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Agenda Item 17

**INITIAL GUIDELINES FOR ENABLING ACTIVITIES AND RATIFICATION SUPPORT
PROJECTS FOR 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)**

Recommended Council Decision

The Council, having considered document GEF/C.66/07 *Initial guidelines for enabling activities and ratification support projects for 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)*, approves the initial guidelines set forth in the document and requests the GEF Secretariat to implement them for the funding of ratification support and implementation readiness activities for the BBNJ Agreement.

EXECUTIVE SUMMARY

1. Adopted by consensus on June 19, 2023, 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”)¹ was opened for signature on September 20, 2023. At the time of posting, the Agreement had 84 signatories.
2. The BBNJ Agreement identifies the GEF Trust Fund as part of its Financial Mechanism, which also includes a special fund and a voluntary trust fund.
3. In response, the Council welcomed the invitation from the Intergovernmental Conference on BBNJ to the GEF to be part of the Financial Mechanism of the BBNJ Agreement, and recommended an amendment to the Instrument to the Assembly in order to add the BBNJ Agreement to the list of Conventions served by the GEF (Decision 14/2023²). In August 2023, the 7th GEF Assembly approved by consensus the corresponding amendment.³
4. Through Decision 14/2023, the Council also authorized the use of up to \$34 million from the GEF International Waters Focal Area for the funding of ratification support and early action activities for the BBNJ Agreement to be programmed during GEF-8, and requested the GEF Secretariat to develop initial guidelines for enabling activities and ratification support projects and present them as a decision document at the 66th Council Meeting.
5. This document provides the Council with initial guidelines for enabling activities and ratification support projects to promote early entry into force and implementation readiness for the BBNJ Agreement.

¹ 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](#)

² GEF, 2023, [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 \(BBNJ\)](#), Council document GEF/C.64/12/Rev.02.

³ GEF, 2023, [Amendments to Instrument for the Establishment of a Restructured Global Environment Facility](#), Assembly document GEF/A.7/08

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INTRODUCTION

1. Areas beyond national jurisdiction (ABNJ)⁴ 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 significant 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. In response, work on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) was initiated under the United Nations General Assembly (UNGA) in 2004. The UNGA process, detailed in Council document GEF/C.64/12/Rev.02⁵, led to the adoption by consensus, on June 19, 2023, during the further resumed fifth session of the Intergovernmental conference 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, 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.
3. The BBNJ Agreement was opened for signature on September 20, 2023, and will remain open for signature until September 20, 2025. At the time of posting, the Agreement had 84 signatories⁶, including 46 countries that are currently receiving support from the GEF.
4. 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).
5. The Agreement contains twelve parts, including substantive parts related to:
 - (a) Marine genetic resources, including the fair and equitable sharing of benefits (Part II);

⁴ 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.

⁵ GEF, 2023, [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 \(BBNJ\)](#), Council document GEF/C.64/12/Rev.02.

⁶ The BBNJ Agreement provides for signature subject to ratification, acceptance or approval, i.e. a signing State does not undertake positive legal obligations under the treaty upon signature but signature indicates the State’s intention to take steps to express its consent to be bound by the treaty at a later date. Signature also creates an obligation, in the period between signature and ratification, acceptance or approval, to refrain in good faith from acts that would defeat the object and purpose of the treaty.

- (b) Measures such as area-based management tools, including marine protected areas (Part III);
- (c) Environmental impact assessments (Part IV);
- (d) Capacity-building and the transfer of marine technology (Part V).

6. This document presents the role of the GEF in the BBNJ Agreement and details initial guidelines for enabling activities and ratification support projects to promote early entry into force and implementation readiness for the BBNJ Agreement. These guidelines were developed in collaboration with the Division for Ocean Affairs and the Law of the Sea, United Nations Office of Legal Affairs (DOALOS), which is performing the secretariat functions in relation to the Agreement until such time as the Secretariat to be established under article 50 of the BBNJ Agreement commences its functions, in accordance with UN General Assembly resolution 77/321.

7. In this document, unless otherwise specified, the notion of support to ratification refers to support to ratification, approval, acceptance or accession.

THE ROLE OF THE GEF

8. Part VII “Financial Resources and Mechanism” of the BBNJ 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.

9. 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.

10. As foreseen in the GEF-8 Programming Directions and further decided by the Council at its 64th meeting (Decision 14/2023⁷), support will be provided to the BBNJ Agreement for national ratification and capacity building. A proposal for such early action support is included in the next section of this document.

11. 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.

12. The GEF-9 Replenishment process, which is due to start in the spring of 2025 and conclude in the spring of 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 to the GEF from any possible preparatory process and, when the Agreement has entered into force, by the BBNJ Conference of the Parties (COP). 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 IMPLEMENTATION READINESS FOR THE BBNJ AGREEMENT

13. Timely support to national ratification and implementation readiness will be critical for rapid entry into force and swift implementation of the BBNJ Agreement. The GEF has provided national ratification support to developing countries for several Multilateral Environmental Agreements (MEAs), including the Nagoya Protocol to the Convention on Biological Diversity (CBD) and the Minamata Convention on Mercury. The GEF has also supported some countries, as part of regular projects and programs for the International Waters focal area, on their efforts to join the United Nations Fish Stocks Agreement and the Port State Measures Agreement.

