PREPCOM DEEP DIVES

High Seas Alliance

Cooperation and consultation: Operationalizing the BBNJ Agreement

Briefing: BBNJ PrepCom August 2025

Executive summary 1

1. The meaning and purpose of cooperation and consultation under the BBNJ Agreement 2

2. Specific cooperation provisions 4

3. Considerations on operationalizing provisions 7

4. What should happen at PrepCom 2? 9

5. Conclusion 10

6. Annex 1 11

Executive summary

The Agreement under the United Nations Convention on the Law of the Sea (UNCLOS) on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ Agreement) was adopted on 19 June 2023.

To prepare for the Treaty's entry into force and its first Conference of the Parties (CoP), a UN Preparatory Commission (PrepCom) is scheduled to meet twice in 2025 (14 - 25 April and 18 - 29 August) and at least once in 2026 (23 March – 2 April 2025). During these meetings, Parties will develop the operational framework for the Agreement to ensure it can function and work effectively, and prepare recommendations for the CoP. Well-structured, fair, and efficient institutions will shape the Treaty's long-term success and determine how quickly we can turn global ambition into tangible results for ocean protection.

This briefing examines the BBNJ Agreement's provisions on cooperation and coordination with, and consultation of, relevant legal instruments, frameworks and relevant global, regional, subregional and sectoral bodies (IFBs), highlights key areas for discussion, and provides specific recommendations on arrangements to enhance cooperation with relevant IFBs at PrepCom 2 from 18 - 29 August 2025.

Furthering cooperation and coordination with and among IFBs for the purpose of the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction (ABNJ) is a core part of the objectives of the BBNJ Agreement (Art. 2). Cooperation is a binding obligation, imposing a proactive standard of conduct on States to take appropriate measures to advance the collective aims of the Agreement.

The exercise of this conduct needs to follow the relevant guidance in the Agreement, including its general approach that interactions are interpreted and applied in a manner that does not undermine the IFBs, and are balanced with the obligation on BBNJ Parties to promote the Agreement's objectives in decision-making within relevant IFBs.

The Agreement also contains specific provisions that outline how this conduct can be exercised. These can be classified as: (1) provisions that contain consultations as specific procedural requirements for a process under the Agreement, e.g. area-based management tools (ABMTs) proposals, emergency measures, and environmental impact assessments (EIAs); and (2) provisions that focus on longer-term collaboration, cooperation, and coordination.

Recommendations:

- Consultation processes that are procedural requirements under the Agreement - such as ABMT proposals, emergency measures, and EIAs - should be prioritized for early operationalization by the BBNJ CoP and its subsidiary bodies. These need to be time-bound, with timelines that reflect the urgency needed to reach Target 3 of the Kunming-Montreal Global Biodiversity Framework.
- Given the Agreement's broad mandate to further cooperation and coordination for the conservation and sustainable use of marine biodiversity in ABNJ, the BBNJ CoP should set up an overarching cooperation framework that provides opportunities for IFBs to make the necessary arrangements to engage in a meaningful and timely manner to achieve the joint objectives of the conservation and sustainable use of BBNJ.
- Given the large number of relevant IFBs, when operationalizing the longer-term collaboration, cooperation, and coordination provisions, States should consider options for modalities that best enable collaborative engagement between the BBNJ CoP and IFBs. This could be achieved by, for example, creating a standing committee on cooperation or giving one of the subsidiary bodies the mandate to oversee the cooperation mechanism (e.g., the Implementation and Compliance Committee (ICC)).
- The High Seas Alliance supports recommendations that enable subsidiary bodies to communicate directly with IFBs, within the mandate of the respective bodies.

