



**Answers on behalf of the European Union and its Member States
regarding the 15 points pertaining to the discussions on the Rules of
Procedure for the Conference of the Parties**

**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 of the Preparatory Commission
14-25 April 2025**

Informal Working Group Discussions

Check against delivery

Statement by the EU and its Member States on the Rules of Procedure
BBNJ PrepCom1, 14-25 April 2025

1. Location of COP meetings – HQ or seat, or flexible or rotate.

- The possibility to have the COP decide on a different location for meetings of the COP should be kept since it allows for flexibility and stems from other multilateral environmental agreement CoP RoPs.

2. Frequency of COP meetings - annual, biennial, annual only for initial period vs biennial with annual only as extraordinary

- On the frequency of COP meetings, the EU and its Member States support a staggered model whereby the COP could convene annually in the initial years after the entry into force of the agreement. The frequency of COPs should thereafter be re-assessed and move towards a biennial model.
- The approach adopted under the Minamata convention was for the COP to meet annual for the first three years and then to meet every second year and this could be taken as an inspiration.

3. Adding virtual or hybrid participation capability in exceptional circumstances?

- The EU and its Member States agree with delegations who have stated that online meetings should be possible in the case of emergencies (e.g. as was done during COVID in different multilateral fora).

- The EU and its Member States listened closely to those delegations that mentioned the possibility of a having extraordinary meetings take place online in certain circumstances because of, for example, logistical or financial issues/reasons.
- However, at the moment, the EU and its Member States consider that more reflection is required on the question of hybrid participation in ordinary meetings of the COP.

4. Threshold and agenda for extraordinary meetings and modalities regarding emergency measures under Article 24.

- The EU and its Member States are of the view that the current wording of draft Rule 4, paragraph 3 of the draft Rules of Procedure can be supported. This means that we can support the 1/3 threshold, although we are open to hearing more from those delegations who have argued a higher threshold would be more suitable for extraordinary meetings.
- The EU and its Member States are open to explore a rule to give effect to the practical application of Article 24 of the BBNJ Agreement however we note that the provision itself is already detailed on the checks and conditions on the activation of Article 24. It should be noted that any such rule should take into account the specific role of the STB in the process.

5. Agenda items and timelines.

- The EU and its Member States support the current wording on the setting of the agenda. The setting of the agenda should be straightforward and efficient, and we believe this to be the case.
- On Rule 5(2) on extraordinary meetings, we note that currently there is a deadline of at least 30 days in advance of a COP for the Secretariat to notify all Parties of the dates and venue of extraordinary meetings. It should be explored to change this provision whereby the default rule would be the regular 60 days for notifying the dates and venue of an extraordinary meeting. A shorter time period of at least 30 days should then remain possible for urgent reasons.

6. Procedures for observers.

- The EU and its Member States underline the need for adequate participation of observers in the work of the BBNJ without a right to vote. This should be the point of departure based on Article 48(2) of the agreement.
- With regard to the draft Rules of Procedure on the participation of observers, the EU and its Member States have four somewhat more technical questions for the co-chairs which we will now outline.
- First, it should be clarified how the procedure for granting observer status works in practice. This requires an answer to the question to whom the request for observer status should be addressed and who gets to decide, will this be a non-objection procedure?
- Second, on Rule 6(2) a special provision is dedicated to the UN its agencies and “related organizations”. We believe it is useful to have this provision as it is also included in other Rules of Procedure on MEAs however, it needs to be clarified what is meant with the wording: “related organization”.

- Third, on rule 7, the EU and its Member States think consideration should be given to granting powers to subsidiary bodies to have the possibility to exclude observers upon the decision of the subsidiary body concerned. However, taking into account the important role of observers, we would once again like to emphasize that the starting point should be that meetings in principle should be open to observers.
- Fourth and finally, the EU and its Member States note that on Rule 8 the current RoP do not have a deadline for the secretariat to inform observers of the present rules of procedure, of the dates and venue of the next meeting. This should be included because observers are faced with the same practical necessities as parties. Therefore, a deadline should be added before which observers should be informed of the practicalities of a meeting, or provide for information “in a timely manner” or “as soon as possible”.

7. Bureau - role, size, length of terms of members & 8. Regional representation and representation of SIDS – on Bureau (rule 22), subsidiary bodies (rule 29) and elsewhere.

- The EU and its Member States are of the view that the role of the bureau and of the rapporteur as currently set out in the draft rules of procedure are not entirely clear. We would therefore suggest that additional details are inserted that elaborate on their roles. In this regard, we support the suggestion made last week by some delegations indicating the need for the Rules of Procedure to have a consolidated rule on the role of the bureau.
- Also, the EU and its Member States think that the Rules of Procedure should spell out the purpose and tasks of the rapporteur.

- As to the terms of office of Bureau members, the EU and its Member States believe that the terms of bureau members should be limited. In this regard, a two-term limit would be an appropriate term, bearing in mind that the length of terms could be affected by the frequency of the COP meetings.
- On the offices of the President and the Rapporteur, Rule 22 paragraph 3 provides that “The offices of the President and Rapporteur shall normally be subject to rotation among the United Nations regional groups.” We suggest that the use of the term “normally” here causes some confusion. It is not entirely clear whether the intention is for the relevant offices to rotate habitually but with the possibility that the offices would not always rotate *or* whether the frequency of rotation is subject to some other formula. We would therefore appreciate a clarification on what the term ‘normally’ means in this context.
- As to the size of the bureau, given the need for and importance of gender balance and equitable geographical representation, the EU and its Member States suggest that one president and nine Vice-Presidents could be an appropriate number. We believe that such a size would enable the Bureau to function efficiently and effectively.
- Further in respect of the composition of the bureau, we would like to make some comments on the gender balance and equitable geographical representation, especially regarding the special role of SIDS:
 - On **gender representation**, in regard to the election and nomination of the members of the subsidiary bodies, the EU and its Member States think a gender focal point could be appointed to provide advice and assistance when nominating officers for the Bureau.

