

The third BBNJ Agreement Preparatory Committee: Smooth sailing to COP1?

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In March 2023, States adopted the Agreement on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ). Following its entry into force on 17 January 2026,¹ attention has now shifted to the operationalization of the Agreement and the convening of the first Conference of the Parties (COP1). To prepare for this milestone, the United Nations General Assembly mandated the establishment of a Preparatory Commission (PrepCom),² supported by the Division for Ocean Affairs and the Law of the Sea (DOALOS) as interim secretariat.

Two PrepCom meetings have already taken place in 2025, allowing States to exchange initial views on institutional and financial arrangements. While these discussions have helped clarify positions and identify possible approaches, several key questions remain unresolved.

Against this background, the third PrepCom meeting (23 March-2 April 2026) is expected to play a decisive role in shaping recommendations to be transmitted to COP1. This *Policy Brief*, intended for stakeholders interested in high seas negotiations, analyzes the mandate and programme of work of PrepCom3, identifies areas where progress has been made, and highlights the main political and technical issues that still require resolution.

¹ BBNJ Agreement, Article 68(1).

² Resolutions A/RES/78/272 of 24 April 2024, A/RES/78/560 of 13 August 2024, and A/RES/79/271 of 4 March 2025.

KEY MESSAGES

The Preparatory Commission is entering a decisive phase: its third meeting is expected to be conclusive and produce recommendations that will guide the institutional set-up of the BBNJ Agreement at COP1.

Discussions so far have focused on three core clusters: governance arrangements, the operationalization of the clearing-house mechanism (CHM), and the financial rules and mechanisms needed to support implementation.

Despite progress in clarifying positions during PrepCom1 and 2, several politically sensitive issues remain unresolved, and further work is needed to finalize recommendations to be transmitted to COP1.

The outcomes of PrepCom3 will be critical in determining whether States can deliver a clear and operational framework for the effective implementation of the BBNJ Agreement at COP1. Special attention will be paid to the recommendations on voting rules, the modalities for observer participation, the composition of subsidiary bodies and the roadmap for establishing the CHM, as the level of ambition in these areas will determine the treaty's rapid and effective implementation.

1. KEY ISSUES TO BE RESOLVED AT PREPCOM3

The objective of the third PrepCom is to provide recommendations to COP1 on key institutional arrangements and practical operations to make the treaty operational as soon as possible. This means that no formal decisions will be taken at this meeting: the PrepCom will make recommendations, which COP1 will then consider for adoption. Although some delegates indicated after PrepCom2 that a potential PrepCom4 meeting might be necessary to finalize discussions, the PrepCom Co-Chairs and DOALOS, serving as the interim Secretariat of the BBNJ Agreement, have sought to put all necessary arrangements in place to enable delegates to work towards a successful and conclusive outcome at PrepCom3. However, because of the budget crisis the UN continues to face, PrepCom3 will not have more than two parallel meetings, which may slow down the text-based negotiations. The programme of work of the PrepCom includes three clusters of issues, namely: (1) governance issues; (2) issues pertaining to the operation of the clearing-house mechanism (CHM); and (3) financial rules, and financial resources and mechanism. These issues include matters that are expressly set out in the BBNJ Agreement and additional matters identified during the organizational meeting as priorities to be addressed by the COP. The sub-sections below provide an overview of the priority topics that delegates will focus on during PrepCom3.

Cluster 1: Governance issues

PrepCom3 will continue discussions on the governance issues that delegates took up at the first and second sessions, namely: (i) rules of procedure (RoP) of the COP; (ii) terms of reference (ToR), modalities of operation, RoP and selection process of members of subsidiary bodies, (iii) arrangements for the functioning of the secretariat and (iv) arrangements to enhance cooperation with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies (IFBs).