1. The meaning and purpose of cooperation and consultation under the BBNJ Agreement

Cooperation and consultation are at the heart of the BBNJ Agreement, the objective of which is to ensure the conservation and sustainable use of marine biological diversity of ABNJ (Art. 2). Article 5(2) requires the Agreement to be interpreted and applied in a manner that does not undermine relevant IFBs, while promoting coherence and coordination with them. Coherence and coordination with IFBs is a two-way street: the BBNJ Agreement is to be interpreted and applied in a manner that promotes both coherence and coordination with IFBs, all to ensure the conservation and sustainable use of marine biodiversity of ABNJ: "it remains imperative to harmonize these IFBs with the objectives of the BBNJ Agreement".[1]

However, the Agreement's role in shaping its relationship with other IFBs goes beyond simply respecting their authority and avoiding overreach. While emphasizing the need to preserve the existing order, the Agreement also aims to foster greater cooperation and coherence among IFBs. Under article 8(1), Parties are required to cooperate by strengthening and enhancing cooperation with, and promoting cooperation among, relevant IFBs in the achievement of the Agreement's objectives. Article 8(2) further requires Parties to promote the objectives of the BBNJ Agreement, as appropriate, when participating in decision-making processes within other relevant IFBs. Similarly, article 47(6)(c) obliges the BBNJ CoP to promote cooperation and coordination with and among relevant IFBs - including by establishing appropriate processes - to ensure coherence in efforts to conserve and sustainably use marine biological diversity in ABNJ.

In the recent Advisory Opinion on Climate Change, the International Court of Justice stated that: "the duty of States to co-operate for the protection of the environment is a rule whose customary character has been established" (paragraph 140). It also said that the duty to cooperate derives from the principle that the conservation and management of shared resources and the environment are based on shared interests and governed by the principle of good faith (paragraph 141) and that "the Court considers that the duty to co-operate for the protection of the environment forms part of customary international law and can also serve as a guiding principle for the interpretation of other rules. It forms part of the most directly relevant applicable law" (paragraph 142).[2]

[1] Kim, Rakhyun E. The Likely Impact of the BBNJ Agreement on the Architecture of Ocean Governance. 2024. 165 Marine Policy. https://www.sciencedirect.com/science/article/pii/S0308597X2400188X

[2] International Court of Justice. Advisory Opinion. Obligations of States in respect of climate change. 23 July 2025.

The International Tribunal for the Law of the Sea (ITLOS) has noted that the duty to cooperate is an integral part of the general obligations under articles 194 and 192 of UNCLOS. ITLOS further underscored the specific obligations to cooperate (specified in Part XII, section 2 of UNCLOS, particularly in articles 197, 200, and 201)[3]. The BBNJ Agreement, as an implementing agreement under UNCLOS, affirms the obligation to cooperate as a legally binding commitment, starting with article 8(1). This duty should be understood as a positive obligation, requiring States to take active measures, such as exchanging information and coordinating efforts, in support of shared goals.

The BBNJ Agreement introduces an innovative, system-oriented approach to coordination with other IFBs, one that is non-hierarchical and designed to mobilize and support multiple authorities in advancing its overarching goals. It is uniquely positioned, by virtue of its broad mandate on cooperation and coordination for marine biodiversity in ABNJ, to play a major role in aligning efforts and systematizing relationships among IFBs.

Article 8(2) requires Parties to promote the Agreement's objectives when participating in decision-making under other relevant IFBs, as appropriate. This innovative and important provision - a "significant innovation in the design of multilateral environmental agreements"[4] - is aimed at achieving coherence in practice and further illustrates that cooperation is a two-way street.

In light of these considerations, and the fact that the BBNJ Agreement is the only treaty with a broad mandate to enhance cooperation and coordination for the conservation and sustainable use of marine biodiversity in ABNJ (including with and among IFBs), it can and should serve as the primary forum for this purpose.

The Agreement should, therefore, be enabled to set up the overall cooperation framework, as well as the time-bound consultation processes that are procedural requirements for its processes. IFBs can then make the necessary arrangements to engage in a meaningful and timely manner to achieve the joint objectives of the conservation and sustainable use of ABNJ.

