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Agenda Item 13

**PROPOSED FRAMEWORK FOR GEF'S ROLE IN A FINANCIAL MECHANISM FOR THE
INTERNATIONALLY LEGALLY BINDING INSTRUMENT UNDER NEGOTIATION 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)**

Recommended Council Decision

The Council, having considered document GEF/C.63/10 *Proposed Framework for GEF's Role in a Financial Mechanism for the International Legally Binding Instrument under Negotiation 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)*, takes note of the progress of the Intergovernmental Conference (IGC) to prepare a legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine BBNJ; and, if requested by the IGC, would welcome the GEF becoming the Financial Mechanism or part of the Financial Mechanism of the instrument, within the framework of the GEF.

EXECUTIVE SUMMARY

1. This document provides the Council with background and an update on the intergovernmental process elaborating an international legally binding instrument 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). It most notably reports on the fifth session of the BBNJ Intergovernmental Conference (IGC-5), which took place from August 15 to 26, 2022, and worked on the basis of the further revised draft of the BBNJ agreement released on May 30, 2022.¹ In its Article 52 - Funding, the new draft identified, for the first time, the GEF as a potential operator of part of “a mechanism for the provision of adequate, accessible and predictable financial resources” that would be created by the BBNJ agreement.
2. Given these developments, the GEF Council may wish to consider conveying to the IGC, which may conclude its deliberations at the resumed IGC-5 session, the willingness of the GEF to be the financial mechanism or part of the financial mechanism of the BBNJ instrument.
3. The document further describes the process for the GEF to support the BBNJ instrument as part of GEF-8 International Waters Focal Area Strategy, which states: “At the request of the negotiating parties to an international legally binding instrument 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, once negotiations have concluded, and with the agreement of the GEF Council, support national ratification and implementation of the instrument.”²

¹ A/CONF.232/2022/5: [Further revised draft text of an 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.](#)

² GEF, 2022, [GEF-8 Programming Directions](#), p179. Council document: GEF/R.08/29/Rev.01.

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INTRODUCTION

1. The United Nations General Assembly (UNGA) resolution 72/249 launched in 2017 a negotiation process and convened an Intergovernmental Conference (IGC) with the mandate “to elaborate the text of an international legally binding instrument under the UN Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ), with a view to developing the instrument as soon as possible.” A mechanism for the provision of adequate, accessible and predictable financial resources under the Agreement is under discussion in the context of the IGC. The mechanism is to assist developing States Parties in implementing the Agreement, including through funding to support capacity-building and the transfer of marine technology.
2. The draft considered by the latest IGC includes the GEF Trust Fund as a part of a mechanism for the provision of financial resources. The negotiating Parties are considering a mechanism with three elements: (i) a voluntary trust fund to facilitate participation of representatives of developing States Parties in the meetings of the bodies under this Agreement, (ii) a special fund established by the Conference of the Parties, and (iii) the GEF Trust Fund.
3. This document summarizes the background of the BBNJ negotiations, the GEF’s ongoing support for topics relevant to the BBNJ, and the rationale for the GEF engagement. It also elaborates on a framework of a financial mechanism for the BBNJ, and topics to be considered by the GEF Council and the GEF Secretariat as the BBNJ negotiation progresses.

BACKGROUND

4. In the context of the BBNJ process, Areas Beyond National Jurisdiction (ABNJ) mean the high seas and the Area as defined by UNCLOS, i.e. (i) all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State, and (ii) the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction. As such, ABNJ make up 40 percent of the surface of our planet, 64 percent of the surface of the oceans and nearly 95 percent of its volume. This vast global common contains marine resources and biodiversity of immense ecological, socioeconomic, and cultural importance.
5. Yet, the biodiversity and ecosystems of ABNJ are subject to multiple anthropogenic threats, including overfishing, illegal, unreported and unregulated (IUU) fishing, pollution, habitat loss and degradation, and climate change.

Negotiation Process

6. In response to these threats, work on the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction was initiated under the UN General Assembly in 2004 through a dedicated Ad Hoc Open-ended Informal Working Group (UNGA resolution 59/24).

