



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

2024/Factsheet 6

Cross-cutting issues

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”) was adopted on 19 June 2023. It addresses a package of issues under the overall objective of ensuring 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 [United Nations Convention on the Law of the Sea](#) and further international cooperation and coordination.

These issues are:

- I marine genetic resources, including the fair and equitable sharing of benefits;
- II measures such as area-based management tools, including marine protected areas;
- III environmental impact assessments; and
- IV capacity-building and the transfer of marine technology.

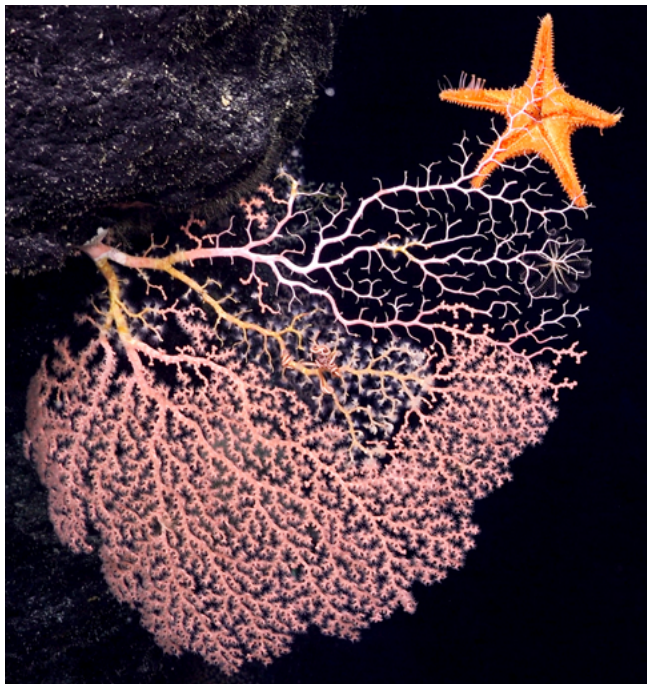
In addition, the BBNJ Agreement addresses several so-called “**cross-cutting issues**”, which are dealt with in dedicated Parts of the Agreement.

These include:

- Preamble;
- General provisions (Part I);
- Institutional arrangements (Part VI);
- Financial resources and mechanism (Part VII);
- Implementation and compliance (Part VIII);
- Settlement of disputes (Part IX);
- Non-parties to the Agreement (Part X);
- Good faith and abuse of rights (Part XI); and
- Final provisions (Part XII).

How are cross-cutting issues important?

The cross-cutting issues are transversal to the Agreement and relevant to the four main issues. They are of critical importance for the interpretation and effective implementation of the provisions contained in the Parts of the Agreement on the four main issues. They cover several legal, procedural, institutional, financial and other aspects, which are intended to guide and assist Parties to the Agreement in fulfilling their obligations under the Agreement, in order to achieve its objectives.



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Preamble

The general purpose of a preamble is to articulate the purposes and considerations that led States to conclude a treaty. It can serve as a tool for understanding the context and rationale of the drafters and the object and purpose of the treaty.

The Preamble to the BBNJ Agreement contains a number of statements and understandings considered important by delegations who negotiated the Agreement.

What is in the general provisions?

The general provisions provide guidance on how to interpret the BBNJ Agreement and ensure coherence and consistency in its interpretation and application.

Use of terms: The Agreement defines several terms found in its provisions.

General objective: The objective of the Agreement is to ensure 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 United Nations Convention on the Law of the Sea and further international cooperation and coordination.

Scope of application: The Agreement applies to areas beyond national jurisdiction.

Exceptions: The Agreement does not apply to any warship, military aircraft or naval auxiliary, or certain other vessels or aircraft owned or operated by a Party and used only on government non-commercial service.

Relationship between the Agreement and the United Nations Convention on the Law of the Sea and relevant instruments, frameworks and bodies: The Agreement is to be interpreted and applied in the context of and in a manner consistent with the United Nations Convention on the Law of the Sea, and in a manner that does not undermine and promotes coherence and coordination with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

Without prejudice: The Agreement, including any decision or recommendation of the Conference of the Parties to

the Agreement or any of its subsidiary bodies, and any acts, measures or activities undertaken on the basis thereof, shall be without prejudice to, and shall not be relied upon as a basis for asserting or denying any claims to, sovereignty, sovereign rights or jurisdiction, including in respect of any disputes relating thereto.