Cooperation, coordination and collaboration

The BBNJ Agreement uses four terms to determine institutional engagement: cooperation, coordination, collaboration, and consultation[5]. Recognising and addressing the distinct procedural and substantive implications of these terms is essential to avoid ambiguity, ensure legal and institutional coherence, and enable the BBNJ Agreement to function effectively as a platform for structured engagement.

Cooperation

The Agreement mandates cooperation under article 8, building on the obligations to cooperate under UNCLOS. Cooperation entails working with others, such as IFBs, by sharing information or aligning actions.

Coordination

Coordination is required in specific contexts. These include strengthening cooperation among IFBs for ABMTs (Art. 17(b)), enhancing coordination with IFBs regarding ABMTs, and augmenting relevant measures adopted in IFBs (Art. 22), including matters relating to capacity building and the transfer of marine technology (CBTMT) (Art. 41(2)). Both the CoP (Art. 47(6)(c)) and the Secretariat (Art. 50(4)(d)) are tasked with promoting and facilitating such cooperation and coordination.

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[3] ITLOS. Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law. Case 17. Advisory Opinion of 21 May 2024 (Climate Change Advisory Opinion). Paragraph. 299.

[4] Kim, Rakhyun E. The Likely Impact of the BBNJ Agreement on the Architecture of Ocean Governance. 2024. 165 Marine Policy. https://www.sciencedirect.com/science/article/pii/S0308597X2400188X page 4.

[5] Oxford dictionary definitions: **Cooperation**: the act of doing something together or of working together towards a shared aim. **Coordination**: the act of making parts of something, groups of people, etc. work together in an efficient and organized way. **Collaboration**: the act of working with another person or group of people to create or produce something. **Consultation**: the act of discussing something with somebody or with a group of people before making a decision about it.

Collaboration

Collaboration conveys a more integrated process in which BBNJ bodies, Parties and IFBs work together toward a shared goal, namely the conservation and sustainable use of marine biodiversity of ABNJ. The CoP is required to develop mechanisms to collaborate with IFBs on EIAs (Art. 29(2)), and the Scientific and Technical Body (STB) is also obliged to collaborate with them (Art. 29(3). The Clearing-House Mechanism (Cl-HM)) is to facilitate international cooperation and collaboration, including scientific and technical cooperation and collaboration (Art. 29(3)(f)).

Consultation

While cooperation, coordination, and collaboration are often ongoing processes, particularly in the way they are operationalized[6], consultations tend to be discrete events on specific issues or processes. Indeed, consultation can be seen as a procedural requirement, where input must be sought from IFBs, stakeholders, and States (Art. 31(1)(e) before decisions are made. This is evident in, for example, articles 19(2) and 21 on ABMTs (including marine protected area (MPA) proposals), and article 24(2) on emergency measures and EIAs. While consultation does not necessarily require agreement by the consulted party, the proponent is mandated to take contributions received during consultations into consideration (Art. 21(5) and Art. 32(5)).

The consultation provisions stand apart from the more general cooperation, coordination and collaboration provisions because they are procedural requirements of the BBNJ Agreement and thus need to be operationalized before the respective Party or process can be implemented, and because they can be operationalized by BBNJ decision-making bodies alone. In contrast, the conclusion of a Memorandum of Understanding (MoU), for example, would involve action by both the BBNJ and the IFB.

2. Specific cooperation provisions[7]

Part II: Marine genetic resources, including the fair and equitable sharing of benefits

Part II of the BBNJ Agreement contains general requirements for cooperation in all activities related to MGRs and digital sequence information (DSI) of ABNJ (Art. 11(2)). It also includes specific modalities for the operation of the Cl-HM to ensure Parties adhere to the 'due regard' provisions of article 11(3) when implementing the Agreement. Much of this cooperation would presumably take place within the access and benefit-sharing committee (ABSC), pending decisions (based on PrepCom recommendations) by CoP1 on its Rules of Procedure (RoPs), Terms of Reference (ToRs) and modalities.

