PREPCOM DEEP DIVES

High Seas Alliance

Preparation for a Strong BBNJ Treaty

Overall briefing for the first meeting of the Preparatory Commission

New York, 14-25 April 2025

Briefing: BBNJ PrepCom April 2025

Introduction

The Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement, or High Seas Treaty[1]) was adopted on 19 June 2023. To achieve its goal of advancing biodiversity conservation in the High Seas, the Agreement must be ratified by at least 60 nations and put into action through robust and effective institutions, procedures, and modalities.

To prepare for the Treaty's entry into force and its first Conference of the Parties (CoP1), a UN Preparatory Commission (PrepCom) will meet twice in 2025 (14-25 April and 18-29 August) and at least once in 2026. During these meetings, Parties will develop recommendations for CoP1 on the operational framework to govern the implementation of the four main parts of the Agreement:

1. Marine genetic resources (MGRs), including the fair and equitable sharing of benefits (Part II).
2. Measures such as Area-based management tools (ABMTs), including marine protected areas (MPAs) (Part III).
3. Environmental impact assessments (EIAs) (Part IV).
4. Capacity-building and the transfer of marine technology (CB&TMT) (Part V).

Parties will also prepare for CoP1's consideration and adoption: the rules of procedure and modalities for the CoP and its subsidiary bodies; the setting up of the Clearing-House Mechanism (Cl-HM); funding arrangements; and the establishment of a Secretariat.

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 summarizes the main topics to be addressed during PrepCom 1, as described in the **provisional program of work[2] (**PPW**)** and the **agenda**, and presents a series of considerations and recommendations. Further information can be found in separate PrepCom briefings on each of the Treaty's mechanisms and subsidiary bodies.[3]

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[1] The High Seas Alliance sometimes uses the term "High Seas Treaty" as a short-hand for the BBNJ Agreement. HSA acknowledges that the scope of the BBNJ Agreement encompasses all Areas beyond national jurisdiction, including the seafloor and water column. This choice of wording is intended to ease understanding for broad audiences and does not convey a prioritization among the components or principles of the BBNJ Agreement.

[2] A/AC.296/2025/L.2

[3] See PrepCom briefings on the ICC, CB&TMT, Financial Mechanism, ABSC, STB, and Cl-HM at https://highseasalliance.org/resources/prepcom-deep-dives/.

1. Guiding principles for a robust Treaty

In considering what success looks like for the implementation of the BBNJ Agreement, including the set-up and functioning of its foundations, institutions, and mechanisms through the PrepCom and the CoP, the High Seas Alliance's recommendations are guided by the following principles:

- **Fast and flexible:** The Treaty must ensure swift decision-making processes and allow for adaptability to respond to emerging situations.
- **Science-based:** Decisions are based on the best available science, the precautionary principle and traditional knowledge where available, and the integrity of technical advice is protected.
- **Effective and enforceable:** Clear obligations, reporting and monitoring processes to facilitate implementation and compliance.
- **Equitable:** Equity is fostered and maintained throughout the set-up and implementation of the Agreement.
- **Well-resourced:** Predictable and adequate funding to realise all aspects of the Treaty.
- **Inclusive and transparent:** The Treaty must provide access to information and opportunities for meaningful participation, including in review mechanisms for all interested Parties. The set-up of the Treaty's institutions must also ensure meaningful and effective participation of Indigenous Peoples, and local communities.

2. Issues for consideration by PrepCom 1

Following the organizational meeting of the PrepCom (24-26 June 2024), the Co-Chairs' closing statement[4] identified three clusters of work to be addressed by the PrepCom. These are reflected in the PPW, which foresees that PrepCom 1 (14-25 April 2025) will address:

Cluster 1: Governance

- Rules of procedure for the CoP, which Parties could decide to apply *mutatis mutandis* to all subsidiary bodies (PPW Item I(1)).
- Additional or separate subsidiary body procedures (separate rules of procedure, terms of reference, and modalities) (PPW Item I(2)).
- Selection processes for members of subsidiary bodies (PPW Item I(3)).
- Cooperation with external relevant instruments, frameworks, and bodies (IFBs) and reporting (PPW Item I(8)).
- Arrangements for the functioning of the Secretariat, including its seat (PPW Item I(4)).

Cluster II: Clearing-House Mechanism

- Modalities for the operation of the Clearing-House Mechanism (Cl-HM) (PPW Item I(5)).

Cluster III. Financial rules, resources and mechanism:

- Financial rules governing the funding of the CoP, the Secretariat, and any subsidiary bodies (PPW Item I(6)).
- Arrangements with the Global Environment Facility (GEF) on funding (PPW Item I(7)).
- Initial discussions on the operationalization of other provisions on financial resources and the Financial Mechanism (PPW Item I(8)).

Two types of documents are available to support PrepCom1 discussions:

- Aids to discussions and negotiations, prepared by the Co-Chairs. These contain text that could form the basis of future discussions on the CoP's rules of procedure (Item I(1), A/AC.296/2025/3), financial rules (Item I(6), A/AC.296/2025/7), and arrangements with the GEF (Item I(6), A/AC.296/2025/8).
- Notes by the Secretariat, which contains background information to inform discussions on all other items, without textual suggestions. These include: terms of reference and modalities for the operation of, and rules of procedure for, subsidiary bodies and selection (A/AC.296/2025/4); arrangements for the functioning of the Secretariat (A/AC.296/2025/5); and the operationalization of the Clearing-House Mechanism (A/AC.296/2025/6).

