

64th GEF Council Meeting  
June 26 – June 29, 2023  
Brasilia, Brazil

Agenda Item 15

**PREPARING THE GEF TO SERVE AS PART OF THE FINANCIAL MECHANISM OF THE  
INTERNATIONALLY 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)<sup>1</sup>**

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<sup>1</sup> This Council document and its recommended Council decision have been revised to reflect the outcomes of the further resumed fifth session of the intergovernmental conference (IGC-5) on 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 jurisdictions (BBNJ) held on June 19 and 20, 2023, after the posting of the original Council document GEF/C.64/12.

## **Recommended Council Decision**

The Council, having considered document GEF/C.64/12/Rev.01 *Preparing the GEF to serve as part of the Financial Mechanism of the 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)*,

Welcomes the invitation from the Intergovernmental Conference on BBNJ to the GEF to be part of the Financial Mechanism of the BBNJ agreement as reflected in part VII “Financial Resources and Mechanism” of the agreement adopted at the further resumed fifth session of the Intergovernmental Conference on June 19, 2023;

Authorizes the use of up to \$34 million for the funding of ratification support and early action activities for the BBNJ Agreement to be programed during GEF-8;

Requests the GEF Secretariat to develop initial guidelines for enabling activities and ratification support projects, in consultation with the interim Secretariat of the BBNJ Agreement, and present them as a decision document at the 65<sup>th</sup> Council Meeting;

Recommends to the Assembly the following amendment to the Instrument:

To add a new subparagraph (f) under paragraph 6 that would read:

*(f) Operate as one of the entities comprising the financial mechanism of 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, pursuant to its Article 52, paragraphs 3, 4, 6 and 9. In such respects, the GEF shall function under the guidance of and shall be accountable to the Conference of the Parties. In addition, the GEF shall receive guidance from the Conference of the Parties on overall strategies, policies, programme priorities and eligibility for access to and utilization of financial resources.*

## EXECUTIVE SUMMARY

1. At its resumed session of June 19 and 20, 2023, the fifth session of the Intergovernmental Conference (IGC-5) on 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 adopted by consensus 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”).<sup>2</sup>
2. The agreement identifies the GEF as part of its Financial Mechanism, which also includes a special fund and a voluntary trust fund. The voluntary trust fund is to facilitate participation of representatives of developing States Parties in the meetings of the bodies under the agreement. The special fund and the Global Environment Facility trust fund shall be utilized in order to:
  - (a) Fund capacity-building projects under the agreement, including effective projects on the conservation and sustainable use of marine biological diversity and activities and programmes, including training related to the transfer of marine technology;
  - (b) Assist developing States Parties in implementing the agreement;
  - (c) Support conservation and sustainable use programmes by Indigenous Peoples and local communities as holders of traditional knowledge;
  - (d) Support public consultations at the national, subregional and regional levels; and
  - (e) Fund the undertaking of any other activities as decided by the Conference of the Parties.
3. Building on Council document GEF/C.63/10<sup>3</sup> and Council Decision 36/2022<sup>4</sup>, this document provides the Council with a proposal to operationalize the provisions of the GEF-8 programming directions related to BBNJ and enable the GEF to fund activities to support early entry into force and implementation of the BBNJ Agreement, including projects aimed at ratification, for up to \$34 million in the remainder of GEF-8.

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<sup>2</sup> A/CONF.232/2023/4, [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>3</sup> GEF, 2022, [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 \(BBNJ\)](#), p179. Council document GEF/C.63/10.

<sup>4</sup> “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”.

4. The document also summarizes the implications for the GEF to be part of the BBNJ Financial Mechanism and proposes corresponding amendments to the GEF Instrument.

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## INTRODUCTION

1. Areas beyond national jurisdiction (ABNJ)<sup>5</sup> 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. 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.

2. Accordingly, work on the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction (BBNJ) was initiated under the United Nations General Assembly (UNGA) in 2004 through a dedicated Ad Hoc Open-ended Informal Working Group (UNGA resolution 59/24). Building on the nine sessions of the Working Group and four sessions of a dedicated Preparatory Committee, the United Nations General Assembly 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 under the UN Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, with a view to developing the instrument as soon as possible.” Five sessions of the IGC were convened between 2018 and 2023.

3. At its 63<sup>rd</sup> meeting, 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 \(BBNJ\)](#), took note of the progress of the IGC; and decided that “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” (Council Decision 36/2022).

