



Statement of Hiroko Muraki Gottlieb

Head of Delegation and Representative for the Ocean, International Council of Environmental Law

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 (First Session)

Item 5: Consideration of the matters to be addressed by the Conference of the Parties to the Agreement at its first meeting and additional matters, as identified by the Preparatory Commission (Rules of Procedure of the Conference of the Parties (Cluster I, Issue 1))

New York, Monday, 14 April 2025

Check against delivery

Co-Chairs,

Thank you for giving International Council of Environmental Law the floor. Please be assured of our full support. We would also like to thank the Co-chairs and the Secretariat for all the extremely helpful documents that were provided timely in advance of the meeting.

Co-Chairs,

We will answer the questions in the order of the questions posed in the Co-Chairs' Draft Guiding Questions.

• *Is the structure of the document fit for purpose?*

- As many distinguished delegates have stated before me, the draft rules of procedure for the Conference of the Parties (COP) are a good basis for discussions.

• *What missing elements, if any, might usefully be included in the document?*

o As supported by the distinguished delegate of the Caribbean Community (CARICOM) on the inclusion of Proxy voting and noted by the distinguished delegate of the EU on the lack of proxy voting in the draft rules of procedures (RoP), it may be beneficial to include Proxy voting in the COP's RoP. Quorum issues have arisen regularly at the International Seabed Authority (ISA). Also, in the case of elections in the Meeting of States Parties to UNCLOS (SPLOS), it has been challenging to get the required quorum. Proxy voting is used in ISA to ensure that there is a quorum.

o **Rule 3:** The RoP could provide an option for hybrid or virtual meetings, which the COP could consider, as stated by many distinguished delegates who spoke before me, including CLAM, African Group, EU, UK, Canada, Australia, Thailand, and Norway. To address concerns raised on time zone difficulties and IT issues, consideration could be given to the possibility of convening hybrid and virtual meetings where the matters are *technical*, rather than matters of policy or other sensitive matters that would benefit from in-person meetings.

o **Rule 4:** RoP could reflect what is provided for in Article 47(8) of the BBNJ Agreement and provide for the meeting/conference envisaged in article 47(8), in addition to the ordinary and extraordinary meetings of the COP. Such meeting/conference, which could be termed a review conference, would assess and review the adequacy and effectiveness of the provisions of the Agreement and, if necessary, propose means of strengthening the implementation of those provisions to better address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

o **Rule 4:** With regard to the frequency of meetings, as stated by the distinguished delegates of many who spoke before me - CLAM, African Group, EU, Singapore, Chile, Bangladesh, Vietnam, Sri Lanka, and as being considered by Canada, and Iceland - ICCEL strongly supports annual meetings, at least in the initial stages, given the anticipated volume of work that needs to be carried out to ensure effective

implementation of the BBNJ Agreement. It is also essential to provide for the scheduling of a special COP meeting/conference as provided for in Article 47(8) of the BBNJ Agreement.

o **Rule 5:** Regarding notification of meetings in draft rule 5, there could be a specific inclusion of utilizing the CIHM to ensure that all stakeholders receive notification of meetings in a timely manner. There could be a push notification for those who sign up to receive email notifications.

o This is more of a question. **Rule 6.2** specifically provides for the representation of the UN, its specialized agencies, and **related organizations** as observers at meetings of the COP and its subsidiary bodies. Does including such a provision depend on how 'relevant global, regional, subregional and sectoral bodies' are understood? Would it be necessary to include a definition in draft rule 2?

o RoPs could provide for approval by the COP of the outcome document from its session (e.g., a report) and also require reports of subsidiary bodies to be approved by the COP. In draft rule 30, there is a need to provide for communications from the Chairs of the subsidiary bodies to the President of the COP. Transparency is key and should be mainstreamed through the rules of procedure. The approval requirement could be in Part XII of the RoP.

· *What elements, if any, could be left out of the document?*

Rule 26(b): As pointed out by the distinguished delegate of G-77 and China, for the Chair of the subsidiary body to exercise the right to vote could compromise the neutrality and objective views that the Chair could have in performing its role.

· *What substantive elements of the document do delegates agree or disagree with?*

Rule 34: There is a wealth of practice regarding rules of procedure, especially at the level of the UN General Assembly (UNGA). For example, with respect to the required quorum and the method of amendment of the RoPs, ICEL suggests following the practice of UNGA, which has a lower threshold (*see* UNGA rules 67 and 163), which could minimize the quorum issues that have arisen regularly at the ISA. Also, in the case of elections in the Meeting of States Parties to UNCLOS (SPLOS), it has been challenging to get the required quorum.

- *Quorum Rule 67: The President may declare a meeting open and permit the debate to proceed when at least one-third of the members of the General Assembly are present. The presence of a majority of the members shall be required for any decision to be taken.*
- *Rule 163 A decision of the General Assembly may amend these rules of procedure, taken by a majority of the members present and voting, after a committee has reported on the proposed amendment.*

· *What substantive elements of the document are the most important and why?*

Part III: As supported by distinguished delegates, including from CLAM, New Zealand, Norway, Chile, Switzerland, and Bangladesh, it is essential to ensure that the BBNJ Agreement's transparency clauses are effectively implemented. The wide range of stakeholders in draft rules 6 and 7, and timely notification by the Secretariat in rules 8, 11, 14, are important rules to ensure transparency, as envisaged in the BBNJ Agreement.

Thank you.

Hiroko Muraki Gottlieb
Representative for the Ocean
Head of Delegation to the intergovernmental conference
International Council of Environmental Law Conseil
hmurakigottlieb@fas.harvard.edu

John E. Scanlon AO, Executive President
Office of the Council/Bureau du Conseil
John E. Scanlon AO, Executive President
International Council of Environmental Law
Universidad Carlos III de Madrid Instituto
Pascual Madoz Edificio 11 Calle Madrid 126
28903 Getafe, Madrid, Spain
info@icelinternational.org