[4] A/AC.296/2024/4

2.1 Cluster I: Governance

2.1.1 Items relating to the CoP's rules of procedure

The CoP is established through Article 47 of the BBNJ Agreement and will serve as its primary decision-making body. Its functioning and relationship with its subsidiary bodies will have major implications for the BBNJ Agreement as a whole.

At its first meeting, the CoP must adopt by consensus rules of procedure for itself and its subsidiary bodies (Art. 47(4)). The following observations are based on the Co-Chairs' aid to discussions (A/AC.296/2025/3), including their proposed draft text, and are complemented by corresponding recommendations in the Annex.

On **Proposed Rule 3**: To ensure the Agreement is future-proof and flexible enough to react to unforeseeable circumstances, the High Seas Alliance advises against unnecessarily restricting the ability of the CoP to decide on alternative meeting locations. Given the experience of the COVID-19 pandemic, provision should be made for hybrid meetings under special circumstances.

On **Proposed Rule 4**: The BBNJ Agreement must be operationalized urgently to address the climate and biodiversity crises and enable States to meet their international commitments, such as the Kunming-Montreal Global Biodiversity Framework (GBF) Target 3 for the protection of 30% of marine and coastal areas by 2030. Given the amount of work and decisions involved in setting up the required institutional infrastructure to implement the Agreement, the High Seas Alliance strongly advises that the CoP should meet annually, particularly during the initial phase.

On **Proposed Rules 7, 27.2, and 30**: The BBNJ Agreement puts an unprecedented focus on transparency, including through Article 48 which requires the CoP to promote transparency in decision-making and other activities under the Agreement. To reflect the commitment to transparency that permeates the Agreement, any exclusion of observers should be limited to exceptional circumstances, be time-bound, and require a two-thirds majority vote.

Recommendation for proposed Rule 26: A key question is whether the CoP's rules of procedure should apply mutatis mutandis to the subsidiary bodies and, if so, what if any additional procedures may be needed for different bodies. Given the large amount of work that the PrepCom has ahead of it, applying the CoP's rules of procedure mutatis mutandis would save time. However, the Implementation and Compliance Committee (ICC) and the Scientific and Technical Body (STB) would benefit from the development of additional procedures (see section 2.1.2). It may also be helpful to explicitly include how decision-making modalities would apply to different subsidiary bodies.

To foster efficiency and timely action, it is critically important to empower the subsidiary bodies to directly exchange information and support each other's mandated work without having to go through the CoP. There are multiple ways this could be addressed, including by empowering the Chairs of the subsidiary bodies to represent those bodies intersessionally within their respective mandates. It is also critical to empower subsidiary bodies to make decisions intersessionally in exceptional circumstances, e.g., via an email procedure.

2.1.2 Items relating to subsidiary bodies

Overarching considerations for subsidiary bodies

While the CoP is the primary decision-making body under the BBNJ Agreement, these meetings tend to be more political and are often not well-suited to advanced technical and scientific discussions. To ensure that the BBNJ Agreement's decisions are based on the best available science and traditional knowledge, and to lighten the load of the CoP wherever possible, well-functioning subsidiary bodies with strong expertise and mandates are of critical importance.

Recognizing the importance of the subsidiary bodies in the implementation of the Agreement, it is important for the PrepCom to work towards the establishment of all subsidiary bodies at CoP1, not only those specifically highlighted for consideration at that meeting.

Transparency is a key element towards ensuring that subsidiary body information is trusted. Therefore, if separate rules of procedure are developed for subsidiary bodies, they should incorporate the same transparency rules as the CoP, with the High Seas Alliance recommendations incorporated.

The meaningful and effective participation of Indigenous Peoples, and local communities should be ensured throughout the institutional set-up of the BBNJ Agreement (for further information, see the briefing on Indigenous Peoples).

Facilitating the timely and efficient exchange of information with IFBs may require specific modalities and consideration of the Secretariat's role. Recommendations for some subsidiary bodies to that effect are listed below.

Specific considerations for each subsidiary body

The Access and Benefit-Sharing Committee:
Article 15 of the BBNJ Agreement establishes the Access and Benefit-Sharing Committee (ABSC) to ensure the fair and equitable sharing of benefits from MGRs, including digital sequence information (DSI).

The Agreement sets the size of the ABSC at 15 members, whereas it does not stipulate membership numbers for other subsidiary bodies. ABSC members must have expertise in relevant fields, while ensuring gender balance, equitable geographical distribution, and representation from developing States, including small island developing States (SIDS), least developed countries (LDCs), and landlocked developing countries (LLDCs).

The ABSC's main role will be to monitor the implementation of Part II of the Agreement and advise the CoP on matters such as:

- Guidelines for benefit-sharing
- Transparency mechanisms for monetary and non-monetary benefits
- Coordination with other subsidiary bodies under the BBNJ framework

Key issues on the PrepCom's agenda include member nomination and election, and establishing terms of reference, modalities and meeting protocols. In making decisions about these matters, Parties should prioritize transparency and the full and effective participation of Indigenous Peoples, and local communities.