7. Building on the outcomes of the Working Group, the package of topics to be addressed under the BBNJ process was agreed in 2011 (UNGA resolution 66/231), namely, the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, in particular, together and as a whole:

- marine genetic resources, including questions on the sharing of benefits;
- measures such as area-based management tools, including marine protected areas;
- environmental impact assessments;
- capacity-building and the transfer of marine technology.

8. Building on the nine sessions the Working Group held between 2006 and 2015, the UNGA decided in 2015 to develop an international legally binding instrument 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 (UNGA resolution 69/292). Following four sessions of a dedicated Preparatory Committee, the UNGA convened an Intergovernmental Conference (IGC) to develop the instrument. The four sessions of the IGC mandated by UNGA resolution 72/249 were held on September 4-17, 2018, March 25 to April 9, 2019, August 19-30, 2019, and March 7-18, 2022. The GEF Secretariat personnel participated in these sessions as observers.

9. As the fourth IGC session concluded that an additional session was required, the UNGA decided to convene a fifth session (IGC-5) from August 15-26, 2022 (UNGA decision 76/564).

10. IGC-5 worked on the basis of the further revised draft of the BBNJ agreement released on May 30, 2022, by the President of the IGC.³ In its article 52 on Funding, the further revised draft identified, for the first time, the GEF Trust Fund as a part of a mechanism that would be created by the BBNJ agreement for the provision of financial resources. The further revised draft included a financial mechanism composed of three elements: (i) a voluntary trust fund to facilitate participation of representatives of developing States Parties in the meetings of the bodies under this Agreement, (ii) a special fund established by the Conference of the Parties, and (iii) the GEF Trust Fund.

11. Negotiating Parties formally discussed the further revised draft text. Multiple delegations voiced their support for the GEF to become part of the financial mechanism, and no reservations or objections to the GEF serving in this role were raised during the formal negotiations. The GEF Secretariat personnel were available to respond to questions raised by negotiating Parties as well as by the Presidency.

³ A/CONF.232/2022/5: [Further revised draft text of an 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.](#)

12. While considerable progress was made, negotiations were not finalized at IGC-5. It was agreed by consensus to suspend the meeting and to reconvene IGC-5 at a date still to be determined.

GEF Council Engagement

13. Given the short amount of time between the release of the further revised draft text and the subsequent GEF Council meeting, it was not possible to organize a formal discussion on BBNJ at the 62nd GEF Council, held in June 2022. An update on the BBNJ negotiations was summarized in the Relations with Conventions Council document.⁴

14. In addition, an informal Council session with the President of the IGC was organized at the 62nd GEF Council to inform the Council about the significant developments in the BBNJ negotiations. The informal session was, however, unable to proceed due to a power outage at the Council venue.

15. As requested during the 62nd GEF Council, a virtual briefing session on BBNJ was organized on August 2, 2022, to inform the Council, to present the process that would need to unfold should negotiating Parties wish to discuss the possibility for the GEF to operate part, or all, of the BBNJ financial mechanism, and to enable an informal exchange with the President of the IGC. A number of Council members and alternates participated in this session.

16. At IGC-5, the President of the IGC briefed the negotiating Parties on her interaction with the GEF Council in early August 2022.

The GEF's Past and Current Engagement in the Conservation and Sustainable Use of BBNJ

17. While not linked to any specific global convention, the GEF has had, since its creation, the mandate to provide grants and concessional funding to achieve global environmental benefits in the area of international waters. Accordingly, most past and on-going work relevant to the BBNJ process has been funded through the International Waters Focal Area.

18. To date, the GEF has invested over \$1.2 billion in the management of shared marine resources. Nearly all of these investments were made through regional and multi-country projects, where countries came together to improve the governance of shared large marine ecosystems (LMEs).

19. The GEF has invested more than \$80 million, leveraging more than \$500 million of co-financing, in the management of ABNJ.

⁴ GEF, 2022, [Relations with the Conventions and Other International Institutions](#). Council document GEF/C.62/12.

20. The first GEF investments related to the ABNJ date back GEF-4, with a project focused on ecosystem-based fisheries on Seamounts in the Southern Indian Ocean (2009-2013),⁵ which benefited from a \$950,000 grant from the GEF.