In line with the High Seas Alliance recommendations at PrepCom1, the ABSC should be empowered to establish interactions with relevant IFBs. Under article 15(5), it may consult and facilitate the exchange of information with relevant IFBs on activities under its mandate, including benefit-sharing, the use of DSI on MGRs, best practices, tools and methodologies, data governance, and lessons learned.

Part III: Area-based management tools, including marine protected areas

The objectives of Part III of the BBNJ Agreement include efforts to strengthen cooperation and coordination in the use of ABMTs, including MPAs, among States and relevant IFBs (Art. 17). That cooperation and coordination framework is elaborated through a comprehensive four-stage process detailed in articles 19-22.

While these modalities specifically apply to consultations on proposals, there will be common elements for consultations on other matters, such as other parts of the BBNJ Agreement.

The cooperation obligations in article 8 are reinforced with respect to ABMTs in article 25(6): "a Party that is not a party to, participant in, or a member of an IFB and that does not otherwise agree to apply the measures established under such IFBs and by such bodies is not discharged from the obligation to cooperate, in accordance with the Convention and the BBNJ Agreement, in the conservation and sustainable use of marine biological diversity of ABNJ".

[6] See Note by the Secretariat on arrangements to enhance cooperation with IFBs.

[7] A full compilation of textual provisions on cooperation, consultation, and collaboration in the BBNJ Agreement can be found at this link.

Consultation steps for ABMTs:

- The first stage involves proposal development under article 19(2), where Parties shall collaborate and consult, as appropriate, with relevant stakeholders - including States, IFBs, civil society, the scientific community, the private sector, Indigenous Peoples and local communities - for the development of proposals. Proposals are to include information on any consultations undertaken with States, including adjacent coastal States and/or relevant IFBs, if any (Art. 19(4)(h)). Collaboration is understood to entail a greater degree of engagement than consultation in the interests of attaining the BBNJ objectives effectively.

- The next step is for the STB to undertake a preliminary review under article 20. The review is sent to the proponent, who considers the STB feedback and sends a revised proposal to the Secretariat. The Secretariat, in turn, makes the proposal publicly available and facilitates consultations under article 21.

- Article 21 establishes the third stage through detailed consultations and assessments of proposals. These consultations must be inclusive, transparent and open to all relevant stakeholders (Art. 21(1)). The Secretariat is to facilitate consultations by notifying (a) States, in particular adjacent coastal States (Art. 21(2)(a)), (b) IFBs (Art. 21(2)(b)), and (c) Indigenous Peoples and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders (Art. 21(2)(c)). All contributions received during the consultations are to be made publicly available by the Secretariat (Art. 21(3))[1].

  Given the complexity of this consultation process, article 21(6) crucially provides that the consultation shall be time-bound. The modalities for the consultation and assessment process, including its duration, must be elaborated by the STB at its first meeting for consideration and adoption by the CoP under article 21(8).

- The fourth step is the establishment of the ABMTs, including MPAs. The CoP has three pathways for decision-making:
  - The CoP takes decisions on the establishment of ABMTs, including MPAs, and related measures (Art. 22(1)(a)).
  - The CoP also takes decisions on measures compatible with those adopted by relevant IFBs, in cooperation and coordination with those IFBs under article 22(1)(b). This cooperation and coordination should logically be integrated into the elaboration of modalities to avoid introducing additional delays. Alternatively, they could be part of the regular consultations under article 22(3).
  - A third option is provided in article 22(1)(c). Where proposed measures fall within the competences of other IFBs, the CoP may make recommendations to Parties to the Agreement and IFBs to promote the adoption of relevant measures through such IFBs, under their respective mandates. Parties should encourage the response to any such recommendations by the IFB to be consistent with the BBNJ objectives in light of the cooperation mandated by article 8(2).[1]

Guidelines can be developed to facilitate the process. Each proposed site with existing measures should be considered in the initial proposal: the proponent would be encouraged to have worked with relevant IFBs to identify complementary measures, as well as measures that could be amended to fully support the objectives of the ABMT, including MPAs. Consultations would present these pre-proposal submission 'agreements'. Where there are no existing measures, recommendations could be made. Again, proponents could be encouraged to have engaged with relevant IFBs. Proposals could also be encouraged to describe related measures that are, or could be, adopted by IFBs.

