



BBNJ Agreement

Briefing note 2 (April 2025)

A Guide to Preparing for the Preparatory Commission

Background

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)¹ is the third implementing agreement under the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

The BBNJ Agreement opened for signature on 20 September 2023 and will remain open for a two-year period, closing on 20 September 2025. The current status of the signatories and state parties to the Agreement can be found on the **United Nations (UN) Treaty Collection website**. For further information on becoming a party to the BBNJ Agreement see briefing note 1 in this series, **'Signature, Ratification and the Implementation of the BBNJ Agreement at the National Level'**.²

Importance of the preparatory commission (PrepCom)

The international community is about to embark on the next critical stage of the BBNJ process. To ensure that the BBNJ Agreement is operational

once it enters into force, the UN General Assembly adopted **resolution 78/272**,³ establishing a preparatory commission (PrepCom).

The PrepCom has two main objectives:

1. to prepare for the entry into force of the BBNJ Agreement
2. to prepare for the convening of the first meeting of the Conference of the Parties.

At its final session, the PrepCom will take decisions on any recommendations to be made to the Conference of the Parties, and will also prepare a final report on all matters within its mandate for presentation to the Conference at its first meeting.

After 20 September 2025, or the date on which the BBNJ Agreement enters into force (whichever comes first), the taking of decisions by the PrepCom will only be by states that have signed, ratified, approved or acceded to the instrument. Upon the BBNJ Agreement's entry into force, the PrepCom will cease to exist.

The historical precedent for the establishment of a PrepCom lies with the BBNJ Agreement's parent treaty, UNCLOS – the PrepCom of which was instrumental in establishing the bodies under the Convention and promoting universal participation. Likewise, a state's participation in the BBNJ

This is issue 2 of the Commonwealth Secretariat's BBNJ briefing note series – for further issues and the latest updates see thecommonwealth.org/bluecharter/BBNJ.

These briefings supplement the Secretariat's six-part BBNJ webinar series, which can be found at thecommonwealth.org/BBNJ-webinar.

PrepCom is considered critical to the acceleration of the ratification process and early implementation of the Agreement.

Programme and Organisation of Work for the PrepCom

The organisational meeting for the PrepCom was held between 24 and 26 June 2024, at which time states elected two co-chairs (Ambassador Janine Coye-Felson, Deputy Permanent Representative of Belize to the UN, and Adam McCarthy, Chief Counsel and First Assistant Secretary at the Department of Foreign Affairs and Trade of Australia) and 15 vice-chairs to the bureau of the PrepCom (Antigua and Barbuda, Belgium, Brazil, Canada, Chile, Germany, Latvia, Japan, Mauritius, the Philippines, Poland, Romania, Sierra Leone, Singapore and South Africa).

States also **agreed to a cluster of issues** that will form the basis for discussions at the first two sessions of the PrepCom.⁴ The first session of the PrepCom will be held between 14 and 25 April 2025, and the second session between 18 and 29

August 2025. At least one further session, of 10 working days, is to be held in 2026, with dates yet to be determined.

The PrepCom will be used to lay crucial groundwork for the functioning of the BBNJ Agreement and its subsidiary bodies for adoption at the first meeting of the Conference of the Parties. The **agenda and programme of work** for the upcoming PrepCom has recently been published.⁵

Issues for consideration at each of the PrepCom sessions are set out in the table below.

The co-chairs, with the support of the interim secretariat (Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs), prepared a **proposed organisation of work**⁶ for PrepCom 1. The proposed organisation of work was prepared to ensure progress in an efficient and flexible manner, while ensuring transparency, inclusivity and meaningful participation by all delegations in the PrepCom process.

PrepCom 1 14–25 April 2025	PrepCom 2 18–29 August 2025	PrepCom 3 TBD 2026
Rules of procedure of the Conference of the Parties	Continued consideration of issues taken up at PrepCom 1	Continued consideration of issues taken up at PrepCom 1 and PrepCom 2, as needed
Terms of reference and modalities for the operation, and rules of procedure, of the subsidiary bodies established under the BBNJ Agreement	Arrangements to enhance co-operation with relevant legal instruments and frameworks, and relevant global, regional, subregional and sectoral bodies	Any other matter that may arise
Selection process for the members of the Scientific and Technical Body and other subsidiary bodies	Reporting requirements	
Arrangements for the functioning of the Secretariat, including its seat	Operationalisation of other provisions on financial resources and mechanisms	
Modalities for the operation of the Clearing-House Mechanism	Any other matter that may arise	
Financial rules governing the funding of the Conference of the Parties, the Secretariat and subsidiary bodies		
Any other matter that may arise		

Specific preparation for PrepCom 1: A step-by-step guide

The way in which the PrepCom will be conducted marks a significant departure from the modalities of the BBNJ Intergovernmental Conference negotiations.