These issues are essential to ensuring the effective functioning of the BBNJ Treaty. They received limited attention during the negotiations of the Agreement and must now be carefully considered by delegations to ensure its effective implementation.³

Some of them will be particularly scrutinized, including:

- **The voting rules:** As is customary in UN diplomacy, the search for consensus remains the primary objective. However, it is important to retain the possibility of majority voting in order to avoid deadlocks.⁴ So far, the draft texts prepared ahead of PrepCom3 show there is no agreement yet on several voting rules. With regard to the RoP of the COP, the text contains several options regarding voting modalities, including different thresholds for quorum (e.g. a simple

majority or a two-thirds majority of parties present and voting) and for decision-making (e.g. a two-thirds or three-fourths majority). In this regard, the ongoing negotiations on the global plastic pollution treaty⁵ and the first meeting of the “Chemicals Panel”⁶ demonstrate that moving beyond consensus—particularly necessary in the current context to avoid paralysis in cooperation systems—remains a source of tension among States.

- **The participation of observers:** Both the Intergovernmental Conferences (IGCs) where the BBNJ Agreement was negotiated and the PrepCom meetings have been open to observer participation. However, the draft RoP of the COP provide textual options to object to observer requests (i.e. either at least one third or two-thirds of the Parties object) to participate in the meetings and for the COP to take decisions (either by simple or two-thirds majority) to close a session to observers. Article 48 of the BBNJ Agreement specifies that the COP shall promote transparency in decision-making processes and other activities carried out under the Agreement. Moreover, all meetings of the COP and its subsidiary bodies shall be open to observers participating in accordance with the RoP unless otherwise decided by the COP. The RoP of the COP “shall provide for modalities for such participation and shall not be unduly restrictive in this respect”. Supporting a two-thirds majority threshold would “safeguard the high standards of transparency and inclusion embedded in the Agreement”.⁷
- **The composition of subsidiary bodies:** A significant amount of work remains to be done regarding the ToR and modalities for the operation of, and RoP for, the subsidiary bodies, including the selection process of their members. During PrepCom2, one of the main reasons why delegates could not agree on establishing an informal expert group to study the operationalization of the CHM was because of the divergent views on its membership.

Table 1 provides an overview of the progress on Cluster 1.

³ <https://www.iddri.org/en/publications-and-events/billet-de-blog/technical-strategic-reflections-institutional-mechanisms>

⁴ *Ibid.*

⁵ <https://www.iddri.org/fr/publications-et-evenements/billet-de-blog/la-negociation-du-traite-sur-la-pollution-plastique-ou-de>

⁶ <https://enb.iisd.org/isp-cwp-p1-intergovernmental-science-policy-panel-chemicals-waste-pollution-summary>

⁷ <https://highseasalliance.org/wp-content/uploads/2025/04/Observer-Participation-HSA-Deep-Dive-Briefings-PrepCom-3-1.pdf>

TABLE 1. State of play of discussions on governance issues (Cluster 1)

