



# REPORTING REQUIREMENTS

## BRIEF FOR GOVERNMENTS AHEAD OF BBNJ IGC-4

### SUMMARY AND INTRODUCTION

States have a duty to report to each other on measures taken to implement binding legal instruments to which they are a party. **WWF is deeply concerned to note that no such general reporting obligation is yet to be found in the current draft text for a BBNJ ILBI.** Responsible States will be concerned by this oversight and we are confident that they will seek to rectify matters as soon as possible.

WWF appreciates that States are worried by the burden created by the proliferation of reporting requirements, especially following adoption of the Sustainable Development Goals and their numerous Targets and associated Indicators. Numerous international bodies, including competent sectoral bodies like IMO and RFMOs, already have reporting requirements on matters relevant to BBNJ but there is currently little or no coordination between them and considerable variability in reporting outcomes. **WWF's ambition for the BBNJ ILBI is not to duplicate things but to help States and secretariats be more efficient and effective in their reporting.**

WWF would like to urge States to look forward to the establishment of a BBNJ COP as an opportunity to put 'enhanced cooperation' into action (viz. Article 43.2 in the current Draft) by using the ILBI and the COP as the framework and forum for seeking out opportunities to avoid duplication, capture synergies and share reporting burdens, especially with developing countries.

**It is important that formal reporting requirements of parties to agreements are put in a wider information management context.** States have made numerous commitments to public transparency in recent decades; States continue to sign up to a growing number of high level commitments to protect and restore ocean health and resource use sustainability; while the UN has recently initiated a Decade of Ocean Science for Sustainable Development. Meanwhile, the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects has just completed its second World Ocean Assessment. **The BBNJ COP can become the key global forum where the international community looks to see these multiple sources of information integrated into a deeper understanding of the ocean** and how best to safeguard the marine environment, including its biodiversity.

In 2017, at the request of the Preparatory Committee for the BBNJ IGC, IOC-UNESCO presented a report to PC-4 setting out its vision and strategies for helping BBNJ implementation through 'Capacity development and Transfer of Marine Technology'. The IOC's vision includes establishing a Clearing House Mechanism (CHM) with regional nodes staffed by small teams of experts to

proactively reach out to States and stakeholders to facilitate timely access to available and pertinent information.

**WWF commends this IOC vision for operationalising a BBNJ CHM to States as the appropriate framework not only for capturing synergies in reporting systems but also for assisting States in managing information.** If reporting requirements can be appropriately included in the text of the BBNJ ILBI then provision of such assistance would become a priority for whatever capacity building and technology transfer arrangements might be included in the BBNJ ILBI.

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**Background documents and briefings:** [WWF's BBNJ Library](#)

## A GENERAL REPORTING REQUIREMENT

In international affairs, being a responsible state means being responsible to fellow states for meeting shared obligations and commitments set out in relevant provisions of legally binding agreements to which those states are parties and in decisions of international bodies of which they are members. One way in which responsible states meet these obligations and commitments is by reporting to each other on steps taken to meet their shared obligations and commitments.

**WWF is strongly of the view that a legally binding international instrument should have a general reporting requirement as an integral part of ensuring accountability between responsible parties to any such agreement.** Insofar as the BBNJ agreement pays particular attention to the activities under the control of states in waters beyond national jurisdiction, WWF considers that it is even more important that the BBNJ ILBI should have a general reporting requirement given the inevitable absence of a suite of control mechanisms available to states within their own jurisdictions that are not available in ABNJ.

WWF is also keen to ensure that States include a commitment to public transparency in their reporting requirements (and throughout all relevant Parts of the BBNJ ILBI). While the Aarhus Convention is a European instrument, it is open for accession by all States and sets a standard that WWF would like to see reflected in the provisions of a global instrument such as the ILBI.

Effective control of orderly activity in ABNJ is achieved through cooperation between states in agreeing what needs to be done and individual state action to control of their nationals (vessels, companies and people). The key to such cooperation in ABNJ is that responsible states report to each other on the activities for which they are individually responsible. Matters arising from consideration of such reports by BBNJ parties represents a crucial, but not sole, pathway for states to raise issues with each other.

