the internationally wrongful act; and (b) the act would be internationally wrongful if committed by that State.' The application of this provision to governance arrangements that structurally facilitate fiscal evasion through the commons warrants further development in the thematic report.