21. The GEF-5 Transboundary Waters Assessment Programme (GEF TWAP) was the first global assessment of transboundary water systems, including ABNJ. It was undertaken to assist GEF and other international organizations improve the setting of priorities for funding and to formalize partnerships with key institutions so that transboundary considerations are incorporated in regular assessment programmes. The Intergovernmental Oceanographic Commission (IOC) of UNESCO led the thematic assessment of the Open Ocean (2013-2017),⁶ which covered the ABNJ, with a \$600,000 GEF grant. Published in 2016, the Open Ocean assessment⁷ covered the following themes: governance, climate variability and change, fisheries, pollution, and an integrated assessment of these cumulated impacts.

22. The GEF-5 Common Oceans ABNJ Program (2014-2019)⁸ was the first major GEF investment in the management of ABNJ, with a \$50 million GEF grant. It included full-sized projects related to tuna fisheries, sustainable use of deep-sea living resources, and Ocean Partnerships. The latter developed series of business cases to catalyze investments in sustainable management of migratory fish stocks. The program also included a medium-sized project (MSP) to promote global and regional coordination on key ABNJ issues related to fisheries and biodiversity conservation, and program coordination MSP. Led by the Food and Agriculture Organization of the United Nations (FAO), the program involved the United Nations Environment Programme (UNEP) and the World Bank Group (WBG), as well as all Regional Fisheries Management Organizations (RFMOs) managing tuna fisheries and other intergovernmental organizations, national governments, the private sector, civil society and academia. Besides the GEF grant, the program leveraged over \$370 million in co-financing by various partners.

23. According to its terminal evaluation,⁹ the GEF-5 Common Oceans ABNJ Program showed positive results in key areas and demonstrated leading contributions towards improving tuna fisheries governance, safeguarding of vulnerable marine ecosystems (VME), strengthening monitoring, control and surveillance to combat IUU fishing, mitigating bycatch mortality trends, and building awareness of cross-sectoral aspects in effective governance of ABNJ. The program led to a number of transformational changes, i.e. changes or practices that are mainstreamed

⁵ Global, [Applying an Ecosystem-based Approach to Fisheries Management: Focus on Seamounts in the Southern Indian Ocean](#), (GEF ID 3138), Agency: UNDP, GEF Project Financing: \$950,000; Co-financing: \$5,974,000.

⁶ Global, [A Transboundary Waters Assessment Programme: Aquifers, Lake/Reservoir Basins, River Basins, Large Marine Ecosystems, and Open Ocean to Catalyze Sound Environmental Management](#), (GEF ID 4489), Agency: UNEP; GEF Project Financing: \$5,000,000; Co-financing: \$31,895,581.

⁷ UNESCO IOC and UNEP (2016). [The Open Ocean: Status and Trends](#). United Nations Environment Programme (UNEP), Nairobi.

⁸ FAO. 2021. [Not a drop in the ocean: Key Successes Common Oceans ABNJ Program 2014-2019](#). Rome.

⁹ FAO. 2020. [Terminal evaluation of the areas beyond national jurisdiction \(ABNJ\) Program Coordination, part of the "Global sustainable fisheries management and biodiversity conservation in ABNJ"](#). Programme Evaluation Series, 10/2020. Rome

by the key institutional actors and can be deemed irreversible, which have the potential to show impact on the state of fish stocks and biodiversity, especially the impact of fishing operations on vulnerable species. The terminal evaluation concluded that several important results could not have been achieved without the GEF funding. The most important dimensions of GEF additionality as perceived by agencies were institutional/governance, and financing for innovative/transformatory techniques and pilots.

24. Building on these successes, the GEF Council approved in 2020 a \$27 million grant for the GEF-7 Common Oceans program.¹⁰ The Program consists of five child projects – two global projects that promote sustainable management of tuna and deep-sea fisheries, a third project that seeks to build capacity to improve cross-sectoral collaboration and coordination on key ABNJ issues at global level, a fourth project that examines geographically focused multi-sectoral governance and a fifth project that seeks to ensure effective coordination, communication, partnerships, lesson learning and knowledge management between the other child projects and support innovative financing initiatives for sustainable use of ABNJ resources across the Program. This common ocean program aims to improve management of 12 million hectares of marine protected areas and move 943,000.00 tons of globally over-exploited fisheries to more sustainable levels. Furthermore, it will promote more comprehensive processes and integrated approaches to the sustainable use and management of the ABNJ, building on the results and lessons of the GEF-5 ABNJ Program and complementing the ongoing efforts of various partners, parallel initiatives and political processes.