14. Based on these experiences and on the very nature of the ABNJ, GEF-8 support to national ratification and implementation readiness will be provided as a combination of national-level interventions and regional- and global-level activities. As DOALOS and other donors are planning to support supra-national activities, the GEF support will primarily target the national level, where the ratification process is taking place. This arrangement will help address complementarity with other sources of support, and notably enable countries to effectively use the tools, guides and materials that will be developed by DOALOS.

15. In line with resolution 77/321 of the UN General Assembly, DOALOS has developed a programme of activities to promote a better understanding of the Agreement and prepare for its entry into force. In 2024, that programme includes the following:

⁷ GEF, 2023, [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 \(BBNJ\)](#), Council document GEF/C.64/12/Rev.02.

- (a) The development and dissemination of a range of tools and materials, including fact sheets providing an overview of the Agreement, thematic briefs to provide in-depth overviews of the key elements of the Agreement, practical guides to provide information on the procedural aspects in relation to becoming parties to the Agreement, toolkits for assessing needs of States for capacity-building and technical assistance in relation to becoming parties to the Agreement, and brief documents on case studies about experiences of States in becoming parties to the Agreement;
- (b) The development and delivery of capacity-building and technical assistance activities aimed at enhancing capacities of States and relevant stakeholders to become parties to and implement the Agreement, including five regional workshops;
- (c) The provision of tailored technical assistance at the national level, upon request, to States in identifying challenges and opportunities in becoming parties to the Agreement, as well as actions for addressing key challenges, including through baseline studies, needs assessments and national multi-stakeholder workshops;
- (d) The provision of information at relevant intergovernmental conferences and meetings, including those of relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies;
- (e) The development and implementation of an outreach and communication strategy to promote a better understanding of the Agreement, including through the development and maintenance of a website for the Agreement in all authentic languages of the Agreement, the development and dissemination of an outreach information kit in all authentic languages of the Agreement and multimedia communication assets.⁸

16. The GEF support will be provided under the Enabling Activity modality⁹ to respond to the requirement of depositing instruments of ratification, approval, acceptance or accession of/to the Agreement with the Secretary-General of the United Nations.

Guidelines for National-Level Support

17. The guidelines for national-level support for ratification and implementation readiness are presented to assist eligible countries, upon request, in:

⁸ UNGA, 2023, [Report of the Secretary-General: Revised estimates resulting from resolutions adopted by the General Assembly at its seventy-seventh session](#), A/78/550.

⁹ Enabling Activity (EA) means a project for the preparation of a plan, strategy or report to fulfil commitments under a Convention ([GEF Project and Program Policy](#), Policy: OP/PL/01). Enabling Activities qualify for full cost funding from the GEF - i.e. there is no co-finance requirement. Project preparation grants and additional monitoring and evaluation costs are not applicable ([Guidelines on the Project and Program Cycle Policy](#), GEF/C.59/Inf.03).

- (a) Assessing the extent to which their current legal, policy and institutional framework enable the implementation of obligations under the BBNJ Agreement;
- (b) Carrying out their ratification, approval, acceptance or accession process;
- (c) Supporting their readiness to implement the obligations under the BBNJ Agreement.

18. Supported countries will prepare an initial BBNJ assessment, which will take the form of report that will include, as applicable to the specific country context:

- (a) An overview of the country situation with respect to the conservation and sustainable use of BBNJ and potential impact thereon;
- (b) An overview of the institutions and legislative and regulatory framework already in place in relation to the Agreement;
- (c) Progress towards ratification, approval, acceptance or accession, including identification of legal or regulatory gaps to be addressed prior to ratification, approval, acceptance or accession;
- (d) Main challenges to ratification, approval, acceptance or accession and future implementation, including priority capacity building needs.

19. National-level support to develop the initial BBNJ assessment, carry out the ratification process and support implementation readiness will be provided as a menu of options. Recipient countries will select the activities that best respond to their specific needs.

20. The national support options include:

- (a) Determination of national situation with respect to the conservation and sustainable use of BBNJ and potential impact thereon (e.g., mapping of relevant stakeholders and activities under the country's jurisdiction or control; of relevant traditional knowledge of Indigenous People and Local communities; inventory of repositories, databases and national research and utilization capacities associated with marine genetic resources of ABNJ).
- (b) National legal, regulatory, and policy gap assessment, and/or governance, institutional and administrative capacity gap assessment, and/or scientific, technical and infrastructure capacity gap assessment for the implementation of the country's obligations under the Agreement, including with regards to:
 - i. Notification on activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction
 - ii. The fair and equitable sharing of benefits arising from these activities

- iii. Traditional knowledge of Indigenous Peoples and local communities associated with marine genetic resources in areas beyond national jurisdiction
 - iv. Monitoring of activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction
 - v. The development of proposals, consultations on and assessment of proposals, and implementation of area-based management tools, including marine protected areas, and related measures.
 - vi. The conduct of environmental impact assessments according to the process established by the Agreement, and monitoring and review of impacts of authorized activities.
 - vii. Monitoring of implementation and reporting.
- (c) Drafting of national legislation and regulations, including through inclusive national stakeholder consultation processes, as required by national ratification, approval, acceptance or accession processes.
 - (d) Awareness raising and targeted outreach on opportunities, rights and obligations under the Agreement, including within the legislative and executive branches of governments.
 - (e) As appropriate, development of national implementation readiness strategies, for addressing identified needs and gaps for implementation.
 - (f) Other national-level activities identified by countries that are demonstrably required to support ratification, approval, acceptance or accession and/or implementation readiness in a given national context.

