PREPCOM DEEP DIVES

Scientific and Technical Body

Briefing: BBNJ PrepCom
April 2025

Executive Summary

The Agreement under the UN 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) will meet twice in 2025 (14-25 April and 18-29 August), and at least once in 2026. 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 paper examines the BBNJ Scientific and Technical Body (STB) and highlights key areas for discussion during PrepCom 1 in April 2025.

Key takeaways:

The STB's overarching function is to provide the BBNJ CoP with scientific and technical advice (Art. 49(4)). It will play a major role in facilitating the integration of science and traditional knowledge in the implementation of the Agreement, once it enters into force.

- Specific responsibilities assigned to the STB include assessing and making recommendations to the CoP on area-based management tool (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 environmental impact assessment (EIA) provisions, and develop relevant recommendations and guidelines (Art. 38).
- PrepCom 1 will address the terms of reference and modalities for the STB, the selection process for its members, and rules to govern its funding.
- Key considerations and recommendations for the PrepCom to consider in relation to the STB include:
  - Identifying a fixed number of members that is large enough to encompass regional representation and Indigenous Peoples, and local communities; but 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 a recommendation by consensus;
  - Developing modalities for the STB or its working groups/subcommittees to solicit advice and data from other scientific entities;
  - 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.

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

1. Purpose and main functions of the STB

Article 49 of the BBNJ Agreement establishes the STB as a subsidiary body operating under the authority of the CoP and defines its overarching function as providing the CoP with scientific and technical advice. The STB plays a major role in facilitating the integration of science and traditional knowledge in the implementation of the Agreement. This aligns with the Agreement's guiding principle of utilizing the "best available science and scientific information" (Art. 7(i)) alongside the traditional knowledge of Indigenous Peoples, and local communities (Art. 7(j)).

The Agreement also assigns a specific responsibility to the STB to support the implementation of Parts III and IV of the Agreement (discussed below) and empowers the CoP to assign additional functions as needed.

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

The Agreement identifies functions that the STB must do as part of the Agreement's ABMT process:

- Conduct a preliminary review of Parties' ABMT proposals (to ensure the proposal contains all the information required) (Art. 20);
- Assess final ABMT proposals and make recommendations to the CoP (Art. 21(7));
- Monitor and review ABMTs and associated measures established by the CoP (Art. 26(3)), assess their effectiveness and progress made towards their objectives, and provide advice and recommendations to the CoP (Art. 26(4)).

Additionally, the STB is charged with elaborating additional procedural guidance as necessary on ABMT proposal content and/or modalities for applying indicative criteria (Art. 19(6)); modalities for the consultation and assessment process for ABMT proposals (Art. 21(8)); and the establishment of emergency measures (Art. 24(5)).

Finally, additional functions the STB may (but is not required to) undertake include:

- Further developing and revising the indicative criteria for the identification of ABMTs (Art. 19(5)); and
- Recommending emergency measures to address irreversible harm to marine biodiversity in areas beyond national jurisdiction (ABNJ) (Art. 24(3)).

Part IV: Environmental impact assessments

The STB will play an important role in reviewing, evaluating, providing input into, and monitoring the implementation of the Agreement's EIA provisions, including by:

- Reviewing and making recommendations on decisions not to prepare an EIA under certain circumstances (Art 31(1)(a)(iv));
- Reviewing and making comments on draft EIAs (Art. 33(4));
- Making comments on EIAs prepared by Parties planning activities within national jurisdiction that may have harmful effects on ABNJ (Art.28(3));
- Evaluating mandatory monitoring reports on environmental and other impacts of authorized activities prepared by relevant Parties (Art. 36(2));
- Notifying and making recommendations to the relevant Party if monitoring reports indicate the activity may have significant adverse impacts that were unforeseen in the EIA, or resulting from non-compliance (Arts. 37(3), 37(4)(c), 37(4)(d)).

Additionally, the STB is charged with:

- Considering final EIAs, the information used to make screening decisions, and monitoring reports in order to develop guidelines (Arts. 33(6), 33(7),36(3));
- Developing other guidelines and standards related to EIAs (Art. 38);
- Assembling a roster of experts to support Parties with capacity constraints (Art. 31(3)).

2. Connection with the CoP and other subsidiary bodies

The Agreement enables the CoP to assign additional functions to the STB (Art. 49(4)), which will allow its role to evolve. Although the Agreement does not assign specific functions to the STB for marine genetic resources (MGRs) or to the various subsidiary body Committees, it could play a helpful role in assisting the implementation of their obligations.

The **Access and Benefit-Sharing Committee** (ABSC) could call upon the STB to provide scientific advice on managing scientific activities relevant to MGRs in ABNJ to help inform its recommendations. The STB could also provide expertise and advice with regard to promoting findable, accessible, interoperable, and reusable (FAIR) scientific data in line with best international practice and the principles of open and responsible data governance (Art. 14(2(c)).

The **Capacity-Building and the Transfer of Marine Technology** (CB&TMT) **Committee** could call upon the STB to support the sharing and use of relevant data, information, knowledge, and research outcomes (Art. 44(1(a)). It could also support by providing scientific and technical advice to the CB&TMT Committee on developing and implementing technical, scientific, and research and development programs (Art. 44 (1(g)), upon request. Furthermore, the STB could assist in identifying the technical and scientific aspects of marine technology transfer.