25. In GEF-8, the International Waters Focal Area has an allocation of \$565 million, of which \$34 million is notionally allocated to ABNJ under Objective 2 of the International Waters Focal Area Strategy.

26. Beyond the International Waters Focal Area, the GEF funds capacity building in the area of marine genetic resources from the Biodiversity Focal Area as part of its support to the implementation of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity. Current funding is thus restricted to genetic resources under national jurisdictions, but the underlying capacity needs largely overlap with those required for handling and use of genetic resources of the ABNJ. Example of such projects include a GEF-5 project in Fiji,¹¹ which notably contributed to capacity building and technology transfer for marine bioprospection and the discovery of compounds for pharmaceutical and chemical use. Enhanced capacities related to marine invertebrate taxonomy, various analytical techniques, bioassays, data handling processes, marine sample collection and storage of marine samples.

¹⁰ Global. *Common Oceans - Sustainable Utilization and Conservation of Biodiversity in Areas Beyond National Jurisdiction* (GEF ID 10548). Agencies: FAO, UNDP, UNEP; Project Financing: \$26,719,744; Co-financing: \$264,446,227.

¹¹ Fiji, *Discovering Nature-Based Products and Building Capacities for the Application of the Nagoya Protocol on Access to Genetic Resources and Benefit Sharing*, (GEF ID 5170), Agency: UNDP, Project Financing \$970,000; Co-financing: \$2,712,779.

27. In GEF-8, \$82 million is notionally allocated for the support of the Nagoya and Cartagena Protocols in the Biodiversity Focal Area, which has the total allocation of \$1,919 million.

28. The GEF is also a major funder of marine protected areas and marine spatial planning. In GEF-7, though the International Waters and the Biodiversity Focal Areas, the GEF approved close to \$370 million of grants for 56 projects that will support the creation or improved management of 1.4 billion ha of marine protected areas globally.

29. Furthermore, the GEF-8 programming opportunities include eleven Integrated Programs that address the major environmental needs of the planet for which the GEF has a mandate. Among the eleven, the Integrated Programs on the Clean and Healthy Oceans and Blue and Green Islands may be relevant to BBNJ.

RATIONALE FOR GEF ENGAGEMENT ON BBNJ

30. This section summarizes key rationale for GEF engagement on BBNJ.

Finance

31. The key benefit of GEF's engagement on BBNJ is its ability and track record to leverage resources available to recipient countries to implement the instrument. The established GEF model catalyzes co-financing from bilateral donors, the private sector, the public and NGO sector, and from national budgets. There is no other existing model in operation that can offer this multiplier effect. Since GEF-5, the GEF has leveraged over \$500 million from various sources with \$80 million of GEF grant for the management of ABNJ.

32. Through the GEF, its contributors would also be able to meet their obligations to the proposed BBNJ instrument where donor contributions can leverage support from other partners.

Technical Expertise

33. As described in the previous subsection, the GEF has a track record on successfully supporting the management of shared marine resources and on the conservation and sustainable use of marine biodiversity through its International Waters and Biodiversity Focal Areas.

34. The GEF partnership includes, and is able to leverage, a wide range of BBNJ-relevant expertise, such as marine spatial planning, marine protected areas and other effective area-based conservation measures (OECM), capacity building and technology transfer, mainstreaming of biodiversity in policies and sector operations, and access to genetic resources and the fair and equitable sharing of benefits arising from their utilization, among others. It is thus well placed on the technical level to support all four areas that are to be covered in the BBNJ agreement, namely marine genetic resources, including questions on the sharing of benefits; measures such as area-based management tools, including marine protected areas; environmental impact assessments; capacity-building and the transfer of marine technology.