The Agreement foresees that the ABSC will interact with other subsidiary bodies and mechanisms, namely the Cl-HM and the Financial Mechanism. In addition, it will be of particular importance to determine its relationship with the STB, including whether the technical expertise for the implementation of Part II will sit within the ABSC, the STB, or both.

Given that the ABSC's mandate will require it to analyze potentially large amounts of highly technical data for its reports to CoP (Art. 16(3)), its modalities should provide for the establishment of ad hoc expert working groups, expert pools, or other ways to draw on external expertise.

The ABSC's mandate will likely require it to interact externally with relevant IFBs (e.g., Nagoya Protocol and the Biosafety Clearing-House), including with regard to the benefit sharing of DSI.[5] To allow for timely implementation of these functions, the ABSC should be empowered to proactively establish interactions with relevant IFBs, within the purview of its mandate.

For further information see the High Seas Alliance PrepCom briefing on the ABSC.

[5] See CBD Decision on Digital sequence information on genetic resources, CBD/COP/16/L.32 (2004) at https://www.cbd.int/doc/c/8125/22ca/baa28ef9465229f7b22cb548/cop-16-l-32-en.pdf. The decision, inter alia, emphasized making DSI publicly available and accessible in a transparent and accountable manner to all Parties.

Capacity-building and Transfer of Marine Technology Committee:
Article 46 of the Agreement establishes the Capacity-Building and Transfer of Marine Technology (CB&TMT) Committee to monitor and review the implementation of CB&TMT, facilitate the assessment of needs and priorities of developing States, and prepare reports and recommendations to the CoP on related issues.

In fulfilling its mandate, the Committee could serve additional functions, such as fostering cooperation through partnerships and stakeholder engagement and convening working groups or studies on relevant topics. These topics could include setting key performance indicators for monitoring CB&TMT, and developing scientific capacity and knowledge-sharing to aid in the implementation of the objectives of the Agreement relating to MGRs, ABMTs (including MPAs), and EIAs (Arts. 9, 17, 27, 40).

Interactions between the Committee and all other bodies under the Agreement will probably be necessary to ensure that CB&TMT is streamlined.[6]

The following issues deserve particular consideration in formulating the CB&TMT Committee's modalities and terms of reference:

- Interactions between the CB&TMT Committee and the CI-HM to, for example, a) ensure that needs are matched with support, b) promote collaboration (Art. 51), c) facilitate needs assessments (Art. 42(4)), and d) ensure there is sufficient human capacity to fulfill the CI-HM's roles.
- Interactions between the CB&TMT Committee and the Finance Committee to determine how the CB&TMT Committee will identify financial needs and how it will work with the Finance Committee (and the GEF when appropriate) to secure resources, including with respect to mobilizing resources for needs assessments.
- Potential interactions between the CB&TMT Committee and the ABSC, the STB, and the ICC.
- How to operationalize provisions relating to the special circumstances of SIDS and LDCs.

For further information, please refer to the High Seas Alliance PrepCom briefing on the CB&TMT Committee.

Finance Committee:
The BBNJ CoP must establish a Finance Committee (Art. 52(14)). The Committee will periodically report and make recommendations on the identification and mobilization of funds under the BBNJ Agreement's Financial Mechanism. It is also charged with collecting information and reporting on funding under other mechanisms and instruments that contribute directly or indirectly to the achievement of the objectives of the Agreement. This could include an oversight role with regard to the GEF, should those arrangements include such a provision. The establishment of the Finance Committee at CoP1 should be a priority.

For further information, please refer to the High Seas Alliance PrepCom briefing on the Financial Mechanism.

Implementation and Compliance Committee:
The Implementation and Compliance Committee (ICC) is established under Article 55 of the BBNJ Agreement to facilitate the implementation of, and promote compliance with, the provisions of the Agreement at both individual (Party) and systemic levels. The ICC is to be facilitative in nature and function in a manner that is transparent, non-adversarial, and non-punitive.

ICC members must possess appropriate qualifications and experience. They will be nominated by Parties and elected by the CoP, with due consideration given to gender balance and equitable geographical representation. The number of members of the ICC is not set in the Agreement. This, along with the duration and staging of members' terms, will be decided by the CoP.

[6] 'Streamlined' refers to: efforts that are well-coordinated, with efficiently allocated resources; aligned initiatives within existing international frameworks to maximize impact; and reduced reporting burdens in terms of cost and time (Art. 45(3)).

A well-functioning ICC will ensure that decisions are effective, enforceable, and translate into clear obligations for Parties. Monitoring and enforcement responsibilities should also be clear and effective, and include cooperation and consultation with IFBs.

The CoP could look to the Paris Agreement Implementation and Compliance Committee (PAICC) as well as the Aarhus Convention Compliance Committee and Espoo Convention Implementation Committee for examples of modalities, terms of reference and operating modes. With regard to transparency, for example, the Aarhus Convention permits members of the public to make submissions to its ICC, a practice that should be adopted for the BBNJ ICC. It is also important that the ICC meets in public to maintain transparency.