4. During the resumed fifth session of the IGC, held from February 20 to March 4, 2023, in New York, the draft BBNJ agreement was finalized. The Conference then decided to suspend its work on March 4, 2023, to proceed with the editing with a view to ensuring the uniformity of terminology throughout the text of the draft agreement and with harmonizing the versions in the six official languages of the United Nations. It also decided to further resume the fifth session to formally adopt the agreement in all official languages, and to consider agenda item 5 “General exchange of views”. The further resumed IGC-5 session met and concluded its work on June 19 and 20, 2023 with the adoption of 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 (A/CONF.232/2023/4)<sup>6</sup>.

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<sup>5</sup> In the context of the BBNJ agreement, 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.

<sup>6</sup> A/CONF.232/2023/4, [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](#)

5. The general objective of the BBNJ agreement “is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination” (Article 2).
6. The agreement contains twelve parts, including substantive parts related to:
- Marine genetic resources, including the fair and equitable sharing of benefits (Part II);
  - Measures such as area-based management tools, including marine protected areas (Part III);
  - Environmental impact assessments (Part IV);
  - Capacity-building and the transfer of marine technology (Part V).
7. Part VII “Financial Resources and Mechanism” of the agreement establishes “a mechanism for the provision of adequate, accessible, new and additional and predictable financial resources under [the] Agreement [...]” It designates the GEF Trust Fund as part of the Financial Mechanism, along with a special fund, and a voluntary trust fund to facilitate participation of representatives of developing States Parties in the meetings of the bodies under the Agreement.
8. This document presents the implications for the GEF to be part of the BBNJ Financial Mechanism, puts forward a proposal to operationalize GEF support to national ratification and early implementation of the Agreement, and summarizes the GEF’s past and ongoing support for topics relevant to the BBNJ.

#### **GEF AS PART OF THE BBNJ FINANCIAL MECHANISM**

9. Article 52 “Funding” of the BBNJ agreement finalized during IGC-5 includes the following paragraphs that are of direct relevance to the GEF:

*“3: A mechanism for the provision of adequate, accessible, new and additional and predictable financial resources under this Agreement is hereby established. The mechanism shall assist developing States Parties in implementing this Agreement, including through funding in support of capacity-building and the transfer of marine technology, and perform other functions as set out in this article for the conservation and sustainable use of marine biological diversity.*

*4: The mechanism shall include:*

*(a) A voluntary trust fund established by the Conference of the Parties to facilitate the participation of representatives of developing States Parties, in particular least developed countries, landlocked developing countries and small island developing States, in the meetings of the bodies established under this Agreement;*

*(b) A special fund that shall be funded through the following sources:*

- (i) Annual contributions in accordance with article 14, paragraph 6;*
- (ii) Payments in accordance with article 14, paragraph 7;*
- (iii) Additional contributions from Parties and private entities wishing to provide financial resources to support the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.*

*(c) The Global Environment Facility trust fund.*

*7: The financial mechanism should seek to ensure that duplication is avoided, and complementarity and coherence promoted, among the utilization of the funds within the mechanism.*

*9: For the purposes of this Agreement, the mechanism shall function under the authority, where appropriate, and guidance of the Conference of the Parties and shall be accountable thereto. The Conference of the Parties shall provide guidance on overall strategies, policies, programme priorities and eligibility for access to and utilization of financial resources.”*

10. Furthermore, paragraph 6 of Article 52 included activities to be supported by the GEF trust fund as well as the special fund, including the following:

- (a) “Fund capacity-building projects under this Agreement, including effective projects on the conservation and sustainable use of marine biological diversity and activities and programmes, including training related to the transfer of marine technology;*
- (b) Assist developing States Parties in implementing this Agreement;*
- (c) Support conservation and sustainable use programmes by Indigenous Peoples and local communities as holders of traditional knowledge;*
- (d) Support public consultations at the national, subregional and regional levels;*
- (e) Fund the undertaking of any other activities as decided by the Conference of the Parties.”*

11. Article 52 also includes the establishment of a finance committee in paragraph 14 to make recommendations on the identification and mobilization of funds under the mechanism, and to consider needs assessments, availability and timeliness of disbursements, transparency of decision-making, and others.