Synergies and Integration

35. While the management of the ABNJ involves specific technical and institutional challenges, a significant share of the technology and capacity needed to meet the new legal obligations contemplated under the BBNJ agreement is similar or related to those already supported by the GEF in the context of the International Waters and Biodiversity Focal Areas. Incorporating support to the BBNJ instrument in the GEF Trust Fund would facilitate the building of synergies with GEF support provided according to its mandate on International Waters, and as financial mechanism to the Convention on Biological Diversity and its Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization.

36. In the GEF, recipient countries would have the ability to develop integrated, systemic projects that simultaneously address multiple conventions. This ability to support integrated projects may benefit the BBNJ, as there may be possibilities to aim for multiple benefits and higher impacts with the Convention on Biological Diversity and its Nagoya Protocol, as well as relevant elements of the post-2020 Global Biodiversity Framework once it is agreed upon. Interventions aimed at developing the legal, regulatory, policy or enforcement frameworks for environmental impact assessments as a response to related provisions of the BBNJ agreement could, for instance, be carried out within larger projects seeking to advance the mainstreaming of biodiversity in key sectors and policies that may have impacts both within national jurisdiction and in the ABNJ.

37. Designing activities that jointly support the implementation of the Nagoya Protocol and of the marine genetic resource provisions of the BBNJ instrument would also provide for significant gains in efficiency, scale and scope. Such opportunities for joint support would enable countries to establish and utilize the institutional arrangements for both agreements and the issue of marine genetic resources found both within and beyond national jurisdictions.

Institutional and Operational Experience

38. The GEF Secretariat has a long history of engaging with countries to support them to invest in global environmental priorities, including the management of shared marine resources. The Secretariat already has established focal areas and personnel with relevant expertise, which can be mobilized to facilitate the addition of BBNJ to the GEF programming once the decision is made by the negotiating Parties.

39. As a/the financial mechanism of five major global environmental conventions, the GEF partnership has significant operational experience, well-functioning governance, and tailored institutional framework to serve multiple conventions effectively. The GEF has been able to add

new conventions and respond to new mandates in a timely manner, with the Minamata Convention for Mercury as the latest example.¹²

40. The GEF already has in place the administrative and operational procedures to provide resources to all eligible developing country Parties following decisions by COP or other comparable body. In addition to national governments, the GEF partnership is also able to reach global, regional and national stakeholders, from RFMOs, Regional Sea Conventions, the private sector, CSOs and academia, to successfully strengthen the management of ABNJ, as demonstrated through its GEF-5 and GEF-7 ABNJ programs.

41. Costs of operations and administration for BBNJ would be incremental and build on the existing GEF structure and are therefore unlikely to present a major barrier to timely operationalization as a financial mechanism. Additional budgetary needs to operationalize the financial mechanism role will be included in the annual corporate budget submitted to and approved by the GEF Council.

GEF-8 Replenishment

42. Activities related to the BBNJ were included in the GEF-8 programming directions, as the relevance of the GEF on BBNJ issues were already recognized by the Participants. One of the three objectives of the GEF-8 International Waters Focal Area strategy is dedicated to “*Advance management in the ABNJ*”, with a notional allocation of \$34 million.

43. The strategy includes a sentence that indicates the readiness of the GEF to support BBNJ, with pre-conditions, as: “At the request of the negotiating parties to an international legally binding instrument 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, once negotiations have concluded, and with the agreement of the GEF Council, support national ratification and implementation of the instrument.”¹³

PROPOSED FRAMEWORK FOR GEF ROLE IN A FINANCIAL MECHANISM FOR THE BBNJ AGREEMENT

44. This section describes how the GEF Secretariat can fulfil the secretariat function of the, or part of the financial mechanism of the proposed BBNJ instrument Convention, should the negotiating Parties decide to request the GEF and if the GEF Council agrees.

¹² GEF 2014, [Chair’s Summary of the Fifth GEF Assembly, Cancun, Mexico, May 28-29, 2014](#). Agenda item 5. Amendments to the Instrument.

¹³ GEF, 2022, [GEF-8 Programming Directions](#), page 179. Council document: GEF/R.08/29/Rev.01.