There are several measures a state can take to prepare for the first session of the PrepCom. These suggested measures fall into three essential steps outlined below.

Step 1: Consult with stakeholders

As a first step, a state should consider consulting all relevant departments, ministries and agencies that may have responsibilities for implementing the BBNJ Agreement at the national level.

In this regard, it is suggested that states 'cast a wide net' and include departments, ministries and agencies relating to oceans, fisheries, the environment, energy, marine scientific research, shipping and communications, among others. It is also suggested that states look beyond stakeholders who may have participated in or contributed to the BBNJ negotiation process, and consider including those from academia and the scientific and research community, industry associations, non-governmental organisations and relevant members of the private sector.

Step 2: Appoint a national focal point and establish a steering committee

For the second step, it is recommended that a state take measures to appoint a national focal point and establish a steering committee for the co-ordination of national efforts in preparing for the PrepCom process.

A state may appoint and/or designate a national focal point that will serve as the main point of contact between the state party and the BBNJ Secretariat. While a state prepares for the BBNJ Agreement to enter into force, it could also consider designating a lead co-ordinating agency where the national focal point will sit, and designating the national focal point as the point of inter-agency co-ordination during the work of the PrepCom and the domestication process.

A state may also wish to establish a steering committee for the purpose of supporting the work of its permanent missions to advance the entry into force of the BBNJ Agreement.

The steering committee's responsibilities could include the following.

- Apportion responsibility for the PrepCom's programme of work across the steering committee (including reviewing the documents prepared by the PrepCom co-chairs and the BBNJ Secretariat) for the purpose of preparing the New York-based delegations ahead of the PrepCom sessions.
- Review, co-ordinate and align national and regional positions ahead of the PrepCom sessions, and provide counsel and advice during the PrepCom process.
- Appoint a pool of technical experts that will be on call during the PrepCom sessions for the purpose of assisting the permanent missions in New York.

Step 3: Review documents prepared by the PrepCom co-chairs and BBNJ Secretariat

The PrepCom co-chairs and the BBNJ Secretariat have worked together to prepare informational materials ahead of the PrepCom sessions at the UN headquarters in New York. These materials are detailed below, and can be accessed on the [UN BBNJ website](#).⁷

For those delegates tasked with assisting and supporting a state in its participation in the PrepCom process, the following actions are suggested.

1. Watch the online briefing by the PrepCom co-chairs

It would be helpful for delegates to watch the **recording of the online briefing by the co-chairs of the PrepCom**, which was held on 12 March 2025.⁸

2. Review the aids to discussions and negotiations prepared by the PrepCom Co-Chairs

Delegates are also encouraged to review the following three aids to discussions and negotiations, prepared by the PrepCom co-chairs, which are intended to serve as possible starting points for discussions and text-based negotiations:

- **'Rules of procedure for the Conference of the Parties under the [BBNJ Agreement]: Aid to discussions and negotiations prepared by the Co-Chairs'**⁹

- **'Financial rules governing the funding of the Conference of the Parties to the [BBNJ Agreement] and the funding of the secretariat and any subsidiary bodies: Aid to discussions and negotiations prepared by the Co-Chairs'**¹⁰
- **'Arrangements with the Global Environment Facility to give effect to the relevant provisions on funding of the [BBNJ Agreement]: Aid to discussions and negotiations prepared by the Co-Chairs'**.¹¹

Delegates may also wish to consider the following guiding questions, posited by the PrepCom co-chairs, with respect to the three resources listed above – particularly with regard to preparing national and regional positions and priorities, and drafting any relevant interventions.

- Can the document be used as a basis for discussions and text-based negotiations? If so, is the structure of the document fit for purpose?
- What missing elements, if any, might usefully be included in the document?
- What missing elements, if any, could be left out of the document?