12. Article 52 is reprinted in its entirety as Annex 1 to this document.

### **Amendment to the GEF Instrument**

13. Paragraph 6 of the GEF Instrument lists the Multilateral Environmental Agreements (MEA)



the GEF serves and clarifies the relationship between the GEF and the governing bodies of the MEAs. In line with the amendments to the GEF Instrument made in 2002, 2010 and 2014 to add the Stockholm Convention on Persistent Organic Pollutants, the United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, particularly in Africa (UNCCD), and the Minamata Convention on Mercury, respectively, to paragraph 6, the GEF Council may wish to consider an amendment to the GEF Instrument to include the BBNJ Agreement in the list of MEAs served by the GEF.

14. 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.”

15. With a view to the upcoming seventh GEF Assembly, the GEF Council may thus wish to recommend to the Assembly the following amendment to the Instrument:

To add a new subparagraph (f) under paragraph 6 that would read:

(f) Operate as one of the entities comprising the financial mechanism of 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, pursuant to its Article 52, paragraphs 3, 4, 6 and 9. In such respects, the GEF shall function under the guidance of and shall be accountable to the Conference of the Parties. In addition, the GEF shall receive guidance from the Conference of the Parties on overall strategies, policies, programme priorities and eligibility for access to and utilization of financial resources.

### **Memorandum of Understanding**

16. Article 52, paragraph 10 of the BBNJ agreement stipulates that “The Conference of the Parties and the Global Environment Facility shall agree upon arrangements to give effect to the above paragraphs at the first meeting of the Conference of the Parties.”

17. The GEF Council may thus consider developing a Memorandum of Understanding to further clarify its relationship with the Conference of the Parties (COP) to 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). Similar to other Memoranda of Understanding between the GEF Council and COPs to Conventions that the GEF serves as the financial mechanism, the Memorandum of Understanding would be adopted by the BBNJ COP and the GEF Council. It will clarify *inter alia* the type of guidance to be provided by the COP to the GEF, modalities to ensure conformity with such guidance, reporting requirements and modalities from the GEF to the COP, monitoring and evaluation, and inter-secretariat cooperation.

18. The specific timing of the consideration of such Memorandum of Understanding, and

adoption by, the GEF Council and the COP will be determined after the entry into force of the agreement and the scheduling of the first COP.

### **Support to Implementation**

19. As foreseen in the GEF-8 Programming Directions, support will be provided to the BBNJ agreement for national ratification and capacity building. A proposal for such early action support is included in section GEF Support To National Ratification and Early Action for the BBNJ Agreement of this document.

20. Full-fledged support to implementation is expected to start upon entry into force of the agreement. Article 68 of the agreement provides that the BBNJ Agreement shall enter into force 120 days after the date of deposit of the sixtieth instrument of ratification, approval, acceptance or accession.

21. The time period from adoption to entry into force varies among treaties. It took less than seven months for the Paris Agreement (from signature on April 22 to entry into force on November 4, 2016), four years for the Minamata Convention (text agreed in January 2013, entry into force in August 2017) and six years for the United Nations Fish Stocks Agreement under UNCLOS (1995 to 2001).

22. The GEF-9 Replenishment process, which is due to start in the spring of 2025 and conclude in June 2026, is expected to consider GEF support to the implementation of the BBNJ agreement over the 2026-2030 period. Specific activities to be supported by the GEF, in line with activities stated in paragraph 6 of Article 52 of the BBNJ agreement, may be further informed by guidance from the BBNJ COP, or relevant interim process, to the GEF. It will also depend on the establishment and role assigned to the special fund to avoid duplication, and ensure that complementarity and coherence are promoted.

### **GEF SUPPORT TO NATIONAL RATIFICATION AND EARLY ACTION FOR THE BBNJ AGREEMENT**

23. In GEF-8, the International Water (IW) Focal Area has an allocation of \$565 million, of which \$34 million is notionally allocated to ABNJ under Objective 2 of the IW Focal Area Strategy. Activities related to the BBNJ were included under this Objective, as the relevance of the GEF on BBNJ issues was already recognized by the Replenishment Participants. The strategy includes a sentence that indicates the contingent readiness of the GEF to support BBNJ, including in the pre-ratification phase: *“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.”*<sup>7</sup>

24. Timely support to national ratification will be critical for its rapid entry into force. The GEF

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<sup>7</sup> GEF, 2022, [Summary of Negotiations of the Eighth Replenishment of the GEF Trust Fund](#), GEF/C.62/03.