General principles and approaches: To achieve the objectives of the Agreement, Parties are guided by a set of fourteen general principles and approaches.

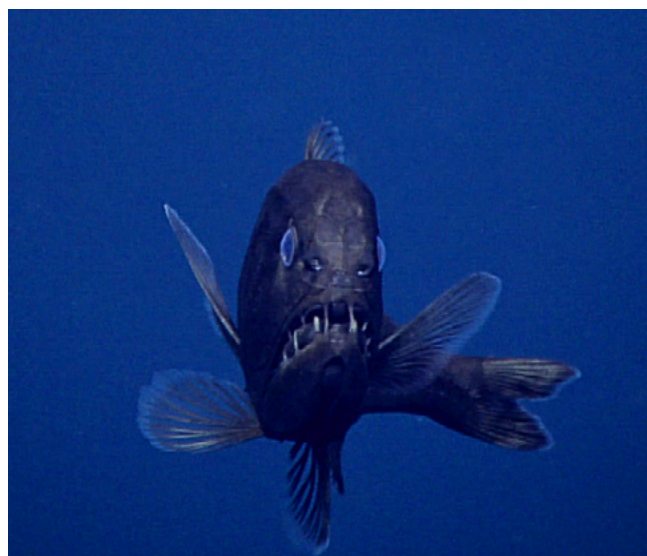
International cooperation: Parties must cooperate, including through strengthening and enhancing cooperation with and among relevant instruments, frameworks and bodies in the achievement of the objectives of the Agreement, and must endeavour to promote, as appropriate, the objectives of the Agreement when participating in decision-making under other relevant instruments, frameworks and bodies.

What are the institutional arrangements under the Agreement?

The Agreement establishes a number of bodies to assist in its implementation. These include a Conference of the Parties, which serves as the governing body of the Agreement, and several subsidiary bodies. It also establishes a secretariat and a Clearing-House Mechanism.

Conference of the Parties

- Keeps under review and evaluation the implementation of the Agreement and, for this purpose, among others:
 - Adopts decisions and recommendations;
 - Reviews and facilitates the exchange of information among Parties;
 - Promotes, including by establishing appropriate processes, cooperation and coordination with and among relevant instruments, frameworks and bodies;
 - Establishes subsidiary bodies as necessary;
 - Adopts the budget; and
 - Performs other functions identified in the Agreement or as may be required for its implementation.



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Scientific and Technical Body

- Provides scientific and technical advice to the Conference of the Parties on the implementation of the Agreement; and
- Performs other functions assigned to it under the Agreement and as may be determined by the Conference of the Parties.

Access and benefit-sharing committee

- Establishes guidelines for benefit-sharing, providing transparency and ensuring a fair and equitable sharing of benefits; and
- Reports and makes recommendations to the Conference of the Parties on matters relating to Part II on marine genetic resources, including the fair and equitable sharing of benefits.

Implementation and Compliance Committee

- Considers issues of implementation and compliance at the individual and systemic levels; and
- Reports and makes recommendations, as appropriate while cognizant of respective national circumstances, to the Conference of the Parties.

Capacity-building and transfer of marine technology committee

- Facilitates the assessments of needs and priorities of developing States Parties in terms of capacity-building and the transfer of marine technology;
- Monitors and reviews capacity-building and the transfer of marine technology undertaken under the Agreement; and
- Reports and makes recommendations to the Conference of the Parties.

Secretariat

- Provides administrative and logistical support to the Conference of the Parties and its subsidiary bodies, and services their meetings;
- Facilitates cooperation and coordination with secretariats of other relevant international bodies;
- Manages the Clearing-House Mechanism;
- Provides assistance with the implementation of the Agreement; and
- Performs other functions, as assigned.

Finance committee

- Reports and makes recommendations on the identification and mobilization of funds under the financial mechanism of the Agreement;
- Collects information and reports on funding under other mechanisms and instruments contributing to the achievement of the objectives of the Agreement; and
- Considers other issues as set out in the Agreement.

