



Council

Advance Unedited Version
12 January 2026

English only

Thirty-first session

Council session, part I

Kingston, 9-20 March 2026

Item 19 of the provisional agenda*

Engagement and cooperation with bodies and processes 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.

The potential implications and opportunities for the work of the International Seabed Authority of the operation of the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction.

Report of the Secretary-General

I. Introduction

1. The purpose of the present report is to provide a preliminary overview of the potential implications and opportunities of the upcoming operation 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 (BBNJ Agreement) for the work of the Authority, and to propose to the members of the Council the approach to engaging bodies and processes under the BBNJ Agreement.

II. Background

2. The BBNJ Agreement was adopted on 19 June 2023 by the Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction convened under the auspices of the United Nations. The Agreement becomes the third implementing agreement to the United Nations Convention on the Law of the Sea.¹ On 19 September 2025 with the deposit of the sixtieth instrument of ratification, approval, acceptance or accession, the conditions for the entry into force of the Agreement were met. Accordingly, the Agreement entered into force on 17 January 2026, in accordance with its article 68 (1).² The first meeting of the Conference of the Parties will be convened no later than one year after the entry into force of the

* ISBA/31/C/L.1

¹ <https://www.un.org/bbnj/>.

² <https://treaties.un.org/doc/Publication/CN/2025/CN.447.2025-Eng.pdf>.

Agreement.³ The Preparatory Commission to prepare for the entry into force of the BBNJ Agreement and the convening of the first meeting of the Conference of the Parties to the Agreement will take decisions on any recommendations to the Conference of the Parties at the final meeting of the Commission, and will prepare a final report on all matters within its mandate for presentation to the Conference of the Parties at its first meeting.⁴

3. Under the overall objective of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long-term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination, the Agreement addresses four main issues: Marine genetic resources, including the fair and equitable sharing of benefits; Measures such as area-based management tools, including marine protected areas; Environmental impact assessments; and Capacity-building and the transfer of marine technology. The Agreement also addresses a number of “cross-cutting issues”, establishes a funding mechanism and sets up institutional arrangements, including a Conference of the Parties and various subsidiary bodies, a Clearing-House Mechanism and a secretariat.

4. Further international cooperation and coordination is one key pillar for the effective operation of the BBNJ Agreement. The BBNJ Agreement adopts a proactive approach to promoting cooperation and coordination with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies (intergovernmental forums and bodies), while exercising restraint to avoid overstepping their competences and undermining them. Article 5 of the BBNJ Agreement requires the Agreement to be interpreted and applied in the context of and in a manner consistent with the Convention, and in a manner that does not undermine relevant intergovernmental forums and bodies and that promotes coherence and coordination with those forums and bodies.

III. Potential implications and opportunities of the operation of the BBNJ Agreement for the work of the Authority

5. The International Seabed Authority is one of the relevant intergovernmental forums and bodies as referred to in the BBNJ Agreement. Although as an autonomous international organization, the Authority operates in a connected manner with the BBNJ Agreement bodies and processes. The BBNJ Agreement applies to the high seas and the Area, while the Authority’s mandate is centered on activities in the Area, the conduct of which may necessarily implicate adjacent or relevant parts of the high seas. The Authority is required to take measures to ensure effective protection for the marine environment from harmful effects which may arise from activities in the Area,⁵ which converges with the objective of the BBNJ Agreement on the conservation of biological diversity in areas beyond national jurisdiction. The close connection between the Authority and the operation of the BBNJ Agreement is widely acknowledged in discussions within the BBNJ Preparatory Commission and in the dedicated side events and Workshop organized by the secretariat of the Authority in partnership with member States.

6. The future operation of the BBNJ Agreement would engage the Authority in multiple ways and bear upon a range of aspects of its work, including but not limited to the following:

³ BBNJ Agreement, art.47, para.2.

⁴ <https://www.un.org/bbnjagreement/en/meetings/preparatory-commission/background>.

⁵ United Nations Convention on the Law of the Sea, art.145.

1) The Contractors of the Authority taking samples of biological communities for the purpose of setting up environmental baselines during exploration may also fall within the scope of “collection or sampling of marine genetic resources in areas beyond national jurisdiction” as provided by the BBNJ Agreement.⁶

