



April 3, 2025

To: Member States of the United Nations, Indigenous Peoples and their representative institutions, UN Secretariat, civil-society and relevant stakeholders

Dear colleagues,

The International Indian Treaty Council (IITC) is pleased to present the enclosed policy brief on operationalizing Indigenous Peoples' participation in BBNJ governance. This document reflects our commitment to advancing the rights, leadership, and knowledge systems of Indigenous Peoples in the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.

IITC is an international Indigenous Peoples' organization with General Consultative Status at the United Nations Economic and Social Council (ECOSOC). We represent Indigenous Peoples from North, Central, and South America, the Caribbean, and the Pacific, and work to uphold their sovereignty, self-determination, Treaty rights, and human rights through active engagement in international policy processes.

IITC sponsors this policy brief which was developed through a broad and inclusive consultation process initiated on February 2, 2025, and finalized on March 28, 2025. Indigenous Peoples from across multiple regions participated through live Zoom consultations and written submissions. This inclusive and self-determined process was grounded in Indigenous governance systems and knowledge, ensuring that the priorities presented here are both representative and rooted in lived realities.

States, Indigenous Peoples, and civil-society are welcome and encouraged to consult this brief as a tool to support the development of inclusive and rights-affirming governance mechanisms under the BBNJ Agreement. We are convinced it will serve as a constructive contribution to ongoing deliberations and as a resource for implementing the commitments made under international law, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

We look forward to continued dialogue and partnership to ensure the full and effective participation of Indigenous Peoples in governance of areas beyond national jurisdiction.

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Policy Brief: Operationalizing Indigenous Peoples' Participation in BBNJ Governance

Executive Summary

- Indigenous Peoples are collective rights-holders under international law, distinct from local communities. Their self-determined governance and legal standing must be explicitly recognized *and* reflected in the BBNJ governance to prevent dilution or misinterpretation of their rights.
- Indigenous Peoples should be recognized as a distinct category akin to Indigenous Peoples' Organizations (IPOs), with participation rights at a minimum equal to NGOs with observer status under the BBNJ Agreement, including the COP.
- The Scientific and Technical Body (STB) and all other subsidiary bodies include Indigenous knowledge holders as full members with equal standing and decision-making rights as scientific and technical experts, not just advisors.
- The first BBNJ Conference of the Parties (COP) must establish rules ensuring Indigenous Peoples' self-selection in both knowledge and representative roles, free from State oversight or imposed criteria.
- Ensuring the full, effective, direct, and meaningful participation of Indigenous Peoples as decision-makers, rather than merely as observers or through consultation processes, is a critical gap that PrepCom and the first Conference of the Parties (COP) must urgently address.
- Adopt clear rules of procedure recognizing Indigenous Peoples' distinct status in all BBNJ governance structures.
- Develop, in partnership with Indigenous Peoples, culturally appropriate guidelines for integrating Indigenous knowledge as a distinct and equally authoritative decision-making system alongside scientific information.
- Establish a standing COP agenda item on ocean health, ensuring Indigenous knowledge and perspectives on marine biodiversity and climate impacts are systematically included.

- Create a dedicated funding mechanism or window for Indigenous-led projects that ensures direct access for Indigenous Peoples from all seven Indigenous socio-cultural regions. The mechanism must guarantee simplified application procedures, be free from unnecessary bureaucratic barriers, and be available in all UN languages plus Portuguese.
- The first COP must formally adopt Indigenous Peoples' participation mechanisms, finalize governance structures, and approve funding mechanisms to ensure their substantive role in implementing the BBNJ Agreement. The PrepCom is responsible for preparing these mechanisms, which must then be adopted at the first COP meeting. This is essential for upholding international commitments and ensuring effective governance of marine biodiversity of areas beyond national jurisdictions.

I. Introduction

The Preparatory Commission (Hereinafter: PrepCom) is responsible for finalizing how the BBNJ Agreement (Hereinafter: Agreement) will be implemented, ensuring the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction. This includes putting into practice the Agreement's commitments to the knowledge of Indigenous Peoples, the traditional knowledge of local communities, and the participation of these knowledge holders.

This policy brief focuses on three key objectives:

- Ensuring that the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) serves as the normative framework and minimum standard for Indigenous rights within BBNJ governance.
- Guaranteeing the full, effective, direct, and meaningful participation of Indigenous Peoples in all decision-making processes
- Ensuring parity between the knowledge of Indigenous Peoples and science under the BBNJ Agreement.

The Agreement mentions both Indigenous Peoples and local communities, but their legal status, rights, and participation must be clearly distinguished.

- Indigenous Peoples are collective rights-holders as Peoples recognized under international law, with their own governance systems and decision-making authority. Their rights are affirmed in legal instruments such as UNDRIP and must be upheld in BBNJ governance.

- Local communities contribute to biodiversity conservation but do not hold the same legal status and are not recognized as distinct political or legal entities under international law.

This distinction is necessary for legal clarity and to ensure that Indigenous Peoples' rights and standing are not misinterpreted, diminished or diluted.