Regarding the ICC's interaction with other subsidiary bodies, the purview of the ICC explicitly encompasses the entire BBNJ Agreement. At the same time, several other subsidiary bodies' mandates also include monitoring the implementation of specific provisions of the Agreement and making recommendations on how to improve them. Initial guidance on when a particular implementation or compliance issue should be addressed by a specialized subsidiary body (e.g., the ABSC for Part II or the CB&TMT Committee for Part V), and when it should be addressed by the ICC would help avoid duplication of work, without constraining the ICC's broad mandate. Parties may wish to let the ICC develop its own guidance on this issue as one of its first tasks.

The ICC should be empowered to proactively draw upon information from other IFBs within the purview of its mandate.

For further information, please refer to the High Seas Alliance PrepCom briefing on the ICC.

Scientific and Technical Body:
Article 49 of the BBNJ Agreement establishes the Scientific and Technical Body (STB) under the authority of the CoP and describes its overarching function as providing the CoP with scientific and technical advice (Art. 49(4)).

Specific responsibilities assigned to the STB by the Agreement include assessing and making recommendations to the CoP on ABMT proposals (Arts. 20, 21(7)), monitoring established ABMTs (Art. 26(3)), and assessing the effectiveness of measures (Art. 26(4)). The STB will also review, provide input on, and monitor the implementation of EIA provisions,[7] and develop relevant recommendations and guidelines (Art. 38).
PrepCom 1 will address the terms of reference and modalities for the STB (PPW Item I(2)), the selection process for its members (PPW Item I(3)), and rules governing the funding of the STB (PPW Item I(6)).

The following issues deserve particular consideration in formulating the STB:

- Specifying a fixed number of members that is large enough to include representatives and experts from regions, Indigenous Peoples, and local communities while remaining small enough to be manageable.
- Enabling the creation of sub-committees and/or working groups that can include outside experts to ensure adequate representation of the diverse expertise and knowledge needed to implement the EIA and ABMT provisions.
- Developing procedures for the disclosure of conflicts of interest and recusal to safeguard the credibility of its advice.
- Allowing for the publication of "minority" views or recommendations for instances when the STB cannot provide advice or make a recommendation by consensus;
- Developing modalities for the STB or its working groups/sub-committees to solicit advice and data from other scientific entities (e.g., Regional Fisheries Management Organizations, academic institutions, etc.).
- Ensuring that the funds needed to carry out the STB's program of work are fully and adequately considered in budgetary decisions by the CoP.

The Agreement enables the CoP to assign additional functions to the STB (Art. 49(4)), which will allow its role to evolve. Although it has not been assigned specific functions, the STB could play a helpful role in assisting the implementation of MGR and CB&TMT-related provisions, and assist the ICC and the Finance Committee in their work.

For further information, please refer to the High Seas Alliance PrepCom briefing on the STB.

[7] E.g., Articles 28(3), 29(1)), 31(1)(a)(iv), 33(4), 36(2), 37(3), 37(4).

2.2 Cluster II: Clearing-House Mechanism

The Clearing-House Mechanism (CI-HM) plays a central role in implementing the BBNJ Agreement. All parts of the Agreement (except Part III on ABMTs) explicitly rely on its functions, including but not limited to information sharing and notifications, and several subsidiary bodies depend on it to fulfill the various tasks under their mandates.

A pilot phase[8] or interim operation of the CI-HM would enable Parties to meet their information sharing and notification obligations early on and provide the CoP with valuable experience to inform its discussions on specific modalities. The pilot or interim phase should address the three areas in which the CI-HM plays a particularly important role: 1) the generation of the BBNJ batch identifier in Part II of the Agreement, related to the monitoring of MGRs, 2) the matchmaking role for the CI-HM, envisioned in Part V for capacity building, and 3) the relatively easy but critical information sharing and notification functions in Part IV, related to EIAs.

Accessibility is crucial to ensure that all stakeholders, regardless of their level of technical expertise or language, can effectively engage with and contribute to the mechanism. This would promote inclusivity, transparency, and widespread compliance with the BBNJ Agreement's requirements.

The CI-HM has been tasked with accessing, providing, and disseminating information on the establishment and implementation of ABMTs, including MPAs (Art. 51(3)(a)(ii)). Part III of the Agreement does not, however, specify when and how the CI-HM should perform this function. The CI-HM has broad potential under Part III, from supporting collaboration with IFBs and facilitating consultation on the development of ABMT and MPA proposals to making such proposals publicly available and receiving input during consultations. Given this, Parties must clarify the mechanism's role in this context, including defining the type and scope of information to be provided, and the standardized formats required.

An alert or notification mechanism will be important to keep Parties and other stakeholders informed about relevant updates and newly uploaded information. This will be particularly crucial when specific deadlines for action exist, such as comment periods under Part IV. For the EIA elements of the CI-HM, notifications should be made in real time and through system-generated emails.

Given the evolving nature of the CI-HM, both in terms of its implementation and potential subsequent needs, its future technical support and maintenance requirements should be considered from the outset to ensure it will remain adaptable.