2) The Authority is expected to engage in the process related to measures such as area-based management tools under the BBNJ Agreement. According to the BBNJ Agreement, the Conference of the Parties (a) shall take decisions on the establishment of Area-Based Management Tools (ABMTs); (b) may take decisions on measures compatible with those adopted by relevant intergovernmental forums and bodies; (c) may, where proposed measures are within the competences of other bodies, make recommendations to Parties and to such bodies to promote the adoption of relevant measures.⁷ In taking decisions, the Conference of the Parties shall respect the competences of, and not undermine, relevant intergovernmental forums and bodies.⁸ For Area-Based Management Tools’ proposals put forward by Parties to the BBNJ Agreement, the Authority would be notified and invited to submit views, input and information, including any existing measures adopted by the Authority for the relevant area or for adjacent areas.⁹ The BBNJ Agreement provides that the Conference of the Parties shall make arrangements for regular consultations with and among intergovernmental forums and bodies to enhance cooperation and coordination with regard to Area-Based Management Tools,¹⁰ and the Conference of the Parties may consider and may decide to develop a mechanism regarding existing Area-Based Management Tools adopted by relevant intergovernmental forums and bodies.¹¹ In addition, in the process of adopting emergency measures by the Conference of the Parties, relevant intergovernmental forums and bodies would be consulted for ascertaining whether the serious or irreversible harm can be managed in a timely manner caused by a natural phenomenon or human-caused disaster.¹² The Parties to the BBNJ are required to promote the adoption of measures within relevant intergovernmental forums and bodies of which they are members to support the implementation of the decisions and recommendations made by the Conference of the Parties.¹³ The relevant intergovernmental forums and bodies will be invited to provide information to the Conference of the Parties on the implementation of measures that they have adopted to achieve the objective of Area-Based Management Tools, including marine protected areas established under the BBNJ Agreement.¹⁴

3) The Authority is expected to engage in the environmental impact assessment process under the BBNJ Agreement. The BBNJ Agreement requires its Parties to promote the adoption and implementation of the standards and/or guidelines on Environmental Impact Assessments in relevant intergovernmental forums and bodies.¹⁵ The Conference of the Parties will develop mechanisms for the Scientific and Technical Body to collaborate with relevant intergovernmental forums and bodies that regulate activities in areas beyond national jurisdiction or protect the marine environment.¹⁶ When developing or updating standards or guidelines for the conduct

⁶ BBNJ Agreement, art.1, paras 4 and 8.

⁷ BBNJ Agreement, art.22, para.1.

⁸ BBNJ Agreement, art.22, para.2.

⁹ BBNJ Agreement, art.21, para.2(b).

¹⁰ BBNJ Agreement, art.22, para.3.

¹¹ BBNJ Agreement, art.22, para.4.

¹² BBNJ Agreement, art.24, para.2.

¹³ BBNJ Agreement, art.25, para.4.

¹⁴ BBNJ Agreement, art.26, para.2.

¹⁵ BBNJ Agreement, art.29, para.1.

¹⁶ BBNJ Agreement, art.29, para.2.

of Environmental impact statements, the Scientific and Technical Body is required to collaborate with relevant Intergovernmental forums and bodies.¹⁷ Moreover, where environmental assessments already carried out by Contractors of the Authority in connection with their activities in the Area, and in accordance with the Authority's rules, regulations and procedures, are considered equivalent to those required under the BBNJ Agreement, no additional assessment would be required under the latter instrument.¹⁸ The determination as to whether an assessment conducted by a Contractor may be regarded as equivalent to that required under the BBNJ Agreement is entrusted to the Party exercising jurisdiction or control over the planned activity. In this context, it is suggested that the technical expertise of the Authority may play a crucial role in informing such a determination.

4) The Authority is expected to engage in the capacity-building and transfer of marine technology (CBTMT) process under the BBNJ Agreement. The BBNJ Agreement requires its Parties to cooperate directly or through relevant intergovernmental forums and bodies to assist Parties in particular developing States Parties in achieving the objectives of the Agreement through capacity-building and transfer of marine technology, and to cooperate at all levels and in all forms in providing capacity-building and transfer of marine technology, including through strengthening cooperation and coordination between relevant intergovernmental forums and bodies.¹⁹ The capacity-building and transfer of marine technology is required to build upon and not duplicate existing programmes and be guided by lessons learned under relevant intergovernmental forums and bodies and to take into account these activities with a view to maximize efficiency and results.²⁰

5) The Authority is expected to conduct information exchange with the BBNJ Agreement mechanism on related fields of work. For example, the Clearing-House Mechanism under the BBNJ Agreement is required to provide links to relevant clearing-house mechanisms and other gene banks, repositories and databases, foster enhanced transparency, including by facilitating the sharing of environmental baseline data and information relating to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, and facilitate international cooperation and collaboration, including scientific and technical cooperation and collaboration.²¹ The Authority may also have a role to play in the publication of environmental impact assessment reports through the Clearing-House Mechanism. While, under the BBNJ Agreement, the obligation to ensure such publication lies with the Party concerned,²² the procedure could be further streamlined through enhanced cooperation between the Secretariat of the Authority and the Secretariat of the BBNJ Agreement.

