Interim arrangements to consider at CoP1

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) entered into force on 17 January 2026. A UN Preparatory Commission (PrepCom) was established to prepare for its entry into force and the first BBNJ Conference of the Parties (CoP1). Following its third and final session in April 2026, the BBNJ PrepCom submitted its core recommendations and draft decisions in a report[1] for consideration by CoP1.

This briefing highlights issues that would benefit from the adoption of interim arrangements and early guidance by CoP1 but that are not covered in the PrepCom report. These include:

- Electing subsidiary bodies
- Interim arrangements under area-based management tools (ABMTs)
- Interim Clearing-House Mechanism (CI-HM) arrangements
- Interim arrangements under environmental impact assessments (EIAs)
- Emergency measures
- Interim arrangements under marine genetic resources (MGR), including the fair and equitable sharing of benefits
- Interim arrangements under capacity-building and the transfer of marine technology (CB&TMT)
- Reporting under the BBNJ Agreement

Priority interim guidance items

The High Seas Alliance encourages States to advance work on the following issues during the intersessional period leading up to CoP1, and during the session itself:

- **Electing subsidiary bodies:** To prevent a full year's delay in the implementation of many of the BBNJ Agreement's provisions, States should discuss options for the election of subsidiary body members at CoP1, or shortly thereafter. The prompt establishment of these bodies, particularly those responsible for urgent and time-sensitive tasks, will be critical to ensuring the effective and timely implementation of the BBNJ Agreement and the delivery of its ambitious objectives,

[1] Report of the Preparatory Commission for the Entry into Force of 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 and the Convening of the First Meeting of the Conference of the Parties to the Agreement: A/AC.296/2026/9.

including the global target of protecting 30% of the ocean by 2030 (30x30) under the Kunming-Montreal Global Biodiversity Framework (GBF). Several procedural options for arranging the early election of subsidiary body members at or shortly after CoP1 exist.

- **Interim arrangements under ABMTs:** Develop interim guidance, to be adopted at CoP1, on the length of the "time-bound" consultation period under Article 21 for proponents and the Secretariat to follow. The High Seas Alliance recommends 120 days, based on the precedent of CITES Article XV[2], to apply until the Scientific and Technical Body (STB) can make its own recommendation.
- **Interim CI-HM:** Review the Secretariat's interim arrangements for information exchange on the BBNJ Agreement's website and guide further improvements. This interim solution is critical for Part II and Part IV of the Agreement and is also the logical vehicle for the submission of marine protected area (MPA) and ABMT proposals.
- **Interim arrangements under EIAs:** These could include the timely dissemination, storage, and publication of EIA-related documentation, comprising screening information, determinations (including decisions not to conduct an EIA), EIA reports, and monitoring and review reports.

Introduction

When the BBNJ Agreement entered into force, several obligations became binding for State Parties[3], including information sharing and reporting requirements related to MGRs and EIAs, and an obligation to promote the Agreement's objectives in relevant instruments, frameworks, and bodies (IFBs). Some of these commitments can be implemented independently while others require supporting institutional infrastructure and implementing procedures under the BBNJ Agreement.

The PrepCom's program of work focused primarily on establishing the BBNJ Agreement's subsidiary bodies at CoP1, alongside a limited number of additional issues identified during its organizational meeting[4].

To ensure the smooth and timely implementation of the BBNJ Agreement, it would be beneficial to discuss several additional issues that have not yet been explicitly addressed during the PrepCom process. This briefing outlines those issues and explains why they would benefit from interim arrangements or early guidance from CoP1. Where feasible, it proposes potential measures to address them.

[2] See CITES Article XV, Amendments to Appendices I and II :https://cites.org/eng/disc/text.php#XV.
[3] BBNJ Agreement Article 68(1). The Agreement will enter into force for States and REIOs on the thirtieth day following the deposit of an instrument of ratification, approval, acceptance or accession. Art. 68(2). Read the legal implications of entry into force for information sharing: https://highseasalliance.org/wp-content/uploads/2025/10/Briefing-note_entry-into-force_211025.docx.pdf.
[4] Including agenda items on "Arrangements to enhance cooperation with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies" and "reporting requirements".

Electing subsidiary bodies

Members of the BBNJ Agreement's subsidiary bodies[5] will be nominated by Parties and elected by the CoP. The modalities for the selection of subsidiary body members, however, are yet to be determined by CoP1, together with the subsidiary bodies' terms of reference and other modalities.