As WWF has emphasised in its Briefs for negotiators in recent years, we remain keen to see the BBNJ ILBI act as a framework for ‘enhanced cooperation’ by elaborating the general duty to cooperate set out in various UNCLOS provisions. A key aspect of such an ‘enhanced cooperation’ BBNJ regime should involve routine reporting by states on their activities, and the relevant activities of their nationals, especially flagged vessels in ABNJ, for which they are responsible.

The IGC President’s ‘Revised Draft’ text for a BBNJ ILBI has bracketed reporting text in Article 53, in Part VIII Implementation [and Compliance]: ‘[2. *Each State Party shall monitor the implementation of its obligations under this Agreement and shall, at intervals and in a format to be determined by the Conference of the Parties, report to the Conference on measures that it has taken to implement this Agreement.*]’.

WWF is of the view that this paragraph would be better placed as a new paragraph 6.4 in Article 6 International Cooperation in Part I General Provisions. It is inappropriate that this aspect of the UNCLOS general duty to cooperate should be elaborated in the ILBI Part dealing with compliance. Matters in reports may give rise to compliance considerations but it is not the primary purpose of a reporting obligation. That primary purpose of reporting is to ensure informed, cooperative discussion of matters pertinent to the implementation of the BBNJ ILBI in the appropriate fora and processes identified by the BBNJ COP leading to agreeable outcomes to the satisfaction of the COP. Such fora and processes may be those established by the BBNJ COP but it would also include those established pursuant to other relevant instruments, frameworks and bodies.

Such a generic reporting obligation can be found in CBD 'Article 26, Each Contracting Party shall, at intervals to be determined by the Conference of the Parties, present to the Conference of the Parties, reports on measures which it has taken for the implementation of the provisions of this Convention and their effectiveness in meeting the objectives of this Convention.' Bearing in mind that this obligation applies to activities by all nationals within the jurisdiction of a State Party to the CBD, WWF would like to suggest that an appropriate general reporting requirement for a BBNJ ILBI, with respect to activities in ABNJ or affecting BBNJ, might read:

#### WWF TEXT PROPOSAL:

##### Article 6 International Cooperation

**4. Each State Party shall, at intervals to be determined by the Conference of the Parties, present to the Conference of the Parties, summary reports on relevant activities of its nationals in ABNJ and reports on measures which it has taken for the implementation of the provisions of this Convention and their effectiveness in meeting the objectives of this Convention.**

**4(i) The COP shall maintain guidelines for the preparation of summary reports, including identification of relevant activities and summarising for reporting purposes.**

**4(ii) The COP shall maintain guidelines for reporting on implementation measures and on evaluating the effectiveness of those measures.**

**4(iii) The COP may, from time to time, invite Parties to report in detail on particular categories of activities to assist deliberations of the COP on a matter on its agenda.**

**4(iv) Any Party may identify any matter included in any Party's report or summary report as an issue of compliance and may then [refer the issue to the Compliance Committee][raise the issue through compliance arrangements established by the COP].**

#### SPECIFIC REPORTING REQUIREMENTS FOR KEY PARTS

Additionally, WWF considers that it is important to ensure that appropriately specific reporting requirements are in place for monitoring implementation of the provisions of each Part of the ILBI, especially Parts II, III, IV & V. Generally, WWF considers that such reporting can be facilitated by the Clearing House Mechanism established pursuant to Article 51. **The BBNJ COP should be required to develop guidelines for these reporting requirements specific to each Part.** Elaborating instructions to the COP needs to be left until the ILBI text has been finalised and can best be done by way of a paragraph in the Resolution adopting the ILBI text.

#### SPECIAL REPORTING REQUIREMENTS FOR CAPACITY BUILDING AND TECHNOLOGY TRANSFER

Furthermore, WWF would like suggest that **there needs to be special reference in the text of the ILBI to reporting requirements for Part V Capacity Building and Transfer of Marine Technology.** WWF is conscious of the synergies between this Part, the sharing of benefits under Part II Marine

Genetic Resources, and the broader commitment of States to meet various Sustainable Development Goal targets.