Information within the CI-HM will need to be regularly and manually curated to ensure it is well-presented, accessible, up-to-date, and easy to find. Incorporating a search and filter function would be advisable.

Data security measures will be crucial for preserving the integrity and reliability of CI-HM information. Parties must work towards implementing protections that prevent unauthorized access, alteration, or disclosure, along with regular backup protocols to mitigate the risk of data loss due to cyber threats, technical failures, or natural disasters. Implementation of the CI-HM will require human resources and staffing to support its functions.[9]

For further information, please refer to the High Seas Alliance PrepCom briefing on the CI-HM.

[8] "Pilot phase" in this context does not mean the building of a prototype that is then discontinued and replaced by a full version later, but rather an early version of the CI-HM that can be incrementally built and expanded.

[9] With regards to the CB&TMT provisions and taking into account Article 51(5), this could include human capacity to:

- Proactively gather relevant information, especially on CBTMT opportunities, potentially through regionally distributed personnel supporting the CI-HM.
- Ensure adequate manual oversight and quality control when matching CB&TMT opportunities with needs, and enable States to request bilateral support (e.g., via a call or chat) for using this CI-HM function.
- Provide needs-tailored capacity building on the use of the CI-HM for States and other users (if any), with special consideration of Article 51(5). This could include, but should not be limited to:
  - Pre-recorded videos explaining how to use the platform and how Parties can engage with the tool should be made available.
  - These videos and other instructional materials should be supplemented with a live-help mechanism, such as a chat function during office hours and, within reasonable limits and resources available, the possibility to schedule bilateral support calls, e.g. to support first time users in correct and consistent data entry.

2.3 Cluster III: Financial rules, resources and mechanism

The Financial Mechanism, established under Article 52, is key to delivering adequate, accessible, new, additional, and predictable financial resources for the implementation of the BBNJ Agreement, including assistance to developing State Parties for that purpose (Art. 52(3)).

The BBNJ CoP will establish a Finance Committee on financial resources as part of the Financial Mechanism (Art. 52(14)). The Committee will periodically make recommendations on the identification and mobilization of funds under the Financial Mechanism and report to the CoP. It will also collect information and report on funding under other mechanisms and instruments that contribute directly or indirectly to the Agreement's objectives.
The PPW for PrepCom 1 includes several finance-related items, in particular: a) defining the rules of procedure, terms of reference, and modalities for the Finance Committee (PPW Item I(2)(c)), b) determining the selection process for Finance Committee members (PPW Item I(3)), c) laying out the financial rules governing the funding of CoP, the Secretariat, and any subsidiary bodies (PPW Item I(6)), and d) clarifying arrangements with the GEF (PPW Item I((7)).

Most of the detailed discussions on finance, such as those related to resource mobilization and the operationalization of the Special Fund, are likely to take place at the second meeting of PrepCom in August 2025.

Financial support for national ratification and early national implementation efforts before the entry into force of the BBNJ Agreement and CoP1 is available through other initiatives[10] and is not part of the PrepCom agenda.
The PrepCom should prioritize preparing the set-up of a robust and transparent Finance Mechanism, ready for adoption at CoP1. It can facilitate this process by:

- Establishing modalities with the GEF that clarify its relationship with the CoP, including potentially through the establishment of oversight mechanisms and monitoring processes, and by defining the role of the Finance Committee, if any.
- Preparing the Special Fund for operationalization by considering instruments to regulate access, potential hosting arrangements, and other processes that will help facilitate adequate financial flows. Particular attention should be paid to ensuring efficient access to funding through simplified application and approval procedures, and enhanced readiness of support (Art. 52(12)).
- Preparing the Finance Committee's rules of procedure, terms of reference, and modalities, ready for adoption at CoP1.
- The timely adoption of an initial resource mobilization goal through 2030.

For further information, please refer to the High Seas Alliance PrepCom briefing on the Financial Mechanism.

[10] See, for example: GEF Council Decision 14/2023 for instance authorized the use of up to $34 million from the GEF-8 international waters focal area for the funding of ratification support and early action activities for the BBNJ Agreement. GEF Council Decision 14/2024 approved Council document GEF/C.66/07 that articulated the initial guidelines for enabling activities and ratification support projects to promote early entry into force and implementation readiness for the BBNJ Agreement.

3. Recommendations

In terms of procedural recommendations, the High Seas Alliance:

1. Welcomes the Co-Chairs' aid to discussion documents that provide a textual basis for discussions and strongly recommends Parties consider empowering the Co-Chairs to produce aids to discussions and draft text on additional items for PrepCom 2.
2. Recognizes that some issues under consideration by the PrepCom are highly technical and not well suited for discussion in plenary. We, therefore, recommend that the PrepCom makes use of smaller, more technical working groups to advance discussions on these matters. In doing so, the PrepCom should uphold the high standard of transparency and allow for observer participation.
3. In light of the large workload ahead of PrepCom, strongly recommends that a process for intersessional work between PrepCom1 and PrepCom2 is established.

See the Annex for specific recommendations corresponding to the sections above and the considerations contained therein.

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Annex

Recommendations

These recommendations are specific to Prepcom 1 in April 2025. They may evolve, be re-prioritized, or adjusted as preparations and discussions related to the BBNJ Agreement's entry into force unfold and develop.