TOPIC/THEME	LEVEL OF PRIORITY	PROGRESS
Rules of Procedure (RoP) of the COP	To be addressed by COP1 as specified in the BBNJ Agreement.	During PrepCom1 and 2, delegates already considered draft RoP of the COP. Based on previous views expressed and written input, the Co-Chairs developed a new draft RoP for PrepCom3. ⁸ There is no agreement yet on the modalities of meetings, intersessional decision-making in respect of emergency measures, the date of meetings, notification of meetings, observer participation, cooperation arrangements with IFBs, the adoption of the agenda, the application of the rules to subsidiary bodies, the decision-making procedure to close a session to observers, the quorum, rules in cases where a State objects to a proposal for the establishment of any area-based management tools, voting thresholds and the method of voting.
Terms of reference (ToR) and modalities for the operation of, and rules of procedure for, the subsidiary bodies: including selection process of members	Some matters to be addressed by COP1 as specified in the BBNJ Agreement, but other matters can be addressed at subsequent COPs.	A significant amount of work remains to be done on this topic. The Co-Chairs welcome input on the document they produced to assist States with text-based negotiations. ⁹ The Annex of the aid to discussions and negotiations presents paragraphs of general application to all subsidiary bodies, followed by provisions specific to each subsidiary body. Delegates will have to choose their preferred textual options regarding the membership (e.g. eligibility criteria, the number of members, selection process, term of office), modalities for the operation (e.g. the content of the programme of work, the frequency of meetings, the working language, in-person, virtual and hybrid participation, observer participation, decision-making, recommendations, reporting requirements, the establishment of ad hoc groups, working groups or subcommittees and engagement with experts), cooperation and coordination mechanisms, and conflict of interest and confidentiality of the subsidiary bodies.
Arrangements for the functioning of the secretariat	To be addressed by COP1 as specified in the BBNJ Agreement.	At PrepCom2, "convergence appeared to emerge on the need for a prompt set-up and operationalization of the secretariat" and on the benefits of drawing from the experience of the UN while ensuring that the secretariat has "functional, operational and financial autonomy and is not integrated into the work programme or management structure of any specific department or programme" of the UN. ¹⁰ DOALOS created a note with information on some of the existing types of institutional relationships between the UN and specific entities, the arrangements associated with each type of relationship and the legal capacity of the secretariat under these types of relationships. ¹¹ The information is supposed to help the PrepCom with consideration of arrangements for the functioning of the secretariat, but does not contain information concerning the selection of the seat of the secretariat.
Arrangements to enhance cooperation with relevant legal instruments and frameworks and relevant IFBs	Identified by the PrepCom as an additional matter that may be addressed at an early stage by the COP.	The Co-Chairs prepared a draft decision of the COP. ¹² There are no brackets included in the text, so the delegates do not have to choose between alternative formulations. The text provides a non-exhaustive overview of modalities of cooperation between the bodies established under the BBNJ Agreement and IFBs.

⁸ A/AC.296/2026/1, available at: <https://docs.un.org/en/A/ac.296/2026/1>.

⁹ A/AC.296/2026/3, available at: <https://docs.un.org/en/A/ac.296/2026/3>.

¹⁰ A/AC.296/2026/8, available at: <https://docs.un.org/en/a/ac.296/2026/8>.

¹¹ Ibid.

¹² A/AC.296/2026/4, available at: <https://docs.un.org/en/A/ac.296/2026/4>.

Cluster 2: The Clearing-House Mechanism

The BBNJ Agreement creates a clearing-house mechanism (CHM), a centralized, open-access platform intended to facilitate the sharing of information, the identification of capacity-building needs, and the coordination of support among Parties. Given its critical role in promoting transparency and cooperation, the CHM will need to be operational in some capacity from the outset. However, the BBNJ Agreement also specifies that the COP should adopt the modalities for the CHM. In the Secretariat's note on the CHM ahead of PrepCom1, a pilot phase or interim operation of the CHM was proposed.¹³ This could serve as an effective way to bridge that gap and allow Parties to gain initial experience with the CHM's operation, which can then inform decisions at COP1. During PrepCom2, the Co-Chairs circulated a draft ToR for an informal expert group on the technical aspects of the operationalization of the CHM¹⁴ as well as a flowchart¹⁵ outlining the functions of the CHM. However, during PrepCom2, delegates were unable to agree on the composition of the informal expert group, namely whether it should be open-ended or with limited membership.¹⁶

In between PrepCom2 and PrepCom3, DOALOS commissioned a consultant to prepare a draft study on the technical aspects of the operationalization of the CHM under the BBNJ Agreement.¹⁷ The study includes a: (i) preparation of a stocktake study of existing CHM and information-sharing platforms, including a study of their resources such as human resources and a cost-benefit analysis; (ii) a compilation of options to address the technical requirements of the CHM; (iii) a draft roadmap for its phased operationalization; and (iv) a draft workplan for the initial phase of its operationalization. The consultant presented several parts of the study during online briefings and DOALOS circulated a consolidated draft of the study on 10 March 2026.¹⁸ In-person consultations on the draft study will be held on the sidelines of the first week of the PrepCom3 meeting. The study will be revised and finalized between PrepCom3 and May 2026.