The draft terms of reference for subsidiary bodies are contained in Annex II of the PrepCom report that has been forwarded to CoP1 for its consideration. They foresee subsidiary body members being nominated by Parties no later than 90 days ahead of the next CoP meeting at which they are to be elected (section III, paragraph 10). Therefore, in the absence of interim arrangements governing the first elections, the subsidiary bodies will not become operational until after CoP2. This would risk delaying the implementation of many of the BBNJ Agreement's provisions by at least a year[6]. To avoid such a delay, the High Seas Alliance strongly recommends that **Parties take action to ensure the rapid operationalization of the subsidiary bodies at CoP1 or shortly thereafter**.

There are several procedural options for arranging the early election of subsidiary body members:

- Elections could take place at an extraordinary meeting of the CoP under Rule 6(3) and Rule 6(4) of the Co-Chairs' draft rules of procedure[7], subject to the applicable decision-making and timeline requirements.
- After agreeing on the terms of reference and modalities for subsidiary bodies, CoP1 could invite nominations on a given date during the session (for example, two days later), allowing time for nominations to be made before proceeding to prompt elections. This modality would require suspending the 90-day nomination deadline currently included in the draft rules of procedure.
- After agreeing on the terms of reference and modalities for subsidiary bodies, CoP1 could suspend the meeting and, once Parties have had time to nominate members in line with the timeline established by the terms of reference and modalities, resume for one day in New York to elect members. This modality would require agreement that the wording "next meeting of the CoP" includes a resumed session.

Regardless of the procedural approach ultimately chosen, CoP1 should decide early on the modalities for these elections, and Parties should arrive prepared with nominations for subsidiary body membership. This would ensure that, if elections take place at or shortly after CoP1, no additional time is needed for Parties to identify their nominees. Such an approach would allow the subsidiary bodies to hold their first meetings before CoP2.

[5] The Access and Benefit Sharing Committee, the Capacity-Building and Transfer of Marine Technology Committee , the Implementation and Compliance Committee, and the Scientific and Technical Body are established in Articles 15, 46, 55, and 49 of the BBNJ Agreement.
[6] For instance, the Scientific and Technical Body would be unable to promptly review Area-Based Management Tool proposals under Article 20 or assess revised proposals under Article 21(5). The Scientific and Technical Body would also be unable to provide recommendations on emergency measures under Article 24(3), establish the roster of experts under Article 31(3) to support Parties with capacity constraints, or carry out its functions relating to Environmental Impact Assessment reports under Article 33(4), 33(6), 36(2), and 36(3).
[7] Annex 1 of document A/AC.296/2026/9.

Interim arrangements under Part III: ABMTs

Article 20 of the BBNJ Agreement foresees that, upon submission of an ABMT proposal by a State Party or group of Parties, the Secretariat makes the proposal publicly available and transmits it to the STB for a preliminary review. **Parties should consider developing an interim solution for cases in which an ABMT proposal is submitted before the STB becomes fully operational.** This could take the form of a CoP decision to empower the Secretariat to conduct the preliminary review under Article 20—which we interpret to be an administrative check for completeness rather than a substantive review—until the STB is fully operational. Alternatively, an interim arrangement could be a CoP decision that allows public consultations under Article 21 to proceed before the preliminary review under Article 20 is completed.

Related to this, Article 21(6) establishes that public consultations under Article 21 are to be time-bound but does not specify a time limit for the consultations. The STB may recommend further guidance on the consultation process to the CoP, if deemed necessary[8]. To fill this gap, **CoP1 should adopt interim guidance on the interpretation of "time-bound"** in the context of consultations under Article 21, or set out alternative processes for proponents and the Secretariat to follow. The High Seas Alliance recommends a 120-day interim consultation period until the STB can make its own recommendation, based on the precedent set by CITES Article XV[9]. This, combined with early engagement of relevant stakeholders (including IFBs) by proponents during the proposal development phase under Article 19(2), would balance meaningful stakeholder engagement with the urgency of meeting ocean protection targets.

Both of these measures could be added to the decision that adopts the STB's terms of reference or be submitted as separate documents for the CoP's consideration.