Clearing-House Mechanism

- Serves as an open-access, centralized platform for Parties to access, provide and disseminate information on activities taking place pursuant to the Agreement;
- Facilitates the matching of capacity-building needs with support;
- Fosters enhanced transparency and facilitates international cooperation and coordination; and
- Performs other functions, as assigned.



What are the provisions on funding under the Agreement?

The provisions on funding are key to supporting the implementation of the Agreement.

The institutions established under the Agreement will be funded through **assessed contributions of the Parties**.

The Agreement also establishes a **financial mechanism** with a view to assisting developing States Parties in implementing the Agreement. The financial mechanism consists of:

- 1 a voluntary trust fund;
- 2 a special fund; and
- 3 the Global Environment Facility trust fund.

The Conference of the Parties may also consider the possibility of establishing additional funds as part of the financial mechanism.

In recognition of the urgency to address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, the Conference of the Parties will determine an initial resources mobilization goal through 2030 for the special fund from all sources,

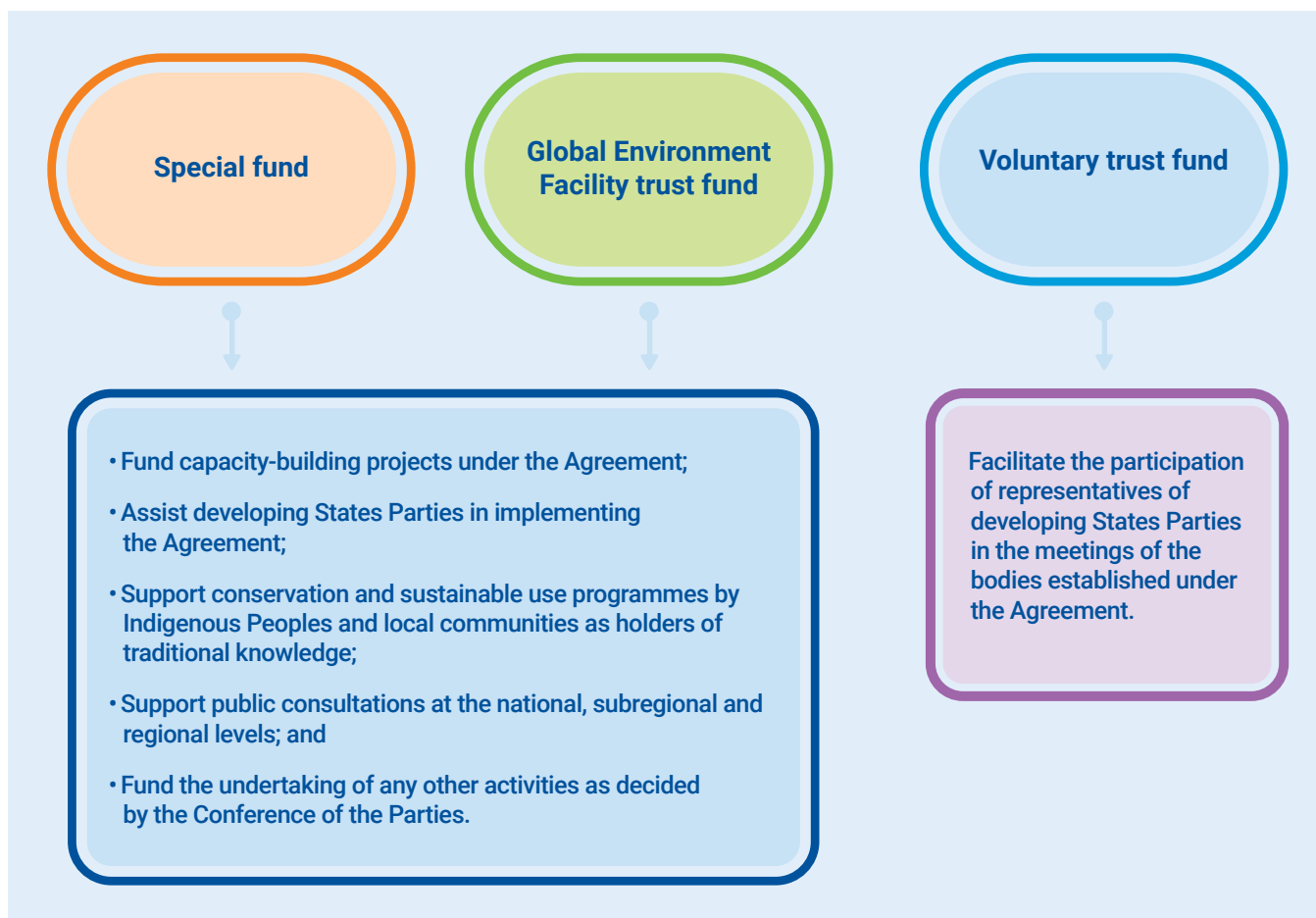
taking into account, inter alia, the institutional modalities of the special fund and the information provided through the capacity-building and transfer of marine technology committee.