The CHM plays a key role for States to comply with their reporting and information-sharing obligations and that is why PrepCom3 should prioritize:¹⁹

- Providing clear, practical guidance on how States parties can submit information based on their obligations under the Agreement;

- Reviewing the draft study on the operationalization of the CHM and provide specific feedback and suggestions for improvements; and
- Adopting an ambitious roadmap for the rapid operationalization of the CHM either during PrepCom3 or shortly after that includes opportunities for inter-sessional work ahead of COP1.

Cluster 3: Financial rules, and financial resources and mechanism

The BBNJ Agreement established a financial mechanism to provide "adequate, accessible, new and additional and predictable financial resources" and to assist developing States Parties in implementing the Agreement. The mechanism includes:²⁰

- **A voluntary trust fund** established by the COP to facilitate the participation of developing States Parties in BBNJ meetings;
- **A special fund** funded through annual contributions, monetary benefits from the utilization of marine genetic resources (MGRs) and digital sequence information (DSI) and additional voluntary contributions from Parties and private entities and
- **The Global Environment Facility (GEF) trust fund.**

Now that the BBNJ Agreement has entered into force, the Agreement's finance mechanism legally exists, which means developed Parties should make annual contributions to the **special fund**.²¹ However, additional operationalization is needed. For example, the COP needs to establish a finance committee on financial resources and decide on the modalities for the sharing of monetary benefits from the utilization of marine genetic resources and digital sequence information based on recommendations of the access and benefit-sharing committee, which still needs to be operationalized.²²

Table 2 provides a non-exhaustive overview of the state of play of discussions on financial rules, financial resources and the financial mechanism.

¹³ A/AC.296/2025/6, available at: <https://docs.un.org/en/A/AC.296/2025/6>.

¹⁴ A/AC.296/2025/15, available at: <https://docs.un.org/en/a/ac.296/2025/15>.

¹⁵ https://www.un.org/bnjagreement/sites/default/files/2025-07/20250718BBNJCHMFlowChart_0.pdf.

¹⁶ https://enb.iisd.org/sites/default/files/2026-01/enb25260e_0.pdf.

¹⁷ <https://www.un.org/bnjagreement/sites/default/files/2025-10/20251016BBNJCHMStudyConsultancyTORs.pdf>.

¹⁸ <https://www.un.org/bnjagreement/sites/default/files/2026-03/20260309ConsolidatedDraftBBNJCHMStudy.pdf>.

¹⁹ https://highseasalliance.org/wp-content/uploads/2025/04/PrepCom-3-Consolidated-CLHM-_060226.pdf.

²⁰ BBNJ Agreement, Article 52(4).

²¹ *Ibid*, Article 14(6).

²² *Ibid*, Articles 52(14) and 14(7).

TABLE 2. State of play of discussions on financial rules, and financial resources and mechanism (Cluster 3)