has provided national ratification support to developing countries for several MEAs, including the Nagoya Protocol to the CBD and the Minamata Convention on Mercury. The GEF has also supported some countries, as part of regular projects and programs for the IW focal area, on their efforts to join the UN Fish Stocks Agreement, and the Port State Measures Agreement, as well as legal endorsement of regional Strategic Action Programmes for large marine ecosystems and transboundary river basins, lakes and aquifers.<sup>8</sup>

25. Based on these experiences, GEF-8 national-level assistance for ratification will be specifically targeted to help countries:

- Determine national situation with respect to the conservation and sustainable use of BBNJ and potential impact thereon (e.g., mapping of stakeholders; of traditional knowledge of Indigenous People and Local communities; inventory of repositories and databases; and assessment of national research capacities associated with marine genetic resources in the ABNJ; of capacity to submit proposals on area-based management tools, including marine protected areas; and to undertake environmental impact assessments and enforce regulations).
- Conduct national legal and policy gap assessments.
- Assess existing baseline and identify national institutional and capacity needs required to implement the Agreement.
- Draft national legislation, including through inclusive national stakeholder consultation processes, as required for ratification, approval, acceptance or accession.
- Raise awareness and conduct targeted outreach efforts (opportunities and obligations under the Agreement) within government and parliament.
- As appropriate, develop national implementation strategies, including facilitation with stakeholders, for addressing identified needs and gaps.

26. GEF support will enable countries to recruit, as necessary, legal and technical expertise to carry out these activities.

27. In parallel to national-level activities, regional and global activities will be supported to achieve economies of scale and foster international cooperation towards the swift entry into force of BBNJ agreement, and to promote implementation readiness among key stakeholders. Supported activities at the regional or global level may include:

- Capacity building and training modules, and awareness raising and outreach material on the BBNJ agreement.
- Development of legislative templates to assist countries with national ratification, approval, acceptance or accession.

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<sup>8</sup> <https://iwlearn.net/documents/sap>

- Creation of rosters of regional technical and legal expertise.
- Regional training workshops to build awareness and capacity for ratification, approval, acceptance or accession.
- Establishing/strengthening knowledge management and community/ies of practice as resource for countries.
- Awareness raising of relevant global, regional, subregional, and sectoral bodies.
- As appropriate, development of regional implementation strategies, including facilitation with stakeholders, for addressing identified needs and gaps.

28. The GEF Secretariat in consultation with the interim secretariat of the BBNJ agreement, i.e. the Division for Oceans Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations, will develop initial guidelines for enabling activities and ratification support projects and present them as a decision document at the 65<sup>th</sup> Council meeting. The GEF Secretariat will then notify all GEF Participants, and eligible countries can start submitting proposals through a GEF Agency.

29. The BBNJ agreement provides that “Eligibility for access to funding under this Agreement shall be open to developing States Parties on the basis of need” (Article 52, paragraph 12). Until the BBNJ COP or a relevant interim process, if any, provides guidance to the GEF on eligibility criteria to be applied for the purpose of the BBNJ agreement, GEF grants are to be in accordance with eligibility criteria stated in paragraph 9(b) of the GEF Instrument. Support to ratification will thus be provided on request, as expressed through a Letter of Endorsement signed by the GEF Operational Focal Point, to developing countries that:

- have signed the BBNJ agreement, or have taken meaningful steps towards becoming a Party to the Convention as evidenced by a letter from the relevant minister to the head of the BBNJ Secretariat and to the CEO and Chairperson of the GEF; and
- are eligible for World Bank (IBRD and/or IDA) financing or eligible recipients of UNDP technical assistance through its target for resource assignments from the core (TRAC).

30. The proposed areas of investment outlined above are estimated to cost up to \$34 million. This envelope will enable responding to all potential eligible country demand with a combination of national and regional activities representing at least \$200,000 per country (exclusive of agency fees).

#### **THE GEF’S PAST AND CURRENT ENGAGEMENT IN THE CONSERVATION AND SUSTAINABLE USE OF BBNJ**

31. The GEF has a strong track record of supporting conservation and sustainable use of BBNJ, based on the mandate to provide grants and concessional funding to achieve global

environmental benefits in international waters. To date, the GEF has invested \$1.2 billion in the management of shared marine resources through its IW focal area. Most of these investments were regional and multi-country projects, supporting countries in improving governance in shared large marine ecosystems.

