



## Frequently Asked Questions About the Conclusion of BBNJ Agreement and Next Steps

### What is to happen on June 19 and 20?

In short, the BBNJ Agreement<sup>1</sup> will be formally adopted by the Intergovernmental Conference<sup>2</sup> that negotiated it. During its resumed fifth session in March 2023, the BBNJ Agreement was finalized but not adopted, pending a review to ensure uniform usage of terminology and translation to the six official UN languages.

The UN General Assembly in resolution 77/556 of 18 April 2023 (currently available as [A/77/L.62 \(2023\)](#)):

- noted the decision of the conference, at its resumed fifth session, to establish an open-ended informal working group (IWG) tasked with ensuring the uniformity of terminology throughout the text of the draft agreement finalized at that session and with harmonizing the versions in the six official languages of the United Nations,
- took note also of the decision of the conference to resume at a later date once the IWG has completed its work, with a view to adopting the Agreement, and
- requested the Secretary-General to provide the necessary support and services to the IWG and to convene a further resumed fifth session of the conference on 19 and 20 June 2023, tentatively, or on a date to be determined in consultation with the President of the conference, not in parallel to a plenary meeting of the General Assembly, and provide it with full conference services.

After the adoption of the agreement the President of the Intergovernmental Conference is expected to submit a report of the proceedings to the General Assembly.

The provisional program of work is [here](#).

---

<sup>1</sup> Draft 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

<sup>2</sup> The intergovernmental conference was convened and received its mandate from the UN General Assembly in resolution [72/249](#) of 24 December 2017, with resolutions 76/564 of 23 May 2022 and 77/248 of 30 December 2022 enabling additional sessions.

### **Can the BBNJ Agreement be adopted with a vote?**

Yes. United Nations [resolution 72/249](#) (2017) provided that if every effort to reach agreement by consensus has been exhausted, decisions on substantive matters can be taken by a two-third majority of representatives present and voting.

*17. Decides that the conference shall exhaust every effort in good faith to reach agreement on substantive matters by consensus;*

*18. Also decides that, except as provided for in paragraphs 17 and 19 of the present resolution, the rules relating to the procedure and the established practice of the General Assembly shall apply to the procedure of the conference unless otherwise agreed by the conference;*

*19. Further decides that, subject to paragraph 17, decisions of the conference on substantive matters shall be taken by a two-thirds majority of the representatives present and voting, before which, the presiding officer shall inform the conference that every effort to reach agreement by consensus has been exhausted*

### **Does BBNJ need a Final Act?**

Not necessarily. A Final Act is a formal summary of the proceedings of a diplomatic conference especially at which a multilateral treaty has been drawn up.

A Final Act is not essential but is commonplace: Final Acts were used in UNCLOS, the Montreal Protocol, Fish Stocks Agreement, Minamata Convention and Antarctic and CCAMLR conventions. Others such as the Port State Measures Agreement did not have a Final Act as such as it was finalized under FAO auspices.

The Port State Measures Agreement was approved by the [FAO Conference in November 2009](#) where the Council decided to transmit the draft Agreement, together with a draft Conference Resolution, set out in Appendix I to the [Report to the Conference](#) for consideration and approval.

The Paris Agreement was concluded in 2015 by UNFCCC [COP21](#) and adopted in [Decision 1/CP.21](#): not a final Act but a final decision.

A Final Act could include consideration of next steps, such as establishing a Preparatory Commission, but could also be as simple as a record of meetings and annex the adopted BBNJ Agreement.

### **Does BBNJ need a Preparatory Commission?**

A Preparatory Commission (PrepCom) is advisable, given the necessity to establish rules of procedure and establish the various organs (conference of the Parties, Scientific and Technical Body, Implementation and Compliance Committee, Access and Benefit Sharing Committee, Capacity-Building and Transfer of Marine Technology Committee) before BBNJ can start its substantive work. PrepComs are sometimes convened to draft the texts which lay the groundwork for the formation of international organizations to be formally adopted at the first CoP meeting.

- The [United Nations Preparatory Commission](#), was held in 1945 to draft proposed agendas, and provisional rules of procedure for the General Assembly, Security Council and other organs and address budgetary and financial arrangements.
- The Third United Nations Conference on the Law of the Sea in its [Final Act](#) in its [Resolution 1](#) established a Preparatory Commission which first [reported](#) in 1993.
- The Chemical Weapons Convention had a [Preparatory Commission for the Organization for the Prohibition of Chemical Weapons](#) established in 1993 to prepare for the entry into force of the CWC. The commission worked on the establishment of the OPCW, which oversees the implementation of the convention, and the development of verification measures.

### **What could a PrepCom's functions be for the BBNJ Agreement?**

A PrepCom could:

- Prepare agenda for the 1st session of the CoP
- Prepare draft rules of procedure for the CoP
- Make recommendations on the budget
- Make recommendations on establishing relationships between BBNJ and IFBs
- Make recommendations with respect to the Secretariat; make studies and recommendations on the headquarters and Secretariat
- Prepare draft rules, regulations, procedures needed to start functions, including financial regulations.
- Prepare a final report
- Expenses could be met from the regular budget of the UN subject to UNGA approval
- Secretariat services could be provided by DOALOS

### **How could a PrepCom be established?**

The establishment of a PrepCom could be done as part of a final Act at the adoption of the BBNJ Agreement on June 19-20. If that is not possible, agreement on the establishment of a PrepCom could also be reached in principle at the same meeting, with details to be finalized in a General Assembly Resolution before the end of 2023; either as part of the Oceans Omnibus resolution (usually negotiated in November) or in a standalone resolution.

### **What happens with signatures and ratification of BBNJ?**

Article 65 of the draft BBNJ agreement specifies the date and duration of the signature period, but these are currently still open. Normally an agreement is open for signature for a year (e.g. Fish Stocks Agreement 1 year; UNCLOS 18 months; Port State Measures Agreement 1 year). After this time (after the Agreement is no longer open for signature), States can join by acceding to the Agreement. Accession refers to the act whereby a State expresses its consent to be bound by an Agreement, and can take place after entry into force as well. The adoption conference on June 19-20 would be expected to specify the date for

opening for signature (September 20 has been discussed) and the period it will remain open for signature. Following signature, countries can ratify the Agreement at any time.

### **Some Final Acts**

Montreal Protocol [Final Act](#)

Minimata Convention [Final Act](#)

Fish Stocks Agreement [Final Act](#)

Antarctic and CCAMLR [Final Acts](#)

CBD [Final Act](#)