At 'Rio+20', in 2012, States adopted a statement of 'The Future We Want' where paragraphs 5 & 6 of the introductory 'Common Vision', state: *'5. We reaffirm our commitment to make every effort to accelerate the achievement of the internationally agreed development goals, including the Millennium Development Goals by 2015. 6. We recognize that people are at the centre of sustainable development and, in this regard, we strive for a world that is just, equitable and inclusive, and we commit to work together to promote sustained and inclusive economic growth, social development and environmental protection and thereby to benefit all.'*

Conserving and ensuring the sustainability of uses of BBNJ is a small but significant part of this global vision and WWF urge States to explicitly identify the BBNJ ILBI and its COP as the framework within which such commitments relevant to BBNJ are made and evaluated.

Most importantly, WWF urges States to come to an understanding that such 'acceleration', as envisaged by 'Rio+20', means doing more, making greater efforts, contributing 'new and additional' resources to the effort. It is this quantitative commitment to 'doing more' that requires special reporting requirements in the ILBI.

WWF is conscious that a growing number of States are signing up to various high-level commitments to improve ocean health and ocean management such that we see such a commitment to 'new and additional' resources for capacity building and technology transfer as well within reach for BBNJ negotiators. We do not expect to see such a commitment to do more in the text of a legally binding agreement but we do expect to see a commitment to a reporting mechanism capable of evaluating whether more is – or is not – being done. WWF would like to suggest that this reporting obligation be established by amending Article 47.5 to read:

#### WWF TEXT PROPOSAL:

**(47.)5. In supporting the monitoring and review of capacity-building and the transfer of marine technology, States Parties ... [may] shall submit [on a voluntary basis] reports ...'**

WWF appreciates that States are reluctant to burden themselves with additional reporting requirements. WWF is also aware, however, that, despite UNCLOS being redolent with development assistance commitments, there is frustration among developing states at the failure to make good on those commitments. We urge States to recognise that the adoption of the BBNJ ILBI, as an UNCLOS implementing agreement, offers an historic opportunity to develop a mechanism to actually deliver on those commitments.

WWF is delighted to note the growing number of States that have signed up to various high-level declaration on aspects of oceans health and we are confident that the political will now exists to get serious about how such commitments will be given practical effect. We appreciate that developing states in particular are concerned at taking on a reporting obligation but we note that Annex II(d)(iii) establishes monitoring and reporting as eligible for support. We are confident that a review of existing reporting requirements relevant to BBNJ would reveal potential synergies, across various processes and bodies, that could lead to the development of a reporting framework that was less onerous and more effective than those we have today.

**WWF is very supportive of the inclusion of additional text in Article 43.2 to the effect that appropriate capacity building and technology transfer should be by way of ‘enhanced cooperation at all levels and in all forms ...’.** This commitment, coupled with the indicative list of types of capacity building and technology transfer in currently bracketed Annex II, makes evaluation a necessary but complex reporting task. The necessity of the task requires the inclusion of a reporting obligation in the ILBI text, leaving it to the COP to elaborate reporting guidelines. Given the IOC’s experience in this area, WWF would expect such guidelines to be developed in collaboration with the IOC and integrated into the operationalisation of the Clearing House Mechanism.

## **OCEAN CONNECTIVITY MEANS BROAD SCOPE FOR BBNJ DEVELOPMENT ASSISTANCE**

Finally, WWF urges States to recognise that, given the high degree of connectivity within the ocean realm, ensuring the conservation and sustainability of BBNJ will often involve collaborative management of resources and control of activities in areas within national jurisdiction. Similarly, the capacity building and technology transfer needs likely to be identified are likely to contribute to meeting broader maritime development needs beyond those limited to activities within ABNJ. Such broader application should be welcomed by States and, to avoid any uncertainty as to the intent of negotiators, WWF urges the adoption of appropriate Part V text along the lines of:

### **WWF TEXT PROPOSAL:**

**Article 42(a)(a) Assist States Parties, in particular developing States Parties, in the management of biological resources and in the control of related activities of nationals (vessels, companies and people) within their jurisdiction and control that contribute to the conservation and sustainable use of BBNJ.**

WWF notes, in this regard that the current formulation of the general objective in Article 2 requires elaboration in relevant Parts of the ILBI if the intent of States is to be clarified. If this broader framing of the eligibility for development assistance is not included, there is a risk of a perverse outcome whereby developing coastal states are obliged to shoulder some of the conservation and sustainability burden for BBNJ while benefits flow primarily to those developed states currently enjoying established access to biological resources in ABNJ.