

High Seas Alliance PrepCom 1 Interventions



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Speaker: High Seas Alliance

Intervention on Agenda Item 5 on Implementation and Compliance Committee

Thank you Mr Co-Chair

On question 3, bearing in mind article 55 paragraph 3, it seems that the ICC will need its own modalities document which will set out operating modes, methods of resolving issues, and how an issue can be brought before the ICC, or the so-called “triggers”.

Delegates could look to the Paris Agreement Implementation and Compliance Committee (PAICC) as well as the Aarhus Convention Compliance Committee and Espoo Convention Implementation Committee for examples of modalities, terms of reference and operating modes.

We recommend that the ICC meet in public to maintain transparency, and further suggest that the ways matters can be brought before the ICC - the “triggers” - should be as broad as possible in order to ensure an effective and flexible ICC and we thank the many delegations which have supported such transparency.

In an example of implementation of transparency, the Aarhus Convention Compliance Committee permits members of the public to make submissions to its ICC, a practice that we suggest should be adopted for the BBNJ ICC, in the case of observers and Indigenous Peoples and local communities. The Aarhus Convention Compliance Committee takes a similar non-confrontational, non-judicial and consultative approach similar to the ICC's facilitative transparent, non-adversarial and non-punitive approach.

Regarding the ICC's interaction with other subsidiary bodies, the purview of the ICC explicitly encompasses the entire BBNJ Agreement. It is cross cutting as Iceland said. At the same time, several other subsidiary bodies' mandates also include monitoring the implementation of specific provisions of the Agreement and making recommendations on how to improve them. Initial guidance on when a particular implementation or compliance issue should be addressed by a specialized subsidiary body (e.g., the ABSC for Part II or the CB&TMT Committee for Part V), and when it should be addressed by the ICC would help avoid duplication of work, without constraining the ICC's broad mandate. We recommend that the ICC develop its own guidelines on this issue as one of its first tasks.

Also important is maintaining flexibility and the flow of information and coordination between subsidiary bodies, including through the Chairs of the respective bodies. The Implementation and Compliance Committee, which is cross cutting, will likely particularly need input from the other subsidiary bodies.

Finally On Q4 we note that a fundamental issue is the capacity in which ICC members will serve. As the Secretariat notes states, practice varies among multilateral instruments - some ICCs comprise State representatives, while others include members serving in individual or personal capacities (Secretariat note, paragraph 59).

Particularly if Parties intend the ICC to analyze implementation items on the CoP's agenda extensively and prepare the CoP's discussions, representation in State capacity and a larger membership may be more important than if the ICC's intended scope is narrower.

Thank you Co-chairs