Emergency measures

The establishment of emergency measures under article 24 is considered necessary only after consultation with relevant IFBs, and if the emergency cannot be managed in a timely manner through the application of the other articles of the BBNJ Agreement or by a relevant IFB (Art. 24(2)). Procedures and guidelines for such consultations are to be elaborated by the STB and considered and adopted by the CoP at its earliest opportunity (Art. 24(5)). Such procedures are to be inclusive and transparent.

For monitoring and review, the relevant IFBs shall be invited to provide information to the CoP on the implementation of measures that they have adopted to achieve the objectives of ABMTs, including MPAs, established under Part III (Art 26(2)). This reporting mechanism ensures ongoing assessment of coordination effectiveness and the implementation of measures across the various international bodies involved in High Seas biodiversity conservation.

Part IV: Environmental impact assessments

The objectives of Part IV of the Agreement include establishing a coherent framework for EIAs in ABNJ, which requires cooperation and coordination across sectors and frameworks (Art. 27(e)). In addition, article 27(f) emphasizes the goal of building and strengthening the capacity of Parties to prepare, conduct, and evaluate EIAs and strategic environmental assessments (SEAs). These overarching objectives, which are central to Part IV, can only be achieved through effective and sustained cooperation and coordination.

Under Part IV, the CoP is tasked with developing mechanisms for the STB to collaborate with IFBs that regulate activities in ABNJ or protect the marine environment (Art. 29(2)). Such mechanisms will be important to ensure that:

- IFBs adopt procedures that are equivalent to those required under the BBNJ Agreement (Art. 29(4)(i)) and that they are complied with (Art. 29(4)(ii))
- Measures under the BBNJ Agreement complement and reinforce existing frameworks.

The mechanisms should also ensure that IFBs support the concerned Party in fulfilling other obligations, such as submitting EIA reports (Art. 29(5)) to the Cl-HM and monitoring and reviewing reports (Art. 29(6)), as required.

In line with High Seas Alliance recommendations for PrepCom1, the STB's RoPs, ToRs, and/or modalities should empower it to solicit expertise and advice from IFBs (and others) directly (Art. 29(2, 3)), without having to consult the CoP.

Parties must ensure timely public notification and consultation of a planned activity (Art. 31(1)(e)). Article 32 of the BBNJ Agreement contains detailed provisions for notifications, including through the Cl-HM and the Secretariat, and planned and time-bound opportunities for participation by all States and stakeholders throughout the EIA process (Art. 32(1)). These provisions establish clear processes for engaging affected and interested Parties early and meaningfully in decision-making and are central to the coordination and collaboration requirements throughout the Agreement.

Articles 32(4) and 32(6) set out key procedural obligations to ensure meaningful participation and transparency in environmental decision-making. Under article 32(4), Parties must conduct public notification and consultation in an inclusive, transparent, and timely manner, with targeted and proactive efforts to engage Small Island Developing States. Article 32(6) has the opportunity to enhance regional coordination by imposing specific duties when activities are planned in High Seas areas that are surrounded by exclusive economic zones, requiring prior notification and consultations with surrounding States.

Part V: Capacity building and the transfer of marine technology

While enabling inclusive, equitable and effective cooperation and participation in activities under the BBNJ Agreement is an objective of article 40(b), cooperation in CBTMT is addressed in article 41.