IV. Priority actions

7. Given the potential implications and opportunities of the operation of the BBNJ Agreement for the work of the Authority and its organs, the Authority will have to engage proactively with the bodies and processes under the BBNJ Agreement, strengthen its internal preparedness as well as its capacities, and develop policies across relevant fields to facilitate cooperation and coordination.

¹⁷ BBNJ Agreement, art.29, para.3.

¹⁸ BBNJ Agreement, art.29, para.4.

¹⁹ BBNJ Agreement, art.41, paras.1 and 2.

²⁰ BBNJ Agreement, art.42, para.3.

²¹ BBNJ Agreement, art.51, para.3(b), (c), (e) and (f).

²² BBNJ Agreement, art.29, para.5.

8. It is expected that the Secretary-General of the Authority would make suitable arrangements for consultation and cooperation with the BBNJ Agreement mechanism.²³ The BBNJ Preparatory Commission is working on arrangements to enhance cooperation with relevant Area-Based Management Tools.²⁴ In view of the significance and complexity of cooperation and coordination provisions under the BBNJ Agreement, it would be advisable for the BBNJ Agreement mechanism to first clarify the scope and extent of its intended cooperation and coordination with the Authority.

9. Cooperation and coordination may be conducted between the Authority and the BBNJ Agreement mechanism, whether or not a formal arrangement is in place.

10. Among other matters, the Authority needs to be urgently equipped, including with appropriate expertise, to evaluate proposals regarding the establishment of area-based management tools under the BBNJ Agreement. Area-based management tools, including marine protected areas, to be adopted by the Conference of the Parties under the BBNJ Agreement may intersect with the mandate and work of the Authority. The consultation period on such proposals would be time-bound,²⁵ requesting the Authority, in a timely manner, to provide: (i) views on the merits of the proposal; (ii) any other relevant scientific input; (iii) information regarding any existing measures adopted by the Authority; (iv) views regarding any aspects of the measures and other elements for a draft management plan identified in the proposal that fall within the competence of the Authority; (v) views regarding any relevant additional measures that fall within the competence of the Authority; (vi) any other relevant information.²⁶ To provide pertinent and timely input, the Authority should mobilize its relevant organs and establish a robust internal procedure.

V. Recommendation

11. In light of the foregoing, the Council is invited to consider adopting the draft decision set out in the annex.

²³ United Nations Convention on the Law of the Sea, art.169, para.1.

²⁴ <https://docs.un.org/en/a/ac.296/2025/19>.

²⁵ BBNJ Agreement, art.21, para.6.

²⁶ BBNJ Agreement, art.21, para.2(b).

Annex

Draft decision of the Council of the International Seabed Authority on engagement with bodies and processes under the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction

The Council of the International Seabed Authority,

Taking note 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 entering into force on 17 January 2026,

Recognizing potential implications and opportunities of the operation of the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction for the mandate and work of the Authority,

Recalling article 162 of the Convention, which provides that the Council is the executive organ of the Authority, having the power to establish, in conformity with the Convention and the general policies established by the Assembly, the specific policies to be pursued by the Authority on any question or matter within the competence of the Authority,

Recalling the functions of the Legal and Technical Commission as set out under article 165 of the Convention,

Recalling also article 169 of the Convention, which requires the Secretary-General, on matters within the competence of the Authority, to make suitable arrangements, with the approval of the Council, for consultation and cooperation with relevant international and non-governmental organizations,

Acknowledging the need for the Authority to engage proactively with the organs, bodies and processes under the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction, with a view to ensuring respect for its mandate and promoting coherence and coordination,

Further acknowledging the need for the Authority to possess the necessary capacities and to be adequately equipped to engage proactively with the organs, bodies and processes under the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction,

1. Instructs the Secretary-General to engage proactively with the organs, bodies and processes under the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction, including the Preparatory Commission prior to the convening of the first Conference of the Parties, in order to ensure that the mandate of the Authority is respected and to promote cooperation and coordination between the Authority and the organs, bodies and processes under the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction.

2. Encourages the Secretary-General to make suitable arrangements for consultation and cooperation in due time with the mechanism of Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction.

3. Decides that the Secretary-General shall evaluate and provide input in a timely manner to proposals regarding area-based management tools under the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction. The evaluation and input shall be based on the mandate and competences of the Authority as prescribed by the United Nations Convention on the Law of the Sea and the 1994 Agreement relating to the

implementation of Part XI of the United Nations Convention on the Law of the Sea, as well as the rules, regulations and procedures adopted by the Authority.

4. Encourages the Legal and Technical Commission in cooperation and coordination with the secretariat to formulate pertinent rules and procedures for evaluating proposals regarding area-based management tools under the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction.

5. Requests the Secretary-General to report to the Council on an annual basis on the cooperation and coordination with the organs, bodies and processes under the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction.

6. Also decides to keep the matter under review.