- On **the special position of SIDS**, the EU and its Member States believe the current wording used in the draft ROP of “equitable geographical representation” could be sufficient. However, we are open to explore whether and how the special position of SIDS could be reflected in the Rules of Procedure.
- Even though the EU and its Member States think the current wording works, we would like to ask those who have proposed a special seat for SIDS how they would envisage the reflection thereof in practice. We have already heard a proposal made by AOSIS but would like to understand better how to appropriately reflect the position SIDS in the bureau and how those who propose this would see that working practically.
- The EU and its Member States note that the UK suggested that inspiration could be found in rule 35 of the ISA Assembly’s RoP. We agree that it is a good precedent that should be followed in the BBNJ ROP.

8. Regional representation and representation of SIDS – on Bureau (rule 22), subsidiary bodies (rule 29) and elsewhere.

- See under 9.

9. Subsidiary bodies, autonomy and independence from the COP, interaction between bodies, and collaboration and communication intersessionally and with IFBs.

- The EU and its Member States consider it important that the subsidiary bodies are given sufficient autonomy to fully exercise their functions within the terms of their mandates.
- In that regard, Rule 28 of the draft Rules of Procedure may seem overly burdensome, as this Rule provides that ‘the Conference of the Parties shall decide on the dates of the meetings of the subsidiary bodies’.
- The EU and its Member States are of the view that it should be explored whether this task of deciding on meetings should not rather be allocated to, for example, the Secretariat in consultation with the bureau or with the chairperson of the subsidiary body concerned.
- Furthermore, the EU and its Member States also believe that the intention behind draft Rule 30 should be clarified. This Rule provides that:

“the Conference of the Parties shall determine the matters to be considered by each subsidiary body and the President may, upon the request of the chair of the subsidiary body concerned, adjust the allocation of work”.

- In this regard, the EU and its Member States note that the agreement already sets out the issues to be considered by the subsidiary bodies. We would therefore require further clarification on this rule.
- Finally, on the interplay between the different subsidiary bodies, and the interplay between subsidiary bodies and relevant IFBs, the EU and its Member States are open to the idea of including mechanisms in the Rules of Procedure which would enable, enhance and foster such cooperation.

10. Chair of subsidiary bodies – should they have the right to vote

- On the issue of the voting rights of the Chair, the EU and its Member States are open to considering the different options proposed during the PrepCom by different delegations.
- However, we are of the view that this issue is ultimately dependent on the size and specific functions of the subsidiary body at stake as well as it being dependent on the capacity in which members serve.

11. Consensus decision making, to better emphasize this in Rule 45. And to connect more closely to the agreement text.

- The EU and its Member States are of the opinion that current Rule 45 sufficiently emphasizes the need to make every effort to adopt decisions and recommendations by consensus.
- However, we believe as regards the reaching of consensus it could be further clarified when, and who decides when, all efforts to reach consensus have been exhausted. This could be done by giving the president a possibility to explicitly declare that all efforts for consensus have been exhausted.

12. Proxy voting and voting of regional economic organisations in Rule 44(2).

- On the point of the REIO clause, the EU and its Member States are of the opinion that the current draft of the Rules of Procedure is reflective of and is in accordance with the specific terms of the agreement, and we therefore support the draft wording as proposed. The EU and its Members States further note that the current draft of the REIO clause and the current definition of “parties present and voting” are also used in over a dozen other multilateral environmental agreements in their

rules of procedure, including for example, the Convention on Biodiversity, the Minamata convention, and UNFCCC.

- This therefore reflects a widespread practice and precedent from which the PrepCom should not depart.
- On proxy voting, the European Union and its Member States would welcome seeing draft language on how proposals for the proxy voting could be reflected in the draft Rules.

13. Quorum (rule 30) threshold and amendments (Rule 60), interplay and double requirement

- The EU and its Member States are of the view that all efforts to seek consensus should be explored in order to amend the Rules of Procedure.

14. Rules of procedure for COP applying mutatis mutandis to subsidiary bodies generally, and further examination of whether each body requires additional rules of procedure.

- The EU and its Member States are of the opinion that the RoP for the CoP should apply mutatis mutandis to the subsidiary bodies, but with the possibility of adjustments and enactment of additional rules by the respective bodies where needed taking into account their specificities. It should be noted as well that the agreement already sets out that certain subsidiary bodies should have their own RoP in any case, such as the ICC.
- The EU and its Member States believe that the RoP and/or the Terms of Reference and modalities for the subsidiary bodies should ensure that these

bodies strive for consensus. After all efforts to achieve consensus have been exhausted, such rules or modalities should provide for a mechanism to facilitate recommendations as well as reports and output to be forwarded to the CoP within the subsidiary body.

- It should be noted here that an important omission is the fact that there are no rules on the election of members to the subsidiary bodies.

15. Closer reflection of Articles 6 and 18 of the Agreement in the rules of procedure.

- The EU and its Members States would like to support the interventions made by Australia, UK, the Philippines, Canada, Iceland, New Zealand and Norway, The EU and its Member States believe that articles 6 and 18 are clearly articulated in the agreement, and we should not put matters of substance in the Rules of Procedure. Therefore, the EU and its Member States do not see a reason to include dedicated provisions in the Rules of Procedure.