Emergency measures

Although located in Part III of the Agreement, emergency measures (Art. 24) may not be limited to ABMTs and should, therefore, be discussed separately. Many considerations related to the operationalization of time-bound consultations under Article 21 apply to emergency measures, including the need to consult with IFBs (Art. 24(2)) and the role of the STB in elaborating procedures and guidelines (Art. 24(5)), but with additional urgency.

While Annex I of the PrepCom report on the draft CoP rules of procedure includes proposed modalities for intersessional decision-making on emergency measures in Rule 5, these modalities are "subject to (...) procedures and guidance elaborated by the STB" and do not address other procedural elements of the emergency measure process, such as consultation with IFBs. This means that, despite the BBNJ Agreement's explicit recognition of the importance of the CoP's ability to respond rapidly to emergencies, procedural uncertainty would render emergency measures unusable without further guidance.

[8] The STB has a mandate to further elaborate on the modalities for the consultation and assessment process, **as necessary**, at its first meeting, for adoption by the CoP. Even if the STB deems further elaboration of the process necessary, depending on the timeline of the STB selection, its recommendations will not be submitted before CoP2 or even CoP3, leaving an extended timeframe in which the "timebound" requirement of the Article 21 consultation process is not implemented.
[9] See https://cites.org/eng/disc/text.php#XV.

The High Seas Alliance recommends Parties **adopt interim arrangements at CoP1 on other procedural elements of the emergency measure provision until the STB can make its own recommendations**. These should include modalities for consultation with relevant IFBs as well as inviting States that are Parties to other IFBs, consistent with Article 8(2), to support the establishment of respective procedures within those bodies that would enable them to quickly react to a BBNJ-initiated emergency measure consultation, i.e., to work towards making procedures in other IFBs "BBNJ-ready"[10].

Interim Cl-HM arrangements

The Cl-HM plays a critical cross-cutting role under the BBNJ Agreement. It serves as a centralized, open-access platform for the submission, dissemination and accessibility of information across the Agreement's implementation processes. Pending the establishment of a fully operational Cl-HM, the Secretariat has put in place an information-sharing page on its website[11] to fulfil some of the Cl-HM's functions for information that Parties need to submit under the Agreement.

To facilitate transparency and other requirements of the BBNJ Agreement, the immediately critical functions of this interim arrangement are:

- Receive, publish, and disseminate MGR notifications submitted pursuant to Article 12.
- Receive and publish ABMT proposals, supporting documentation, comments received during consultations, and decisions adopted by the CoP, as well as monitoring and review information.
- Act as a repository and publication platform for all EIA-related documentation, including screening information, determinations (including decisions not to conduct an EIA), EIA reports, and monitoring and review reports. The Secretariat must ensure the timely dissemination of such information to Parties (e.g., as mandated by Article 33(5)) and, where relevant, enable public access. Facilitate information sharing about CB&TMT opportunities and needs. The Secretariat should, initially, also take on the roles of facilitating capacity needs assessments (as mandated in Article 42(4)) and matchmaking (as mandated in Article 51(3)(b)).

Parties should use CoP1 to **review this interim arrangement and provide additional guidance to the Secretariat through a CoP decision, or other appropriate procedural arrangements**. They should also determine the means by which the Secretariat will perform these functions, for example by continuing to use the UN website dedicated to the BBNJ Agreement or by establishing a separate platform.

[10] "BBNJ-ready" meaning to take necessary steps and measures to ensure cooperation with the Agreement to prepare for its implementation, such as establishing coordination mechanisms, facilitating information sharing, identifying focal points for such collaboration, etc.
[11] See https://www.un.org/bbnjagreement/en/notifications.

Key functionalities[12] that appear to be missing in the current interim arrangements are user management and login functions to allow for differentiated visibility of information and designation of roles, such as giving Parties the option to allow approved non-State actors to submit information directly to the CI-HM.

Interim arrangements under Part IV: EIAs

Many of the BBNJ Agreement's EIA provisions became applicable upon its entry into force, creating the need for interim arrangements to enable Parties to fulfil their obligations.

The BBNJ Agreement assigns the STB a variety of important roles throughout the EIA process. Given the importance of independent review, Parties could **request the Secretariat**, as appropriate, **to commission external experts to provide technical input and review on an interim basis** until the STB becomes fully operational. The Secretariat could facilitate other EIA-related processes that would otherwise involve the STB, including receiving and making the views submitted by Parties publicly available, and supporting the consideration of the potential impacts of planned activities.