TOPIC/THEME	LEVEL OF PRIORITY	PROGRESS
Financial rules governing the funding of the COP, secretariat and subsidiary bodies	To be addressed by COP1 as specified in the BBNJ Agreement	During PrepCom1 and 2, delegates considered draft financial rules governing the funding of the COP, the secretariat and any subsidiary bodies. In preparation for PrepCom3, the Co-Chairs revised their aid to discussions and negotiations as well as the draft financial rules. ²³ There is no agreement yet amongst delegates regarding its scope, the financial period, the process for developing a budget proposal, paragraphs regarding a voluntary funding mechanism to facilitate participation of developing States Parties and representatives of Indigenous Peoples and local communities, auditing and accounting processes and some general provisions.
Operationalization of other provisions on financial resources and mechanisms under the Agreement	Identified by the PrepCom as an additional matter that may be addressed at an early stage by the COP	<p>The COP is meant to establish the voluntary trust fund. The Co-Chairs prepared a draft text of potential ToR with several options regarding the scope, eligibility and application process of the fund.²⁴ The Co-Chairs recommend an approach where ToR would address matters specific to its operation and administration, while matters relating to broader budgetary and financial arrangements would be addressed in the financial rules.²⁵</p> <p>The BBNJ Agreement established the special fund. The Co-Chairs prepared a draft decision of the COP to operationalize it.²⁶ The draft decision contains alternative formulations on the modality for the operationalization, e.g. an open-ended working group, an <i>ad hoc</i> or transitional committee of limited membership or any other format as may be agreed. The composition of these working groups or committees is still to be decided and there is a placeholder for additional institutional issues, such as a board, secretariat or trustee mechanism. There are also options in the text on interim arrangements to ensure the collection and management of annual contributions of developed Parties for the period between the entry into force of the Agreement and until the special fund has been fully operationalized.</p>
Arrangements with the GEF	To be addressed by COP1 as specified in the BBNJ Agreement. Once the PrepCom has finalized the draft MoU, it will be forwarded to the GEF Council for its consideration, prior to the consideration and possible adoption by COP1. ²⁷	In order to give effect to the provisions relating to the GEF trust fund, a MoU needs to be adopted between the BBNJ Agreement and the GEF Council. During PrepCom1 and 2, delegates considered a draft MoU. In preparation for PrepCom3, the Co-Chairs revised their aid to discussions and negotiations as well as the draft MoU. ²⁸ There are still some brackets of unagreed text regarding some specific references to the special needs and preferential treatment of developing States Parties, the process in the event that project decisions by GEF are not in line with the strategies and policies established by the COP, the content of GEF reports to the COP, the process of reviewing the GEF trust fund, the determination of needed and available funding and any reporting to the CHM.

²³ A/AC.296/2026/2, available at: <https://docs.un.org/en/A/ac.296/2026/2>.

²⁴ A/AC.296/2026/5, available at: <https://docs.un.org/en/A/ac.296/2026/5>.

²⁵ *Ibid.*

²⁶ A/AC.296/2026/6, available at: <https://docs.un.org/en/A/ac.296/2026/6>.

²⁷ A/AC.296/2026/7, available at: <https://docs.un.org/en/A/ac.296/2026/7>.

²⁸ *Ibid.*

2. NEXT STOP: COP1?

A significant amount of work awaits the delegates who will take part in this PrepCom3. Although many of the discussion points may appear purely technical, a number of them will have concrete and significant impacts on the treaty's operability. This is the case, for instance, for the modalities for observer participation, the composition of subsidiary bodies and the roadmap for establishing the CHM. If conclusive, this third meeting of the Commission will submit its recommendations to COP1, which must take place no later than one year after the Agreement enters into force, i.e. by 17 January 2027.²⁹

Only parties to the Agreement, i.e. those who ratified or acceded to it, will be able to vote during COPs and can be represented in its subsidiary bodies.³⁰ As of March 2026, there are 145 Signatories and 86 Parties.³¹ This makes it strategically important for States to become Parties to the Agreement before COP1 in order to secure a seat at the decision-making table, and further ratifications can be expected in the coming months.

Between PrepCom3 and COP1, States and non-State actors will likely have to conduct inter-sessional work through interim arrangements and online meetings. This is especially important for the readiness of institutions like the STB and the CHM. Bilateral discussions will also continue to take place among States with the three candidates that have submitted a proposal to host the future BBNJ secretariat: Chile (Valparaiso),³² Belgium (Brussels)³³ and China (Xianmen).³⁴ Importantly, there is no official deadline for States to submit proposals to host; in practice, such bids may be submitted until the day before COP1.

²⁹ BBNJ Agreement, Article 47(2).

³⁰ <https://www.iddri.org/en/publications-and-events/blog-post/high-seas-biodiversity-treaty-60-ratifications-and-counting>.

³¹ https://treaties.un.org/Pages/ViewDetails.aspx?chapter=21&clang=_en&mtdsg_no=XXI-10&src=TREATY.

³² <https://www.un.org/bbnjagreement/sites/default/files/2025-12/BBNJSecHostOfferChile.pdf>.

³³ <https://www.un.org/bbnjagreement/sites/default/files/2026-01/BBNJSecHostOfferBelgium.pdf>.

³⁴ <https://www.un.org/bbnjagreement/sites/default/files/2026-01/BBNJSecHostOfferChina.pdf>.

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