Governance

45. If the GEF is invited to serve as a/the financial mechanism for the BBNJ instrument, the Council will then deliberate on this invitation.¹⁴ Its response will then be conveyed to the BBNJ negotiating body. If the Council agrees, it may further request the GEF Secretariat to start the necessary process to provide support in line with the agreed GEF-8 strategy, or a future strategy to be agreed at a subsequent replenishment.

46. The addition of the BBNJ instrument to the mandate of the GEF would require an amendment to the Instrument for the Establishment of the Restructured Global Environment Facility.¹⁵ According to paragraph 34 of the GEF Instrument, an amendment to the Instrument “may be approved by consensus by the Assembly upon the recommendation of the Council, after taking into account the views of the Implementing Agencies and the Trustee, and shall become effective after adoption by the Implementing Agencies and the Trustee in accordance with their respective rules and procedural requirements.”

47. For each convention, there is an established practice to have a Memorandum of Understanding (MOU) between the Conference of the Parties (COP) and the GEF Council to make provision for the relationship between the COP and the Council to give effect to the provisions relating to the GEF in relevant articles of the Conventions and paragraphs of the GEF Instrument. Arrangements may be fully elaborated in the MOU between the GEF Council and the BBNJ COP or other comparable body the BBNJ instrument might establish.

GEF Trust Fund Support

48. Support for BBNJ will be incorporated into the GEF Trust Fund. This would ensure a stable and predictable source of funds since BBNJ funding will be subject to the GEF replenishment process, which has a proven track record of attracting resources from the established and emerging donor community.

49. The inclusion of BBNJ into the GEF Trust Fund can be accommodated through the existing International Waters Focal Area. A creation of a new focal area is not envisaged, as the International Waters Focal Areas has been supporting ANBJ projects that are relevant to BBNJ, and the GEF-8 strategy already includes an objective to advance management in the ABNJ that could be used to support BBNJ if all the preconditions stipulated are satisfied. Opportunities for integration and collaboration with projects supported under the Biodiversity Focal Area will be sought.

¹⁴ This was the process followed by the GEF Council for the Minamata Convention. See: GEF Council, [Preparing the GEF to serve as the Financial Mechanism of the Minamata Convention on Mercury upon entry into force](#), Council Document GEF/C.44/04.

¹⁵ GEF, 2019, [Instrument for the Establishment of the Restructured Global Environment Facility](#).

Operations and Strategy Requirements

50. For the GEF-8 period, the GEF has notionally set aside resources of \$34 million for ABNJ, including support for national ratification and implementation of the BBNJ instrument, at the request of the negotiating parties to the BBNJ agreement, once negotiations have concluded, and with the agreement of the GEF Council. This support was agreed as part of the GEF-8 replenishment, and included in the International Waters Focal Area strategy of the GEF-8 Programming Directions.

51. As part of a future replenishment exercise, a BBNJ strategy that incorporates guidance from the future BBNJ COP(s), or comparable body, will be developed as part of the International Waters Focal Area strategy, following the practice with other Conventions the GEF serves and other GEF focal areas.

52. Once the instrument comes into force and COPs, or comparable body, meet to make decisions, relevant decisions and guidance will be incorporated into the strategies to further articulate eligible activities and support to assist recipient countries meet the goals of the BBNJ instrument.

53. Accessing the resources will follow the same modalities as other GEF focal areas. These include Enabling Activities (EAs) and access to resources for MSPs, Full-Sized Projects (FSPs), and Programmatic Approaches, subject to the Council-approved GEF Project and Program Cycle Policy.

Compliance with Convention Obligations

54. If requested by the COP or a comparable body, the GEF may provide funding to eligible countries to meet their obligations under the BBNJ instrument, or support specific early ratification activities. Support for enabling activities is described further in the section below.

55. Such activities are expected to be financed from the existing notional allocation to ABNJ from the International Waters Focal Area for the GEF-8 period. In subsequent replenishment periods, a specific objective within the International Waters Focal Areas may be established, in line with the existing practice in other focal areas.

OPERATIONAL PRINCIPLES

56. Should the GEF be asked to operate part, or all of, the financial mechanism of the proposed BBNJ instrument, the following principles would guide the programming of resources for achievement of the instrument's objectives.