3. Review the Notes prepared by the BBNJ Secretariat

It would also be beneficial for delegates to review the following three notes prepared by the BBNJ Secretariat:

- **'Arrangements for the functioning of the secretariat, including its seat: Note by the Secretariat'**¹²
- **'Terms of reference and modalities for the operation of, and rules of procedure for, the subsidiary bodies established under the [BBNJ Agreement], including selection process for their members: Note by the Secretariat'**¹³
- **'Issues pertaining to the operation of the Clearing-House Mechanism under the [BBNJ Agreement]: Note by the Secretariat' (advanced, unedited version).**

In reviewing the notes, delegates should be mindful that they are not intended to be used as a basis for text-based negotiations; rather, they should be used as background and reference points in considering the work before the PrepCom.

4. Draw upon experiences with other relevant instruments, frameworks and bodies

Delegates may wish to draw upon their experiences with other relevant legal instruments, frameworks and bodies (IFBs) and consider how these experiences could inform the PrepCom process. Particular attention should be devoted to the terms of reference, modalities and rules of procedure used in IFBs: the uptake of various types of information, guidance and lessons learned may support and be instructive to the PrepCom process, and used to lay crucial groundwork for the functioning of the BBNJ Agreement and its subsidiary bodies.

5. Regularly consult the UN BBNJ website for updates

Lastly, it is highly recommended that delegates consult the UN BBNJ website (un.org/bbnjagreement) on an ongoing basis for further information and updates prior to and during the PrepCom process.

Endnotes

- 1 United Nations (2023) *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*.
United Nations (1982) *United Nations Convention on the Law of the Sea*. <https://www.un.org/bbnjagreement/sites/default/files/2024-08/Text%20of%20the%20Agreement%20in%20English.pdf>
- 2 Commonwealth Secretariat (2025) 'Signature, Ratification and Implementation of the BBNJ Agreement at the National Level', BBNJ Agreement briefing note 1. <https://thecommonwealth.org/publications/signature-ratification-implementation-bbnj-agreement-national-level>
- 3 United Nations General Assembly (2024, April 24) Resolution 78/272: 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. A/RES/78/272. <https://documents.un.org/doc/undoc/gen/n24/117/55/pdf/n2411755.pdf>
- 4 United Nations General Assembly (2024, July 1) Statement by the Co-Chair of the Preparatory Commission at the closing of the organizational meeting. A/AC.296/2024/4. <https://documents.un.org/doc/undoc/gen/n24/117/55/pdf/n2411755.pdf>
- 5 United Nations (2025) 'First session: Official documents'. <https://www.un.org/bbnjagreement/en/meetings/preparatory-commission/documents/first-session>
- 6 United Nations General Assembly (2024, December 23) Provisional programme of work of the Preparatory Commission. A/AC.296/2025/L.2*. <https://docs.un.org/en/A/AC.296/2025/L.2>
- 7 United Nations (no date) 'Agreement on Marine Biodiversity of Areas beyond National Jurisdiction', webpage. <https://www.un.org/bbnjagreement/en>
- 8 United Nations General Assembly (2025, March 12) 'Online briefing by the Co-Chairs', video. <https://www.un.org/Depts/los/temp/Videos/Bbnjprepcombriefing12march2025.mp4>
- 9 United Nations General Assembly (2025, February 3) 'Rules of procedure for the Conference of the Parties under the [BBNJ Agreement]: Aid to discussions and negotiations prepared by the Co-Chairs'. A/AC.296/2025/3. <https://docs.un.org/A/AC.296/2025/3>
- 10 United Nations General Assembly (2025, February 3) 'Financial rules governing the funding of the Conference of the Parties to the [BBNJ Agreement] and the funding of the secretariat and any subsidiary bodies: Aid to discussions and negotiations prepared by the Co-Chairs'. A/AC.296/2025/7. <https://docs.un.org/A/AC.296/2025/7>
- 11 United Nations General Assembly (2025, February 3) 'Arrangements with the Global Environment Facility to give effect to the relevant provisions on funding of the [BBNJ Agreement]: Aid to discussions and negotiations prepared by the Co-Chairs'. A/AC.296/2025/8. <https://docs.un.org/A/AC.296/2025/8>
- 12 United Nations General Assembly (2025, February 3) 'Arrangements for the functioning of the secretariat, including its seat: Note by the Secretariat'. A/AC.296/2025/5. <https://docs.un.org/A/AC.296/2025/5>
- 13 United Nations General Assembly (2025, February 6) 'Terms of reference and modalities for the operation of, and rules of procedure for, the subsidiary bodies established under the [BBNJ Agreement], including selection process for their members: Note by the Secretariat'. A/AC.296/2025/4. <https://docs.un.org/A/ac.296/2025/4>



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