A. Rules of procedure for the CoP (based on the Co-Chairs' aid to discussions)

Co-Chairs' proposed Rule 3: "The COP shall ordinarily meet at the seat of the secretariat or at UNHQ, [unless the COP decides otherwise]."
Recommendation: Delete brackets and **propose additional new text at the end of the sentence:** "to allow for alternate arrangements, **including hybrid meetings**, in case of, e.g., a pandemic or the need for emergency meetings."

Co-Chairs' proposed Rule 4: "Ordinary meetings of the CoP shall be held [once every year] [every two years], unless the COP decides otherwise."
Recommendation: Remove [every two years]: Recommend once a year, given the amount of work the CoP needs to undertake, particularly in the initial years after the Treaty enters into force. After the initial period, a different frequency could be considered.

Co-Chairs' proposed Rule 7: "Such observers may, upon the invitation of the President, participate without the right to vote in the proceedings of any meeting of the COP and of its subsidiary bodies in matters pertaining to the COP in which they have an interest, unless otherwise decided by the COP."
Recommendation: Delete the words "at the invitation of the President" and, taking into account Article 48, add at the end of the sentence: "for exceptional circumstances and for temporary purposes by a 2/3 majority vote."

Co-Chairs' proposed Rule 27.2: "Meetings of subsidiary bodies shall be held in public unless the Conference of the Parties decides otherwise."
Recommendation: Taking into account Article 48, add at the end of the sentence, "for exceptional circumstances and for temporary purposes by a 2/3 majority vote."

Co-chairs' proposed Rule 33: "Sessions of a meeting of the COP shall be held in public, unless the COP decides otherwise."
Recommendation: Taking into account Article 48, add at the end of the sentence, "for exceptional circumstances and for temporary purposes by a 2/3 majority vote."

Additional opportunities to streamline transparency:

- Include provisions for live-streaming sessions.
- Publish all meeting documents, draft and final decisions, and outcomes in a timely manner.

B. Overarching rules of procedure for subsidiary bodies

Co-Chairs' proposed Rule 26: "Unless otherwise decided by the Conference of the Parties, these rules shall apply mutatis mutandis to the proceedings of the subsidiary bodies, except that:"
Recommendation: Include the following two additional rules, regardless of whether the CoP rules of procedure apply *mutatis mutandis* or separate rules of procedure are developed for the subsidiary bodies:

- Proposed new rule (based on CITES Animals Committee's rules of procedure): Committee Chairs shall preside over meetings of subsidiary bodies, approve their respective provisional agendas prepared by the Secretariat, maintain liaison with other subsidiary bodies, IFBs and others between meetings of the Committee, represent the Committee as required, and carry out such other functions all as may be mandated to him/her by the Committee.
- Proposed new rule: Modalities shall be developed for intersessional decision-making when urgent decisions cannot wait until the next scheduled meeting.[11]

C. Rules of procedure, terms of reference and modalities for the STB

Recommendation: Include the following language: "members serve in their expert capacity and in the best interests of the Agreement" (Art 49(2)).

Recommendation: The rules of procedure should specify a fixed number of members that is large enough to include regional, Indigenous Peoples, and local communities' representatives and experts but small enough to be manageable. Avoid the establishment of a "committee of the whole," in which every State Party is represented on the STB.

Recommendation: The STB should be authorized to create sub-committees and/or working groups on a permanent or temporary basis to address different responsibilities assigned to it (e.g., EIAs, ABMTs etc.). Such groups may consist of members and non-members and should be authorized to meet intersessionally as needed.

Recommendation: Members should serve staggered terms of 2-4 years each with the possibility for renewal for one additional term to ensure fresh members as well as continuity.

Recommendation*:* To safeguard the credibility and legitimacy of its advice, the STB should develop procedures for the disclosure of financial or any other interest which could impair members' impartiality, objectivity or independence, and related conflict of interest provisions/disclosure requirements.

Recommendation: Procedures for the publication of "minority" views or recommendations should be developed for instances when the STB cannot provide advice or a recommendation by consensus, as well as other measures it deems appropriate.

Recommendation: Provide for hybrid and fully remote participation in meetings, including voting, as necessary.

Recommendation: The CoP rules of procedure on transparency, including the suggested amendments above, should apply mutatis mutandis to the STB.

Recommendation: Modalities should be developed to enable the STB or its working groups/subcommittees to solicit expertise, advice and data from other scientists and scientific institutions and other bodies, including IFBs. This could include inviting external experts to attend meetings of the STB, or any working groups it may establish, in an advisory, non-voting capacity.