How will implementation and compliance be achieved?

The responsibility to ensure the implementation of the Agreement lies with the Parties, which are required to:

- Take the necessary legislative, administrative or policy measures to ensure the implementation of the Agreement;
- Monitor the implementation of their obligations under the Agreement; and
- Report to the Conference of the Parties on measures they have taken to implement the Agreement.

The Agreement also establishes an Implementation and Compliance Committee, which will be facilitative, transparent, non-adversarial and non-punitive, to facilitate and consider the implementation of and promote compliance with the Agreement.



How will disputes under the Agreement be settled?

Parties must settle their disputes concerning the interpretation or application of the Agreement **by peaceful means** of their own choice.

Disputes of a technical nature may be referred to an ad hoc expert panel, which will endeavour to resolve the dispute expeditiously without recourse to binding dispute settlement procedures.

Disputes concerning the interpretation or application of the Agreement are to be settled **in accordance with Part XV of the United Nations Convention on the Law of the Sea**.

Non-parties to the United Nations Convention on the Law of the Sea that are Parties to the Agreement are free to choose, by means of a written declaration, submitted to the depositary, one or more of the compulsory dispute settlement procedures provided for in article 287 of the Convention.

Pending the settlement of a dispute, the parties to that dispute must make every effort to enter into provisional arrangements of a practical nature.

What is in the final clauses?

As is generally the practice in other multilateral treaties, the final clauses of the Agreement include several articles concerning matters of treaty law, including signature, ratification, entry into force, and amendments.

How to become party to the Agreement?

The Agreement is open for signature from 20 September 2023 **until 20 September 2025**.

To become party to the Agreement, a State or regional economic integration organization that signs the Agreements must then **ratify, accept or approve** the Agreement.

After the period for signature has closed, a State or regional economic integration organization that is not signatory to the Agreement may become party through the single-step process of **accession**.

Modalities for becoming party to the Agreement



Instruments of ratification, approval, acceptance or accession are to be deposited with the depositary, namely the Secretary-General of the United Nations.

States wishing to sign the Agreement or deposit an instrument of ratification, approval, acceptance or accession should make an appointment with the [Treaty Section](#) of the Office of Legal Affairs of the United Nations.

Additional information and guidance on the procedural steps for becoming party to a multilateral treaty are included in the [Treaty Handbook](#) prepared by the Treaty Section of the Office of Legal Affairs of the United Nations, which has also prepared a model instrument of ratification, acceptance or approval of the Agreement.

When does the Agreement become binding?

The Agreement will **enter into force** 120 days after the date of the deposit of the 60th instrument of ratification, approval, acceptance or accession. It will be binding only on those States or regional economic integration organizations that have become parties to it.

Can non-parties to the United Nations Convention on the Law of the Sea become parties to the Agreement?

Although the Agreement is an implementing agreement to the United Nations Convention on the Law of the Sea, both parties and non-parties to the Convention may become parties to the Agreement. The legal status of non-parties to the United Nations Convention on the Law of the Sea is not affected by the Agreement.

Contact

For further information on the BBNJ Agreement, including with respect to [capacity-building and technical assistance](#) available to States in becoming parties to the Agreement and in relation to its implementation, contact the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations:

By email: doalos@un.org

Instagram: [UNDOALOS](#)

LinkedIn: [UNDOALOS](#)

X (formerly Twitter): [UNDOALOS](#)

Disclaimer

The present factsheet is intended to promote a better understanding of the BBNJ Agreement and does not purport to be exhaustive. It should be read in conjunction with the full text of the Agreement, the certified true copy of which is available on the website of the United Nations Treaty Collection (<https://treaties.un.org/>)



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