57. GEF grants are to be in conformity with the eligibility criteria decided by the BBNJ COP or comparable body, and in accordance with eligibility criteria stated in the GEF Instrument.

58. The GEF would adhere to the basic principles set forth in the GEF Instrument and Operational Strategy (GEF/C.6/03), which establishes “Operational Principles” for the development and implementation of GEF eligible projects. These are:

- (a) **Accountability:** For the purpose of the financial mechanisms for the implementation of conventions, the GEF would function under the guidance of, and be accountable to, the COP or comparable body.
- (b) **Incremental costs:** The GEF would provide new, and additional, grant and concessional funding to meet the agreed incremental costs of measures to achieve agreed global environmental benefits (also see Enabling Activities, which normally qualify for full agreed costs funding).
- (c) **Cost-effectiveness:** project activities would maximize global environmental benefits and assist developing countries and countries with economies in transition meet their obligations under conventions.
- (d) **Country ownership:** single- and multi-country projects would be country-driven, based on national priorities designed to support sustainable development, as identified within the context of national programs.
- (e) **Flexibility:** GEF would respond to changing circumstances, including evolving guidance of the COP and experience gained by monitoring and evaluation activities.
- (f) **Public participation:** projects would provide for consultation with, and participation as appropriate of, the beneficiaries and affected groups of people; all non-confidential information will be made fully public.
- (g) **Leveraging of additional financing:** in seeking to maximize environmental benefits, the GEF would emphasize its catalytic role and leverage additional financing from other sources.
- (h) **Monitoring:** GEF would ensure that programs and projects are monitored and evaluated on a regular basis.
- (i) **Disclosure of information:** GEF projects would provide full disclosure of all non-confidential information.

Project Support

59. Activities eligible for support by the financial mechanism may be articulated in the text of the BBNJ instrument, and/or further deliberated by negotiating Parties and issued as guidance to the GEF.

60. For the GEF-8 period, the GEF stands ready to support national ratification and implementation when the pre-conditions regarding the negotiations and GEF Council decisions are met. Eligible activities may be articulated further as part of the negotiations and for Council deliberations once the negotiating Parties decide on the financial mechanism arrangements.

61. Examples of early ratification and implementation support provided by the GEF for other conventions include supporting countries to prepare and submit an initial assessment or Convention report, and supporting the legislative, regulatory and policy measures needed to implement Convention obligations. Capacity building activities have also been supported.¹⁶

62. Similar to all other GEF focal areas, activities may be envisaged at national, regional, and global levels.

63. The GEF has supported capacity building, technology transfer, and investments for various conventions in line with relevant COP guidance. Eligible activities are elaborated in the programming directions as the focal area strategy. For BBNJ, potential GEF support would need to be based on the objectives and strategic priorities specified by the BBNJ instrument and/or the COP or comparable body. The practice of the GEF to date has allowed limited projects to commence prior to the convention coming into force if there is an urgent need, as agreed by GEF Council and in line with a request from the COP or negotiating body. Otherwise, these activities become eligible for funding after the convention comes into force as decided by the COP.

Enabling Activities

64. Specific obligations under the BBNJ instrument are still under negotiation, and the possibility of GEF's engagement is not yet clarified. As such, this section provides general descriptions of support for enabling activities for other conventions served by the GEF.

65. As per the GEF Project and Program Cycle Policy (OP/PL/01), Enabling activities (EA) that are funded from the GEF are projects for the preparation of a plan, strategy or report to fulfil commitments under a Convention.

66. EAs represent basic building blocks of GEF assistance to countries. They are either fulfilling essential communication requirements to a convention or providing basic and essential level of information to enable policy and strategic decisions to be made, or assisting planning that identifies priority activities within a country. Countries thus enabled will have the ability to formulate and direct sectoral and economy-wide programs to address global environmental problems through a cost-effective approach within the context of national sustainable development efforts.

67. EAs typically qualify for full agreed cost funding, determined by the GEF, when they are directly related to global environmental benefits and/or consistent with the guidance of a convention.

¹⁶ These are provided as illustrative examples informed by other Conventions the GEF serves. They are not provided to prejudge the negotiations.