It is worth noting that, contrary to the cooperation and coordination provisions in other parts of these provisions, article 41 specifically focuses on the role of Parties and their obligation to cooperate. During PrepCom, States should nevertheless consider incorporating CBTMT under the general cooperation and coordination framework, with IFBs to be established by the BBNJ CoP (Art. 47 (6)(c)) to execute that obligation.

Institutional and cross-cutting arrangements

The CoP is to promote cooperation and coordination with and among relevant IFBs, with a view to promoting coherence among efforts towards the conservation and sustainable use of marine biological diversity of ABNJ, including by establishing appropriate processes (Art 47(6)(c)).

This is an overarching mandate to establish appropriate processes for cooperation and coordination with and among IFBs. It is not limited to processes of the CoP and could be the foundation of cooperation and consultation across all parts of the Agreement; such processes could be established for the ICC and the Cl-HM, for example.

The CoP is also to promote transparency in the implementation of the Agreement, including through the public dissemination of information and the facilitation of the participation of, and consultation with, relevant IFBs, Indigenous Peoples and local communities with relevant knowledge, the scientific community, civil society and other relevant stakeholders, as appropriate and in accordance with the provisions of the Agreement (Art. 48(3)).

Secretariat

The Secretariat is to facilitate cooperation and coordination with the secretariats of other relevant international bodies. It is to enter into administrative and contractual arrangements as may be required for that purpose and for the effective discharge of its functions, subject to approval by the CoP (Art. 50(5)(d)). This is a specific mandate to facilitate cooperation and coordination with the secretariats of IFBs.

Clearing-House Mechanism

The Cl-HM is required to facilitate international cooperation and collaboration, including scientific and technical cooperation and collaboration (Art 51(3)(f)). It is to be managed by the Secretariat, without prejudice to possible cooperation with other relevant IFBs as determined by the CoP, including the Intergovernmental Oceanographic Commission of the UN Educational, Scientific and Cultural Organization, the International Seabed Authority, the International Maritime Organization and the Food and Agriculture Organization of the United Nations (Art 51(4)). It is up to the CoP to determine the IFBs with which the Secretariat is to cooperate.

Cooperation by subsidiary bodies

Cooperation with IFBs does not always need to be conducted by the CoP; it can also be conducted by subsidiary bodies, such as for MGRs (Art. 15(5)), EIAs (Art. 29(3)), and the ICC (Art. 55(4)). The CoP can create subsidiary bodies, such as a possible standing cooperation body (Art. 47(6)(d)).

3. Considerations on operationalizing provisions

The CoP has the responsibility to develop effective cooperation mechanisms that serve the objectives of the BBNJ Agreement, both for itself and for subsidiary bodies. These modalities need to ensure effective and efficient cooperation and consultation processes.

As explained above, we see a distinction between the more continuous cooperation, coordination and collaboration mechanisms, and the more discrete consultation processes.

Consultation

Consultation creates an obligation to engage in a manner that makes negotiations substantive and productive.[8] Article 63 of the BBNJ Agreement requires Parties to fulfill, in good faith, the obligations assumed under the Agreement. However, an obligation to negotiate does not imply an obligation to reach an agreement.[9] In this case, the obligation to consult means that Parties will engage in good faith to work together towards achieving the BBNJ objectives, but should not cause unnecessary delays in BBNJ decision-making, such as in cases where no response is received.

Clear, time-bound processes that guarantee responses and inputs are prepared within deadlines that allow for meaningful consideration are essential for their operationalization, and timelines should reflect the urgency of addressing ocean biodiversity loss and ecosystem degradation. This urgency becomes most evident with regard to the contribution of ABMTS, including MPAs, under the BBNJ Agreement in achieving Target 3 of the Kunming-Montreal Global Biodiversity Framework.

