



IUCN Key Messages for BBNJ IGC5

The UN Agreement on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction (BBNJ Agreement) is an historic and critical opportunity to ensure a healthy, productive and resilient ocean that supports the needs of humanity and marine life now and across generations. To meet the accelerating pressures of climate change and human use, the BBNJ Agreement needs to be ambitious, climate-smart, and well-resourced. For this reason, the BBNJ Agreement needs to come with binding legal commitments, an empowered Conference of Parties and dedicated Committees to foster collaborative and precautionary action to conserve marine biodiversity, safeguard ecosystem integrity from the seafloor to the airspace above, deliver capacity and access to relevant technologies, and ensure that human uses are sustainable and equitable.

Principles and Approaches, Part I, Article 5

Because they provide guidance for the BBNJ agreement's commitments, agreeing on key principles will bring coherence to the other parts. Some of the most important principles and approaches include the precautionary principle, an integrated, ecosystem-based approach, equity - including for present and future generations, transparency and access to information, stewardship, common concern, non-regression and polluter pays, amongst others. Principles and approaches complement the need for clear obligations in the other parts of the BBNJ Agreement. Principles, approaches and obligations together help to align action in marine areas beyond national jurisdiction with global efforts to advance the UN Sustainable Development Goals and the Global Biodiversity Framework.

Marine Genetic Resources Including Questions on the Sharing of Benefits, Part II

Improving MGR research coordination and cooperation will increase global knowledge of marine biodiversity and habitats and in doing so will enable the development of improved conservation measures. Supporting this science and scientists by developing pragmatic measures will ensure that this is possible and that data derived from marine scientific research (MSR) on MGR will be shared openly for the benefit of humankind. Additional benefits, including financial, should be shared in a fair and equitable way, should not be unfairly blocked by IP rights, and should support capacity building and biodiversity conservation. This can be achieved by taking into account international scientific practice in the field and ensuring that the administrative burden on those carrying out MSR on MGR is low, and is placed on those commercialising discoveries based on MGR. Given the rate at which science advances, much of the detail on sharing of benefits and traceability should be easy to update via a COP/STB (Conference of Parties / Scientific and Technical Body) mechanism. Any definitions such as MGR and digital sequence information should be as close as possible to those used in the CBD and Nagoya Protocol to prevent loop-holes and simplify compliance.



Area-Based Management Tools (ABMTs), Including Marine Protected Areas, Part III

Marine Protected Areas (MPAs) globally require ambitious and comprehensive management, focused on the primary objective of long-term conservation. The goal of enhancing cooperation and coordination through the BBNJ Agreement is best supported by clear objectives: these should advance: 1) cross-sectoral ecosystem-based management; 2) networks of ecologically representative and connected MPAs, a significant percentage of which are highly or fully protected, complemented by 3) wider systems of climate-smart and adaptive ABMTs. To enable timely action, the COP will need a clear mandate to establish not only MPAs and other ABMTs but also to adopt associated conservation measures that are binding on themselves as Parties. Requiring Parties to promote area-based measures to enhance conservation and sustainable use through their participation in other international frameworks and bodies (IFBs), based on common criteria, will advance coherence. Additionally, ongoing assessment and consultation processes (including strategic environmental assessments) are needed to build a shared knowledge base, stimulate strategies for action, and ensure that the views of States, IFBs and other stakeholders are given due consideration. And finally, to ensure long-term effectiveness, more specific mechanisms to support MPA management, research, monitoring and enforcement will be needed.

Environmental Impact Assessment, Part IV

Environmental Impact Assessment (EIA) is an essential tool for conservation and sustainable use of biodiversity in areas beyond national jurisdiction. To be effective, it must be thorough, transparent, consultative, and allow for changes to the proposed activity to prevent harm. Additionally, the EIA process should be accountable, impartial, independent, precautionary, collaborative and learning oriented. Provisions in the draft text can be chosen to ensure that EIAs do their job to prevent environmental harm and that strategic environmental assessments (SEAs) are authorized for wider application.

Capacity building and transfer of marine technology, Part V

Capacity building and transfer of marine technology that is sustained, well-resourced and needs-based will be fundamental to the effective and equitable implementation of all elements of the BBNJ Agreement. Hence, the actual roles, responsibilities and mechanisms for implementation and review need to be more clearly defined and definitions of marine technology and transfer of marine technology broadened to encompass technologies, knowledge and expertise relevant to study, use, protection and management of BBNJ, such as monitoring, control and surveillance. Intellectual property aspects can and should be addressed in a way that incentivises use of existing legal possibilities to limit the impact of intellectual property rights while also respecting their role in encouraging innovation.



Institutional Arrangements, Part VI

To support implementation and maintain momentum, it will be important to include effective institutional mechanisms. These include: 1) a Conference of the Parties with decision-making modalities that include a vote when consensus cannot be reached; 2) A Scientific and Technical Body composed of experts with suitable qualifications including traditional knowledge holders that act in their individual capacity; and 3) Committees established for advancing compliance, capacity building and finance specifically established in BBNJ Agreement text.

Financial Resources and Mechanism, Part VII

Financial and in-kind support will be vital for ensuring the success of the BBNJ Agreement. To enable all States to fulfil their responsibilities to safeguard ocean health, Parties and other stakeholders that can afford to will need to provide financial and in-kind resources to fund the Agreement bodies and to support other Parties' participation in the Agreement, as well as capacity building and development of technological access and expertise. To ensure timely access to financial resources, Article 52 should be framed to embrace multiple avenues for mobilising, delivering and coordinating resources, including from the Global Environment Facility, but also public-private partnerships and others. For this purpose, IUCN recommends establishing a Standing Committee on Finance within Article 52.

Dispute Settlement, Part IX

States and civil society have invested in this negotiation because of the recognition that the rule of law is a peaceful path to resolving conflicts and the surest route to the world we want. The UN General Assembly mandated the BBNJ Agreement as a “legally binding instrument”. Formal dispute settlement, either arbitration or adjudication, is a tool that is widely recognized as necessary to the rule of law. Advisory opinions provide valuable guidance before contentious disputes arise, but can only be sought if there is a provision for them in the text of the BBNJ Agreement. Technical disagreements might be efficiently addressed through ad hoc expert panels, but they should not foreclose formal dispute settlement under Article 55.

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