[11] Parties may wish to consider CITES Animals Committee Rules of procedure, Rule 19: "Where the urgency of the matter requires a decision to be made between regular meetings of the subsidiary body, a Member or the Secretariat may submit a recommendation to the Chair of the subsidiary body for a decision to be taken by email procedure or using any other electronic procedure which has been agreed by the Committee. With the approval of the Chair, the Secretariat shall communicate any such recommendation to the Members, who shall comment within 40 days of the communication of the recommendation; any comments received by the Secretariat within this time limit shall also be so communicated to the Members. Members may object to a recommendation within 25 days of the date when the results of the consultation on the recommendation were communicated to the Members. If no objection is received by the Secretariat within the deadline, the proposal shall be considered as adopted, and notice of the adoption shall be given to all Members and Parties. If a member objects to a proposal within the applicable time limit, the proposal shall be put to a vote by email or using any electronic procedure which has been agreed to by the Committee. Using the decision making thresholds that would be applicable during a regular meeting of the subsidiary body, the recommendation shall be considered as decided if the necessary majority of the Members cast an affirmative or negative vote within 14 days of the notification of the vote provided that votes are received from sufficient members to qualify as quorum. If insufficient votes are received or no majority is achieved, the recommendation shall be referred to the next meeting of the Committee."

Recommendation on adequate funding: The chair of the STB, in consultation with the Secretariat, shall develop a costed program of work, including a draft budget, for consideration by the CoP necessary to, *inter alia*:

- Facilitate equitable participation of scientists from different regions as well as representatives of Indigenous Peoples, and local communities;
- Support the roster of experts identified in Articles 31(3) and 49(3);
- Commission external work as needed;
- Provide permanent staff that support the work of the STB;
- Prepare for any other budgetary requirements.

Additional opportunities to streamline transparency:

- Require regular publication of scientific findings and technical recommendations.
- Create mechanisms for stakeholder input, including indigenous knowledge systems and public consultations.
- Ensure that elections for membership of committees and appointments of experts and others adhere to BBNJ-based and transparent processes:
  - Publicize the criteria and processes for selections and credentialing.
  - Ensure gender balance and equitable geographic representation.
  - Facilitate stakeholder review and feedback on appointments.
  - Provide for nominations by observers.

D. Operation of the CI-HM

Recommendation: Support a **pilot phase** or interim operation to build experience with the mechanism that can be used to further refine it before the first CoP. In doing so, take an incremental evolutionary approach to building up CI-HM by function, with an initial focus on data entry and notification, and an alert system. If Parties wish to include more advanced functions, such as the BBNJ batch identifier and CB&TMT matching, the pilot should also include EIAs, which would be the easiest and most cost-effective to implement.

Recommendation: In designing the CI-HM provision should be made for the **designation of national focal points** to ensure the exchange of information required under the Agreement" in the Recommendations.

Recommendation: A user-friendly interface and multilingual accessibility are crucial for a CI-HM to ensure that all stakeholders, regardless of technical expertise or language, can effectively engage with and contribute to the mechanism. The CI-HM should also be designed to facilitate access for developing countries, in particular SIDS, without undue obstacles or administrative burdens (Art. 51 (5)). This promotes inclusivity, transparency, and widespread compliance with the BBNJ Agreement's requirements.

Recommendation: The CI-HM has been tasked with accessing, providing, and disseminating information on the establishment and implementation of AMBTs, including MPAs (Art. 51 (3)(a)(ii)). Part III of the Agreement does not, however, specify when and how the CI-HM should perform this function, highlighting the need to clarify its role in this context. Given the CI-HM's broad potential under Part III - such as supporting collaboration with IFBs and consultation on the development of ABMT and MPA proposals, making such proposals publicly available, and receiving input during consultations - participating countries will need to establish a clear way forward, including defining the type and scope of information to be provided to the CI-HM and any standardized formats required.

Recommendation: An alert or notification mechanism is important to keep Parties and other stakeholders informed about relevant updates and newly uploaded information. This is particularly crucial when specific deadlines for action, such as a comment period under Part IV, exist. For EIA elements of the CI-HM, notifications should be made in real time and through system-generated emails.

Recommendation: Given the evolving nature of the CI-HM, both in terms of implementation and potential subsequent needs, the mechanism should be adaptable and future technical support and maintenance requirements should be kept in mind from the outset.

Recommendation: Implementation of the CI-HM will require staffing[12] to support its functions.

Recommendation: Ensure the regular and manual curation of information in the CI-HM to make sure it is well-presented, accessible, up-to-date, and easy to find by including a search and filter function, for example.

Additional opportunities to streamline transparency:

- Regularly update data to reflect the latest scientific findings and regulatory changes.
- Fund and resource it adequately.
- Learn from other similar platforms.

E. ABSC

Recommendation: The transparency considerations (see above) should apply *mutatis mutandis*.

Recommendation: Recognize the need for the ABSC to meaningfully consult Indigenous Peoples, and local communities with regards to monitoring the implementation of Article 13 and making recommendations on how to improve it. Advocate for some form of representation of Indigenous Peoples, and local communities in the ABSC, be it as full members or some form of permanent non-State observers (considering the limit of 15 members).

Recommendation: If Parties decide that members of the ABSC will serve in an expert capacity, its terms of reference should contain a policy for the disclosure of financial or any other interest which could impair members' impartiality, objectivity or independence.

Recommendation: The ABSC should be empowered to communicate with other subsidiary bodies intersessionally to avoid unnecessary delays. One option to operationalize this would be to empower Chairs of subsidiary bodies to fulfill certain functions that relate to interactions between subsidiary bodies, within their mandate. This could be specified either in the rules of procedure or modalities.