32. The GEF has invested over \$80 million in GEF-4, GEF-5, and GEF-7 to directly address management of biodiversity in ABNJ, leveraging over \$500 million in co-financing, including \$85 million from the private sector. GEF ABNJ programs have supported Regional Fisheries Management Organizations (RFMOs) and other regional ocean governance institutions, as well as more than 100 GEF recipient countries. The GEF notably supported countries in ratifying the Port State Measures Agreement (PSMA) to prevent, deter and eliminate illegal, unreported and unregulated fishing. Additional information on past ABNJ investments have been provided in Council document GEF/C.63/10.<sup>9</sup>

33. The GEF's past and current support aligns closely with the functions identified in the BBNJ agreement for the special fund and the GEF Trust Fund (Article 52, paragraph 6). With the history of supporting BBNJ-relevant initiatives, as well as experiences in supporting other agreements' early entry into force and implementation at the national level, the GEF stands ready to provide timely and focused support utilizing the resources made available in the GEF-8 period.

### **Capacity-building**

34. Article 52, paragraph 6(a) of the BBNJ agreement provides that the special fund and the Global Environment Facility trust fund shall be utilized in order to fund capacity-building projects under the agreement, including effective projects on the conservation and sustainable use of marine biological diversity and activities and programmes, including training related to the transfer of marine technology.

35. Capacity-building is a core element of all GEF projects, consisting of both targeted technical activities as well as general capacity-building for project management. It is a special focus of the Capacity-building Initiative for Transparency (CBIT) that supports developing countries in building institutional and technical capacity to meet enhanced transparency requirements as defined in Article 13 of the Paris Agreement.

36. More related to BBNJ, the GEF International Waters Learning Exchange and Resources Network (IW:LEARN) strengthens global knowledge management and country capacity, and promotes the scaling-up of learning, disseminated experiences, tools and methodologies from across the GEF International Waters portfolio. This includes the many activities related to conservation and sustainable use of marine biological diversity and training related to the transfer of marine technology. For example, supporting technical workshops or project-to-project "twinning" on topics like marine spatial planning, establishing marine protected areas

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<sup>9</sup> GEF, 2022, [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 \(BBNJ\)](#), GEF/C.63.10.

networks, and sustainable fisheries management.

### **BBNJ Implementation**

37. Following article 52, paragraph 6(b) of the BBNJ agreement, the special fund and the Global Environment Facility trust fund will assist developing States Parties in implementing the BBNJ Agreement. This most notably includes support related to the substantive parts of the agreement, i.e., marine genetic resources, area-based management tools, environmental impact assessments, and capacity building and the transfer of marine technology.

38. In relation to marine genetic resources, including the fair and equitable sharing of benefits (Part II of the BBNJ agreement), the GEF already funds capacity building in the area of genetic resources from the Biodiversity Focal Area, as part of its support of the implementation of 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.

39. Since 2003, the GEF has invested more than \$72 million to build the capacity of countries to implement activities in support of access and benefit sharing (ABS) from genetic resources. These funds have leveraged over \$181 million from more than 108 countries. Before the Nagoya Protocol was adopted, the GEF helped 22 countries assess their capacity to implement ABS measures. Through national and regional projects, the GEF also built the capacity of governments in 42 countries to meet their obligations under the convention and to engage with stakeholders such as IPLCs.

40. With adoption of the Nagoya protocol adoption in 2010, the GEF continued to invest in capacity building through multiple projects to accelerate ratification and to set up pilot agreements between providers and users of genetic resources. Since 2014, GEF's support to the Nagoya Protocol has facilitated the equitable use of innovations in, for example, agriculture, crop-protection, pharmaceuticals, food and beverages, and cosmetics. As per the CBD's mandate, current GEF funding is focused on 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. \$82 million is notionally allocated for the support of the Nagoya and Cartagena Protocols in the Biodiversity Focal Area, which may offer complementary capacity building opportunities for handling and use of genetic resources in ABNJ.

41. GEF has a long history of supporting area-based management tools (Part III of the BBNJ agreement), especially support for establishing new and strengthening management of existing marine protected areas. Since its inception in 1991, the GEF has been the largest public funder for marine protected areas through the Biodiversity and IW focal areas.