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

22. Each national-level grant should not exceed \$175,000. This amount includes the project management cost and is exclusive of Agency fees. It has been calculated to respond to all potential eligible country requests with the GEF-8 resources set aside for this purpose. Any remaining funds may be programmed at the end of the GEF-8 period to promote rapid entry into force and implementation readiness for the BBNJ Agreement, and respond to guidance from a BBNJ preparatory process, if any.

Regional and Global Support

23. In parallel to national-level activities, regional and global activities will be supported to achieve economies of scale, foster international cooperation towards the swift entry into force of the BBNJ Agreement, and promote implementation readiness. Supra-national support will facilitate peer-to-peer exchanges and provide countries with the necessary tools,

methodological guidance, supporting material and pool of expertise to be used, together with the tools and material developed by DOALOS, through GEF national-level grant support.

24. Supported activities at the global and regional levels will include:

- (a) Support to an existing or new coordination platform to ensure coordination across the global, regional and national-level support and to promote coordination and avoid duplication with other relevant initiatives.
- (b) The development of capacity building and training modules, and awareness raising and outreach material on the BBNJ agreement
- (c) Methodological guides related to, inter alia, stocktaking and assessment of national use and potential impact on BBNJ, legal, regulatory and policy gap analysis, governance, institutional and administrative capacity needs assessment, or scientific, technical and infrastructure capacity needs assessment. Development of legislative templates to assist countries with national ratification, approval, acceptance or accession.
- (d) Creation of rosters of global and regional technical and legal expertise.
- (e) Regional training workshops to build awareness and capacity for ratification, approval, acceptance or accession.
- (f) Establishing/strengthening knowledge management and community/ies of practice as resource for countries.
- (g) Targeted awareness raising of relevant global, regional, subregional, and sectoral bodies.
- (h) Identification of common challenges for ratification and implementation, including through portfolio analysis of Initial BBNJ Assessments.
- (i) As appropriate, development of regional implementation strategies, including facilitation with stakeholders, for addressing identified needs and gaps.

25. A maximum of \$5 million is notionally allocated to global and regional activities. In line with Council document GEF/C.64/12/Rev.02, the budgeted amounts will enable responding to all potential eligible country demand within the total \$34 million envelope through combination of national and supra-national activities representing at least \$200,000 per country (exclusive of agency fees).

Eligibility

26. 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 preparatory 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.¹⁰ Support to ratification and implementation readiness will thus be provided on request, as expressed through a Letter of Endorsement signed by the GEF Operational Focal Point, to developing countries that:

- (a) 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, in the interim, to the United Nations Legal Counsel, and to the CEO and Chairperson of the GEF; and
- (b) 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).

Coordination with Related Support

27. GEF support to national ratification and implementation readiness will be responsive to guidance provided by any relevant preparatory process that may be established for the BBNJ Agreement. It will be closely coordinated and implemented in collaboration with DOALOS, which is performing the secretariat functions in relation to the Agreement until such time as the Secretariat to be established under article 50 of the BBNJ Agreement commences its functions.

28. Through support to a coordination platform, efforts will be made to minimize duplication. Coordination will be sought with similar support programmes and relevant initiatives led by other countries and philanthropic or non-government organizations to ensure effective ratification and early implementation support for the maximum number of countries and stakeholders.

FUTURE ENABLING ACTIVITY SUPPORT

29. As is the case for other MEAs the GEF serves, the GEF may support Countries to fulfil communication requirements under the BBNJ Agreement through the Enabling Activity modality. An Enabling Activity is a project for the preparation of a plan, strategy or report to fulfil commitments under a Convention.¹¹

30. The BBNJ Agreement, as it stands, does not mandate the development of national plans or strategies. The BBNJ Agreement, however, 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

¹⁰ GEF, [Instrument for the Establishment of the Restructured Global Environment Facility](#), September 2019.

¹¹ GEF, 2018, [GEF Project and Program Policy](#), Policy: OP/PL/01.

technology committee (article 45.3), and report on measures taken to implement the BBNJ Agreement (article 54).

31. Support to meet these reporting requirements, or any other communication requirements that may be established by the BBNJ COP, may be provided, once the Agreement has entered into force, depending on future guidance to the GEF from the BBNJ COP and on the establishment and role assigned to the BBNJ Agreement's Special Fund to avoid duplication. Updated guidance for Enabling Activities for the BBNJ Agreement would be issued for any such future Enabling Activity support.