As stated in the Secretariat's Note, the frequency and intervals of meetings of governing bodies of IFBs may impact the timely conduct of the cooperative activities (paragraph 34). Regional fisheries management organizations (RFMOs) clearly fall among the IFBs to be consulted in the establishment of ABMTs, including MPAs.[10] However, an RFMO may, under existing practices, need its scientific committee to be mandated by its plenary body (such as a Commission), and have the committee report the following year. This would create a delay of at least a year if not two, depending on the timing of the BBNJ CoP and RFMO meetings. To avoid this, it will be key to establish time-bound and efficient procedures from the start with specified mandatory deadlines for key deliverables to ensure accountability and prevent cooperation processes from becoming protracted consultations that fail to deliver concrete conservation and sustainable use outcomes within meaningful timeframes.

Multilateral environmental agreements (MEAs) that operationalize consultation requirements on proposals within shorter timeframes may provide useful learning experiences. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), for example, has a process for submission of proposals that includes consultation with IFBs. It foresees that Parties submit proposals to add species to CITES Appendices to the Secretariat 150 days before a CoP, which then (where required) initiates statutory consultations with Parties and IFBs. The responses from such consultations are communicated by the Secretariat to Parties no later than 30 days before the meeting, meaning that the consultation process effectively takes less than 120 days.[11]

The consultation processes under the BBNJ Agreement could, similarly, be supervised by part of the Secretariat that guides this process, including the establishment of consultation mechanisms, compliance with time-bound limits, and the transparency and involvement of stakeholders. Lack of engagement or notification by an IFB in the consultation process should be interpreted as a lack of relevant information to share, unless otherwise indicated by the IFB within the consultation timelines. This, in turn, could be taken into account by the Secretariat when taking the process forward.

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[8] See North Sea Continental Shelf (Germany/Netherlands) 20 Feb 1989. ICJ Reports 1969, p. 47. Paragraph 85. . https://www.icj-cij.org/sites/default/files/case-related/52/052-19690220-JUD-01-00-EN.pdf. Likewise, the 1982 Convention in article 300 to fulfill in good faith the obligations assumed under the Convention. The principle of good faith is an integral part of any requirement of consultations and negotiations. See Commentary to article 9 of the International Law Commission's (ILC)
Draft Articles on the Prevention of Transboundary Harm from Hazardous Activities (2001) https://legal.un.org/ilc/documentation/english/reports/a_56_10.pdf.

[9] Pulp Mills Case (Argentina v Uruguay), ICJ Judgment (2010). Paragraph 150. A https://www.icj-cij.org/sites/default/files/case-related/135/135-20100420-JUD-01-00-EN.pdf.

[10] Information submitted by RFMOs in the context of a consultation could include necessary information on relevant scientific data available, such as on stocks and biodiversity, management measures in place (including where relevant their effectiveness), and definitive decisions regarding cooperation arrangements related to the proposed MPA.

[11] CITES Art. XV (1).

Cooperation, collaboration, and coordination

While cooperation is often provided for in an MoU between the two bodies, this may not always be the most appropriate modality for cooperation under the BBNJ Agreement. Concluding and implementing MoUs for each relevant IFB would be arduous if the intention is to match each mandate of every relevant governing body of all IFBs within the scope of the BBNJ Agreement's mandate. Furthermore, given the Agreement's broad mandate to further cooperation and coordination for the conservation and sustainable use of marine biodiversity in ABNJ, it may be more appropriate, efficient, and effective for BBNJ infrastructure to serve as the primary forum for this purpose. This means that BBNJ bodies should be enabled to set up the overall cooperation framework, as well as the time-bound consultation processes that are procedural requirements under its processes. Each IFB could then make the necessary arrangements to engage in a meaningful and timely manner to achieve the joint objectives of conservation and sustainable use of BBNJ.

States may wish to consider whether it would be effective to create a standing committee on cooperation, or whether to assign part of the cooperation mechanism to a subsidiary body that is able to meet more frequently, such as the ICC.

Given that the BBNJ Agreement's mandate is to facilitate and consider the implementation of, and promote compliance with, its provisions - including the duty for Parties to cooperate, including through other IFBs - it should play a central role in fostering long-term cooperation, collaboration, and coordination.