42. GEF support ranges from individual marine protected areas to national marine protected area networks to transboundary MPA networks. In GEF-7 alone, the GEF approved \$370 million for 56 projects to support the creation or improved management of 1.4 billion ha of marine protected areas. Over the past 30 years, the GEF has financed hundreds of projects to create and maintain marine protected areas spanning more than 23 of the world's large marine ecosystems,

helping 124 countries manage shared marine resources. Over the past several GEF cycles, marine protected areas have been used as a tool to advance national and regional sustainable blue economy development plans, including ecosystem-based fisheries management. This is often accomplished through conducting marine spatial planning to identify and seek cooperation among various stakeholders in the marine environment.

43. With respect to environmental impact assessments (Part IV of the BBNJ agreement), the GEF has supported national institutional strengthening for conducting Environmental Impact Assessments (EIA). For example, in Solomon Islands, the GEF supported the development of a cumulative EIA on coastal environmental impacts of the highly developed and built-up area of Honiara<sup>10</sup>. Several GEF projects have supported the establishment or strengthening of EIA legislation, such as in Tajikistan<sup>11</sup>, Jamaica<sup>12</sup>, and Belize<sup>13</sup>. The GEF has also supported the development of EIA knowledge management projects through IW:LEARN<sup>14</sup>.

44. With respect to capacity-building and the transfer of marine technology (Part V of the BBNJ agreement), in addition to its cross-cutting support to capacity building described above, the GEF has played a vital role in reducing the impact on biodiversity of the marine shipping sector through the transfer of marine technology. The GEF notably enabled the transfer of ballast water treatment technologies and vessel bottom paints to address ballast water<sup>15</sup> and hull fouling issues<sup>16</sup>.

45. The GEF has also facilitated the transfer of advanced technologies for improving sustainable fisheries management, like satellite-based vessel monitoring, on-board video monitoring, and access to new types of fishing gear.<sup>17,18,19</sup> More generally, the GEF has a mandate from the UNFCCC to finance the transfer of Environmentally Sound Technologies.

46. In addition to support to the implementation of substantive parts of the BBNJ agreement, the GEF may support, as for the other MEAs it serves, Enabling Activities (EAs). EAs are projects for the preparation of a plan, strategy, or report to fulfil commitments under a Convention<sup>20</sup>. They 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

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<sup>10</sup> SPC, 2021, *Honiara Coastal Environment Impact Assessment, Solomon islands*.

<sup>11</sup> UNDP, 2017, *Terminal Evaluation of GEF Project: Strengthening capacity for an environmental information management and monitoring system in Tajikistan*.

<sup>12</sup> UNDP, 2013, *Terminal Evaluation of GEF Project: Piloting Natural Resource Valuation within Environmental Impact Assessments, Jamaica*.

<sup>13</sup> UNDP, 2019, *Terminal Evaluation of GEF Project: Capacity-building for the strategic planning and management of natural resources in Belize*.

<sup>14</sup> GEF LME:LEARN, 2018, *Chapter 3: Impact Assessment*, in *Environmental Economics for Marine Ecosystem Management Toolkit*. Paris, France.

<sup>15</sup> <https://www.thegef.org/projects-operations/projects/610>

<sup>16</sup> <https://www.thegef.org/projects-operations/projects/9605>

<sup>17</sup> <https://www.thegef.org/projects-operations/projects/2131>

<sup>18</sup> <https://www.thegef.org/projects-operations/projects/4581>

<sup>19</sup> <https://www.thegef.org/projects-operations/projects/3558>

<sup>20</sup> GEF, 2018, *Project and Program Cycle Policy* (OP/PL/01).

information to enable policy and strategic decisions to be made or assisting planning that identifies priority activities within a country.

47. The BBNJ agreement notably creates several periodic reporting requirements for Parties, including aggregate reports on access to marine genetic resources and digital sequence information from the repositories and databases under their jurisdiction (article 12.7), report to the access and benefit-sharing committee (article 16.2), report to the COP on the implementation of area-based management tools (article 26.1), report on the impacts of the activities in ABNJ that they permit or in which they engage activity and the results of monitoring thereof (article 36.1), reports to the capacity- building and transfer of marine technology committee (article 45.3), and report on measures taken to implement the BBNJ agreement (article 54).

### **Conservation and Sustainable Use Programmes by Indigenous Peoples and Local Communities**

48. Article 52 paragraph 6(c) of the BBNJ agreement provides that the special fund and the Global Environment Facility trust fund shall be utilized to support conservation and sustainable use programmes by Indigenous Peoples and local communities as holders of traditional knowledge. The GEF was one of the first international financial institutions to develop an independent policy to engage with civil society, including Indigenous Peoples. The GEF Principles and Guidelines for Engagement with Indigenous Peoples<sup>21</sup>, GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards<sup>22</sup>, and Indigenous Peoples Advisory Group (IPAG) all guide the GEF Partnership in supporting IPLCs. In GEF-7, the Inclusive Conservation Initiative (ICI) was also launched with \$25 million of GEF funding and over \$90 million in co-financing to enhance efforts to steward land, waters, and natural resources to deliver global environmental benefits.