Recommendation: Provide for intersessional decision-making for matters that cannot wait until the next regular meeting (see corresponding recommendation C on the STB above).

Recommendation: Provide for ad hoc expert working groups, expert pools or other ways to draw on external expertise (see corresponding recommendation C on the STB above). This is of particular importance to the ABSC given its small size and the potentially large amounts of highly technical data it will need to analyze for its reports to CoP (Art. 16(3)).

Recommendation: Similar to the STB, the ABSC's mandate includes consultation and information sharing with external IFBs. The ABSC should be empowered to proactively establish interactions with relevant IFBs, within the purview of its mandate. One option would be to allow the Chair of the ABSC to fulfill certain functions with regards to interaction with external IFBs, within an agreed mandate.

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[12] With regards to the CB&TMT provisions and taking into account Article 51(5), this could include human capacity to:

- Proactively gather relevant information, especially on CBTMT opportunities, potentially through regionally distributed personnel supporting the CI-HM.
- Ensure adequate manual oversight and quality control when matching CB&TMT opportunities with needs, and enable States to request bilateral support (e.g., via a call or chat) for using this CI-HM function.
- Provide needs-tailored capacity building on the use of the CI-HM for States and other users (if any), with special consideration of Ariclet 51(5). This could include, but should not be limited to:
  - Pre-recorded videos explaining how to use the platform and how Parties can engage with the tool should be made available.
  - These videos and other instructional materials should be supplemented with a live-help mechanism, such as a chat function during office hours and, within reasonable limits and resources available, the possibility to schedule bilateral support calls, e.g. to support first time users in correct and consistent data entry.

F. CBTMTC

Recommendation: Pay special attention to Article 45 on monitoring and review to ensure that it incorporates functions to undertake, as well as promote, implementation relating to CB&TMT - i.e. the Committee has the mandate to mobilize funds, identify CB&TMT follow-up activities, and to perform monitoring and review. Part of these imply interactions with the Financial Mechanism that may need to be further specified. These should be incorporated into the terms of reference or modalities.

Recommendation: The CB&TMT Committee should be empowered to communicate with other subsidiary bodies intersessionally to avoid unnecessary delays.

Recommendation: The terms of reference or modalities should empower the Committee to establish and convene working groups and recommend studies to the CoP, and ensure that the Committee is appropriately resourced.

Recommendation: Adhere to Article 46(2) when deciding the composition of the Committee (i.e., gender balance, and representation from SIDS, LDCs and LLDCs) by considering the potential capacity and resource needs of members to participate equitably, and including representation from Indigenous Peoples, and local communities in the Committee.

Recommendation: Encourage the availability of funds for needs assessments as per Article 42(4) and promote an ambitious and realistic resource mobilization target to the CoP through 2030 for the Special Fund (Art. 52(11)).

G. ICC

Recommendation: The modalities and rules of procedure of the ICC could benefit from a close examination of the structure and functioning of the Paris Agreement's PAICC, the Aarhus Convention's Compliance Committee, and the Espoo Convention's Implementation Committee.

Recommendation: It would be good practice to include in the modalities how implementation and compliance processes will operate, which tools are available, how they can be initiated, and by whom ("triggers").

Recommendation: In particular, the ability of members of the public to make submissions (similar to the process of the Aarhus Convention Compliance Committee) would be consistent with and build on the strong transparency provisions of the BBNJ Agreement, including Article 48. It is also important that the ICC meets in public for the same reasons.

H. Finance

Recommendation: PrepCom1 and CoP1 should prioritize fully setting up the Financial Mechanism established under the Agreement. This includes:

- Developing appropriate modalities with the GEF that clarify oversight of and relationship with the BBNJ CoP and the Financial Committee;
- Operationalizing the Special Fund, which includes consideration of the relevant potential instruments regulating access to it, potential hosting arrangements and other processes that will help to facilitate adequate finance flow. In doing so, special emphasis should be given towards ensuring efficient access to funding through simplified application, evaluation, and approval procedures and timelines, and enhanced readiness of support (based on Art 52.12, with some small additions);
- Establishing the Finance Committee at the first CoP;
- The timely adoption of an initial resource mobilization goal through 2030.

Recommendation: Subsidiary bodies should be empowered to input into the CoP's budgetary discussions. One way to operationalize this would be to give a mandate to the Chairs of subsidiary bodies, in consultation with the Secretariat, to develop costed programs of work for their subsidiary body, to be taken into account by the CoP. Subsidiary bodies should also be able to make recommendations to the CoP on the establishment of additional funds, where necessary.

Additional opportunities to streamline transparency:

- Publish detailed financial reports.
- Incorporate independent auditing of funds.
- Engage donors and beneficiaries in open dialogue to ensure equity and accountability.

I. Engagement with other bodies

Opportunity for transparency: Foster collaborative governance by ensuring open exchanges, and effective and transparent cooperation and coordination mechanisms, with relevant legal instruments and frameworks and relevant global, regional, sub-regional and sectoral bodies (IFBs), consistent with Article 8 of the BBNJ Agreement.

- Require regular reporting on cooperative initiatives.
- Establish strong cooperation and coordination mechanisms.
- Establish transparency standards for all agreements and frameworks.

High Seas Alliance

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.