4. What should happen at PrepCom 2?

As the Secretariat's Note observes, at Prepcom 2, delegates need to identify: (a) which cooperation arrangements require early operationalization by the CoP, (b) when they should be operationalized, and (c) what the appropriate modalities are for doing so.

Time-bound consultation processes

Given their immediate importance for operationalizing key processes of the BBNJ Agreement, the PrepCom may wish to prioritize consultation provisions that represent procedural requirements, namely for ABMT proposals, Emergency Measures and EIAs. These consultations should be time-bound with timelines reflecting the urgency required.

The STB is mandated to establish modalities for the consultation and assessment process for ABMT proposals at its first meeting, for consideration and adoption by the CoP (Art. 21(8)). The PrepCom should start developing draft modalities for the STB to consider. Although these modalities are for the assessment of ABMT proposals, similar considerations will apply to other consultation processes, so they could also serve as a basis for modalities in other contexts.

The CI-HM will also have a role to play in keeping IFBs informed of BBNJ processes, timelines, and issues.

Advancing broader cooperation frameworks

Operationalizing the broader provisions on collaboration, cooperation, and coordination will likely require decisions to be taken by both the BBNJ CoP and the primary decision-making body of the respective IFB. Given the high number of IFBs to cooperate with, a bilateral approach (such as an MoU) would create a significant workload and possible delays.

One possible modality that would avoid these drawbacks could be a standing committee on cooperation, whereby IFBs may be invited to cooperate on specific issues. The High Seas Alliance can provide suggested draft language for such a committee upon request frominterested States.

Combined with the longer-term nature of implementation, designing these mechanisms, while important, may follow operationalizing the consultation procedures, which are procedurally required and time-bound.

The BBNJ Agreement can also encourage and facilitate cooperation between IFBs to support effective consultation. BBNJ Parties will have a clear role to play, such as by promoting BBNJ objectives in line with article 8(2) and promoting the adoption of measures within IFBs in line with article 25(4). However, observers will also play an important role in promoting transparency and providing technical assistance and support to IFBs.

5. Conclusion

The BBNJ Agreement deeply embeds cooperation and consultation as foundational means to achieve its core objective: the conservation and sustainable use of marine biological diversity in ABNJ. Across its operative parts - from MGRs to ABMTs and EIAs, and from capacity-building to institutional arrangements - the Agreement delineates an architecture of coordination with and among IFBs, States, and stakeholders. This architecture acknowledges the realities of, and seeks to stitch together, a fragmented ocean governance landscape, where the effectiveness of the BBNJ administration will depend on its ability to interface meaningfully and effectively, in a time-bound manner, with existing frameworks and bodies. It is now up to Parties at Prepcom 2 to build on and further advance this foundation.

Operationalizing this cooperation requires more than aspirational language. It demands clear, time-bound, and fit-for-purpose procedures; institutional flexibility; and coherent and well-defined mandates. The CoP has a crucial role to play in developing these modalities - not only for itself, but also for the Secretariat, subsidiary bodies, and Parties engaging with other institutions. The obligation to cooperate must be understood as an active and continuing duty, with the objectives and needs of the BBNJ Agreement firmly in mind, and with consultation conducted in good faith and designed to enable meaningful outcomes rather than procedural formalities.

As States move toward implementation, the development of practical frameworks, such as standing bodies on cooperation, consultation protocols, and guidelines, will be essential. In all these respects, the BBNJ Agreement offers an opportunity not only to enhance coherence across the ocean governance landscape but also to model an integrative and collaborative approach to decision-making under MEAs.

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6. Annex 1

Detailed responses to Co-Chairs' questions on cooperation and consultation are available via this link: https://highseasalliance.org/resources/prepcom-2-guiding-questions-for-the-informal-working-groups/

The High Seas Alliance is a group of 50+ non-governmental members who work together to inspire, inform and engage the public, decision makers and experts to support and strengthen High Seas governance and conservation.