### **Public Consultations**

49. According to the BBNJ agreement, the special fund and the Global Environment Facility trust fund are also to support public consultations at the national, subregional, and regional levels (article 52, paragraph 6(d)). Consultations processes are part of the GEF project cycle and many GEF project activities. The GEF Instrument provides that all GEF-Financed Activities should have "full disclosure of all non-confidential information, and consultation with, and participation as appropriate of, major groups and local communities throughout the project cycle".

50. Hence the GEF project cycle explicitly stresses stakeholder engagement and the GEF provides funding for facilitating such engagement through Project Preparation Grants (PPG). It is also covered under the GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards that includes Free, Prior and Informed Consent (FPIC).

51. Beyond the GEF Project Cycle and more relevant to BBNJ, a major focus of all GEF IW projects is supporting stakeholders to jointly manage resources across ministries, sectors, and

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<sup>21</sup> GEF, 2012, [Principles and Guidelines for Engagement with Indigenous Peoples](#).

<sup>22</sup> GEF, 2019, [Policy on Environmental and Social Safeguards](#). GEF Policy: SD/PL/03.



national borders. For example, the GEF Transboundary Diagnostic Analysis and Strategic Action Programme (TDA/SAP) approach is a highly collaborative process that has proven to be a major strategic planning tool for GEF IW Projects<sup>23</sup>.

52. Additionally, many GEF IW projects support the use of national, subregional, and regional marine spatial planning activities to bring various stakeholders together through a collaborative process to identify and agree on the sustainable use of the marine environment. As applicable to national contexts, this may also include facilitating mandatory general commenting and other consultations with the broader public within the framework of relevant projects delivering global environmental benefits.

### **BBNJ Alignment with the International Waters Focal Area**

53. The GEF IW Focal Area supports nations in transboundary cooperation in shared marine and freshwater ecosystems. This can happen on many scales, including global, regional, and national projects. While most GEF IW projects in marine ecosystems support Large Marine Ecosystems, Regional Seas, and other multi-country efforts for cooperative management, the specific GEF project modality can take many forms, based on a sound Theory of Change to best address the global challenge.

54. National GEF IW projects fit within the IW Focal Area by operating through a coordinated effort to address broader marine issues that span national boundaries, including ABNJ. Because national ratification support will require designing custom approaches to fit national needs, a certain level of GEF IW support will naturally occur at the national level, while also taking advantage of opportunities to coordinate at regional and global scales.

55. Several GEF IW Focal Area projects have included the participation of regional economic integration organizations, including ASEAN<sup>24</sup>, SICA<sup>25</sup> and CARICOM<sup>26</sup>. As requested by member states of regional economic integration organizations and following GEF's country-driven approach, ratification and early implementation support could also be directed through such entities to support multiple countries in a more efficient and coordinated manner.

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<sup>23</sup> <https://iwlearn.net/manuals/tda-sap-methodology>

<sup>24</sup> <https://www.thegef.org/projects-operations/projects/10873>

<sup>25</sup> <https://www.thegef.org/projects-operations/projects/5765>

<sup>26</sup> <https://www.thegef.org/projects-operations/projects/105>

## ANNEX I. ARTICLE 52 “FUNDING” OF THE BBNJ AGREEMENT

### Article 52

#### Funding

1. Each Party shall provide, within its capabilities, resources in respect of those activities that are intended to achieve the objectives of this Agreement, taking into account its national policies, priorities, plans and programmes.
2. The institutions established under this Agreement shall be funded through assessed contributions of the Parties.
3. A mechanism for the provision of adequate, accessible, new and additional and predictable financial resources under this Agreement is hereby established. The mechanism shall assist developing States Parties in implementing this Agreement, including through funding in support of capacity-building and the transfer of marine technology, and perform other functions as set out in this article for the conservation and sustainable use of marine biological diversity.
4. The mechanism shall include:
  - (a) A voluntary trust fund established by the Conference of the Parties to facilitate the participation of representatives of developing States Parties, in particular least developed countries, landlocked developing countries and small island developing States, in the meetings of the bodies established under this Agreement;
  - (b) A special fund that shall be funded through the following sources:
    - (I) Annual contributions in accordance with article 14, paragraph 6;
    - (II) Payments in accordance with article 14, paragraph 7;
    - (III) Additional contributions from Parties and private entities wishing to provide financial resources to support the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;
  - (c) The Global Environment Facility trust fund.
5. The Conference of the Parties may consider the possibility of establishing additional funds, as part of the financial mechanism, to support the conservation and sustainable use of marine