Many countries, in particular Small Island Developing States, least developed countries, and landlocked developing countries, face capacity constraints in conducting and evaluating screenings and EIAs. To this end, the BBNJ Agreement mandates the establishment of a roster of experts to provide advice and assistance. Parties could consider **authorizing the Secretariat to retain expert consultants to support Parties with capacity constraints** until the STB roster of experts has been set up.

Taken together, these interim arrangements would enable Parties to fulfil their obligations under the BBNJ Agreement in a timely and equitable manner and help ensure that key procedural and transparency-related steps continue without delaying the Agreement's overall implementation until the STB is fully operational.

Interim arrangements under Part II: MGRs, including the fair and equitable sharing of benefits

The BBNJ Agreement's Access and Benefit-Sharing Committee (ABSC) is mandated to make recommendations to the CoP, including on guidelines or a code of conduct for activities with respect to MGRs and their digital sequencing information. While there are no processes under Part II that explicitly require further elaboration by the ABSC before they can be fully implemented, stakeholders have already identified a range of issues where harmonized interpretation among Parties and guidance by the CoP could support the implementation of Part II of the BBNJ Agreement. This includes determining which State has the obligation to ensure notification of different activities under Article 12 (for example, the relevant flag State or the actor's nationality), the granularity of notifications, and the issuance of batch identifiers where utilization falls under the mandate of the BBNJ Agreement but where no batch identifier exists[13]. **If States consider that interim guidance on any of these issues is**

[12] See NRDC/OceanCare/High Seas Alliance study "Designing an Effective BBNJ Clearing-House Mechanism" for an analysis of key functions: https://www.oceancare.org/wp-content/uploads/2025/08/Final_Aug-17_NRDCOCHSA_CLHM-paper_3-logos_distribution-2.pdf.
[13] See Humphries et al. (2024): *Decoding Marine Genetic Resource Governance Under the BBNJ Agreement.* https://link.springer.com/book/10.1007/978-3-031-72100-7.

necessary before the ABSC can make its own recommendations, **they could include them in an Annex to the draft terms of reference for subsidiary bodies or in a stand-alone document** for CoP1 to consider.

Interim arrangements under Part V: CB&TMT

The CB&TMT is to be based on needs assessments under the BBNJ Agreement (Art. 42(4)). Therefore, operationalizing those assessments should be prioritized when implementing Part V of the Agreement. Needs assessments can be self-conducted or facilitated by the CB&TMT Committee and the CI-HM. Depending on the pace of establishing the CB&TMT Committee and the CI-HM, **Parties should consider interim arrangements to facilitate the conduct and sharing of needs assessments** for Parties that request such support. The Division for Ocean Affairs and the Law of the Sea (DOALOS), as the interim Secretariat, has already undertaken work that may be of relevance[14], which Parties could decide to build upon. Parties should also draw on relevant experience from ongoing and past initiatives, including activities supported by the Global Environment Facility (GEF) that have undertaken capacity needs and gap assessments.

Reporting under the BBNJ Agreement

The organizational meeting of the PrepCom identified reporting as an item for its consideration, and the issue was subsequently discussed by Informal Working Group 1 during PrepCom 2. Although Parties did not identify reporting as a priority for a draft decision at PrepCom 3, the Co-Chairs have forwarded the key points from those discussions to CoP1 in the Annex of the PrepCom report.

In addition, the reporting obligations under the BBNJ Agreement that explicitly require additional early guidance that CoP1 could provide are:

- Periodicity of reports on implementation of Part II to the ABSC (Art. 16(2));
- Periodicity of reports on implementation of ABMTs, including MPAs, to CoP (Art. 26(1));
- Format and periodicity of reports to the CB&TMT Committee (Art. 45(3));
- Format and periodicity of general implementation reports to CoP (Art. 54); and
- Periodicity of reporting on the impact of authorized activities through the CI-HM (Art. 36(1)).

Authors: Duncan Currie, Ingrid Banshikova, Johannes Müller, Rizza Sacra-Dejucos, Tekau Frere, Farzaneh Shakeri, Arne Langlet, and Daniel Kachelries.

[14] See https://www.un.org/bbnjagreement/en/capacity-building-and-technical-assistance/technical-assistance-national-level and https://www.un.org/depts/los/BBNJCBProjectNeedsAssessmentToolLevC.pdf.