The **Implementation and Compliance Committee** (ICC) might call upon the STB to provide technical assessments of how well Parties are meeting their Treaty obligations.

The **Finance Committee** could ask the STB to help identify the financial needs for scientific research or other scientific and technical functions required by the Agreement.

The STB could also support several general and cross-cutting functions, such as promoting international cooperation in marine scientific research.

3. Relevant items on the PrepCom agenda

The first meeting of the CoP must adopt rules of procedure for the STB as well as financial rules to govern its funding (Art. 47(4)). It must also establish the STB's terms of reference and operational modalities, including its selection process and the terms of members' mandates (Art. 49(2)). To prepare for this, the provisional program of work (PPW) (A/aC.296/2025/L.2) for PrepCom identifies the following STB-related agenda items for consideration:

- Terms of reference and modalities for the operation of, and rules of procedure for, the subsidiary bodies established under the Agreement, including the STB (PPW Item I(2)).
- A selection process for members of the STB and the other subsidiary bodies established under the Agreement (PPW Item I(3));
- Financial rules governing the funding of the CoP, the Secretariat, and subsidiary bodies (PPW Item (I)(6)).

In its note on the BBNJ's subsidiary bodies[2] (A/AC.296/2025/4), the Division of Oceans and Law of the Sea (DOALOS), offers general considerations on the rules of procedure, terms of reference, and modalities for subsidiary bodies (paragraphs 6-23), guidance on membership (paragraphs 24-31), and specific considerations for the STB (paragraphs 64-70).

[2] Full title: "Terms of reference and modalities for the operation of, and rules of procedure for, the subsidiary bodies established under 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, including the selection process for their members: Note by the Secretariat".

4. Considerations and recommendations

In addition to the various tasks the STB will be asked to undertake and the specific issues listed on the PPW for PrepCom 1, other considerations may help inform the STB's design and operational modalities.

Structure:

The BBNJ Agreement does not specify the structure of the STB or how many members it should comprise. However, considering its cross-cutting nature and the breadth of expertise required to carry out the numerous functions assigned to it, it may be helpful to **empower the STB to create sub-committees and/or working groups**. These could be established on a permanent or temporary basis and would help ensure it has the specialized expertise and knowledge needed to consider a wide range of issues, including ABMTs or EIAs. Such groups could include outside experts and should be authorized to meet intersessionally, as needed.

Transparency and credibility:

The scientific committees of other instruments, frameworks, and bodies (IFBs) often struggle to ensure that the advice they provide is credible and not unduly biased by political influence. The Agreement specifies that STB members should serve in "their expert capacity and in the best interest of the Agreement" (Art. 49(2)). To safeguard the credibility and legitimacy of the STB's advice, procedures should be developed to **address potential conflicts of interest**, including requiring members to disclose financial or any other interest that could impair their impartiality, objectivity, or independence.

Number of members:

STBs in other IFBs range from having limited representation to "committees of the whole." The Agreement calls for the STB membership to reflect "equitable geographical representation" (Art. 49(2)), which implies that the BBNJ STB will not be a committee of the whole. The rules of procedure should, therefore, avoid establishing committees that comprise all Parties and instead **specify a fixed number of members that** is sufficiently large to **encompass regional representation, including Indigenous Peoples, and local communities**, but small enough to be manageable.

Decision-making modalities:

While the BBNJ Agreement encourages decisions by consensus, it provides for decision-making modalities in instances when consensus cannot be reached. Operational **modalities should be developed for the publication of "minority" views or recommendations** in instances when the STB cannot provide advice or a recommendation by consensus.

Interaction with outside expertise:

The Agreement explicitly allows the STB to draw upon external scientific and expert advice, including from relevant legal instruments and frameworks and relevant global, regional, subregional, and sectoral bodies (Art. 49(3)), such as regional fisheries management organizations and academic institutions. Leveraging this provision to take advantage of such external expertise could enable the STB to provide advice more efficiently and readily. **Modalities should be developed to enable the STB** (or its working groups/subcommittees) **to solicit expertise, advice, and data** from other scientists, 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.

Adequate funding:

The costs of the STB's work should be considered and sufficiently funded. Specific funding needs could include the costs required to:

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

Authors:
Nichola Clark, Ingrid Banshchikova, Lisa Speer, Duncan Currie, Daniel Kachelriess.

Article 49

Scientific and Technical Body

1. *A Scientific and Technical Body is hereby established.*
2. *The Scientific and Technical Body shall be composed of members serving in their expert capacity and in the best interest of the Agreement, nominated by Parties and elected by the Conference of the Parties, with suitable qualifications, taking into account the need for multidisciplinary expertise, including relevant scientific and technical expertise and expertise in relevant traditional knowledge of Indigenous Peoples and local communities, gender balance and equitable geographical representation. The terms of reference and modalities for the operation of the Scientific and Technical Body, including its selection process and the terms of members' mandates, shall be determined by the Conference of the Parties at its first meeting.*
3. *The Scientific and Technical Body may draw on appropriate advice emanating from relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, as well as from other scientists and experts, as may be required.*

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.