biological diversity of areas beyond national jurisdiction, to finance rehabilitation and ecological restoration of marine biological diversity of areas beyond national jurisdiction.

6. The special fund and the Global Environment Facility trust fund shall be utilized in order to:
  - (a) Fund capacity-building projects under this Agreement, including effective projects on the conservation and sustainable use of marine biological diversity and activities and programmes, including training related to the transfer of marine technology;
  - (b) Assist developing States Parties in implementing this Agreement;
  - (c) Support conservation and sustainable use programmes by Indigenous Peoples and local communities as holders of traditional knowledge;
  - (d) Support public consultations at the national, subregional and regional levels;
  - (e) Fund the undertaking of any other activities as decided by the Conference of the Parties.
7. The financial mechanism should seek to ensure that duplication is avoided, and complementarity and coherence promoted, among the utilization of the funds within the mechanism.
8. Financial resources mobilized in support of the implementation of this Agreement may include funding provided through public and private sources, both national and international, including, but not limited to, contributions from States, international financial institutions, existing funding mechanisms under global and regional instruments, donor agencies, intergovernmental organizations, non-governmental organizations and natural and juridical persons, and through public-private partnerships.
9. For the purposes of this Agreement, the mechanism shall function under the authority, where appropriate, and guidance of the Conference of the Parties and shall be accountable thereto. The Conference of the Parties shall provide guidance on overall strategies, policies, programme priorities and eligibility for access to and utilization of financial resources.
10. The Conference of the Parties and the Global Environment Facility shall agree upon arrangements to give effect to the above paragraphs at the first meeting of the Conference of the Parties.
11. In recognition of the urgency to address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, the Conference of the Parties shall determine an initial resource mobilization goal through 2030 for the special fund from all sources, taking into account, inter alia, the institutional modalities of the special fund and the information provided through the capacity-building and transfer of marine technology committee.

12. Eligibility for access to funding under this Agreement shall be open to developing States Parties on the basis of need. Funding under the special fund shall be distributed according to equitable sharing criteria, taking into account the needs for assistance of Parties with special requirements, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States and coastal African States, archipelagic States and developing middle-income countries, and taking into account the special circumstances of small island developing States and of least developed countries. The special fund shall be aimed at ensuring efficient access to funding through simplified application and approval procedures and enhanced readiness of support for such developing States Parties.
13. In the light of capacity constraints, Parties shall encourage international organizations to grant preferential treatment to, and consider the specific needs and special requirements of developing States Parties, in particular the least developed countries, landlocked developing countries and small island developing States, and taking into account the special circumstances of small island developing States and of least developed countries, in the allocation of appropriate funds and technical assistance and the utilization of their specialized services for the purposes of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.
14. The Conference of the Parties shall establish a finance committee on financial resources. It shall be composed of members possessing appropriate qualifications and expertise, taking into account gender balance and equitable geographical distribution. The terms of reference and modalities for the operation of the committee shall be decided by the Conference of the Parties. The committee shall periodically report and make recommendations on the identification and mobilization of funds under the mechanism. It shall also collect information and report on funding under other mechanisms and instruments contributing directly or indirectly to the achievement of the objectives of this Agreement. In addition to the considerations provided in this article, the committee shall consider, inter alia:
- (a) The assessment of the needs of the Parties, in particular developing States Parties;
  - (b) The availability and timely disbursement of funds;
  - (c) The transparency of decision-making and management processes concerning fundraising and allocations;
  - (d) The accountability of the recipient developing States Parties with respect to the agreed use of funds.

15. The Conference of the Parties shall consider the reports and recommendations of the finance committee and take appropriate action.
16. The Conference of the Parties shall, in addition, undertake a periodic review of the financial mechanism to assess the adequacy, effectiveness and accessibility of financial resources, including for the delivery of capacity-building and the transfer of marine technology, in particular for developing States Parties.