The phrasing traditional knowledge of local communities follows the framework of the Convention on Biological Diversity (CBD), which defines it as knowledge held by communities with traditional lifestyles relevant to biodiversity conservation. Not conflating or combining this definition with the distinct knowledge of Indigenous Peoples ensures that:

- The knowledge of Indigenous Peoples remains recognized as a continuously developing system.
- Traditional knowledge of local communities is accurately categorized within a CBD-aligned framework.

Indigenous Peoples have stated that they respect efforts of local communities to define and organize themselves and to engage, based on their own decision-making processes, under the BBNJ through their own structures. If local communities choose to engage, Indigenous Peoples can consider coordinating with them on matters of mutual interest or common concern while safeguarding and maintaining the distinct recognition of Indigenous Peoples and their rights. In this regard, Indigenous Peoples have affirmed that they do not assume representative roles for local communities or any other non-Indigenous groups in this or any other international process. Their engagement remains grounded in their own self-determined mandates and distinct status under international law.

Given this distinction, this policy brief focuses on Indigenous Peoples' participation in BBNJ governance, ensuring that their rights, governance structures, and knowledge are fully recognized and implemented in accordance with the Agreement and international commitments.

II. Main Objectives

The Agreement aims to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. Achieving this ambitious goal necessitates a paradigm shift towards inclusive governance that integrates the rights and knowledge of Indigenous Peoples as decision-makers, not just stakeholders.

For generations, Indigenous Peoples have served as stewards of marine biodiversity, developing intricate governance systems, invaluable knowledge, and effective conservation practices that directly align with the objectives of the Agreement.

The Agreement itself recognizes the importance of Indigenous Peoples and their knowledge in several key provisions:

- Article 7(j) mandates the consideration of relevant traditional knowledge of Indigenous Peoples, as well as traditional knowledge of local communities, alongside the best available science; the preamble recalls the UNDRIP and affirms that nothing in the Agreement shall diminish or extinguish the existing rights of Indigenous Peoples;
- Article 13 addresses traditional knowledge associated with marine genetic resources (MGRs), requiring the free, prior, and informed consent (FPIC) for its access;
- Article 49.2 stipulates that the STB should include expertise in relevant traditional knowledge of Indigenous Peoples, as well as traditional knowledge of local communities.

Despite these crucial acknowledgements, the operationalization of these commitments remains a significant challenge. Ensuring the full, effective, direct, and meaningful participation of Indigenous Peoples as decision-makers, rather than merely as observers or through consultation processes, is a critical gap that PrepCom and the first Conference of the Parties (COP) must urgently address.

1. UNDRIP as the Normative Framework

The preamble of the Agreement explicitly recalls the UNDRIP and affirms that nothing in the Agreement shall be construed as diminishing or extinguishing the existing rights of Indigenous Peoples as set out in UNDRIP. This foundational affirmation necessitates that UNDRIP serve as the overarching normative framework guiding the interpretation and implementation of the Agreement with respect to Indigenous Peoples.

UNDRIP establishes comprehensive standards for the rights of Indigenous Peoples, including their rights to self-determination, full and effective participation in decision-making in processes that may affect

them, the protection of their traditional knowledge, means of subsistence and traditional economies, cultural heritage, and FPIC for any activities affecting their rights as well as access to their knowledge and resources, and the provision of dedicated financial resources to support their participation.

Operationalizing the Agreement in accordance with UNDRIP requires that all relevant provisions, particularly those concerning Indigenous participation and knowledge, are interpreted and implemented in a manner that fully respects and upholds these rights.

The PrepCom should consistently refer to UNDRIP and the rights it affirms in its deliberations and recommendations, and the COP should adopt decisions that explicitly affirm UNDRIP as the guiding framework for Indigenous Peoples' rights and participation within the BBNJ governance.

2. Ensuring Full, Effective, Direct, and Meaningful Participation of Indigenous Peoples

A. Current Provisions and the Need for Enhancement

The Agreement includes several provisions that address the participation of Indigenous Peoples, as well as local communities. Article 48.3 mandates the promotion of transparency and the facilitation of the participation of, and consultation with, Indigenous Peoples and local communities with relevant traditional knowledge. Article 19.2 calls for collaboration and consultation with Indigenous Peoples and local communities in the development of proposals for ABMTs.

Similarly, Article 21.2(c) invites Indigenous Peoples and local communities with relevant traditional knowledge to submit input during consultations on ABMT proposals, and Article 41.2 emphasizes cooperation with Indigenous Peoples and their knowledge holders in providing capacity-building and the transfer of marine technology.

While the Agreement recognizes Indigenous Peoples' participation, its provisions largely frame engagement as consultation or observation. This must be strengthened to ensure Indigenous Peoples participate as decision-makers within the consensus-building processes.

- Indigenous Peoples must be explicitly recognized within the COP Rules of Procedure as active participants in consensus-building.

- Indigenous representatives should have procedural access to informal and formal consultations shaping COP decisions.
- Structured Indigenous representation must be ensured through self-determined mechanisms at regional and socio-cultural levels.

B. Recognizing Indigenous Peoples as a Distinct Category of IPOs under COP

The United Nations Declaration on the Rights of Indigenous Peoples affirms the right of Indigenous Peoples to participate in decision-making on matters affecting their rights through representatives chosen by themselves in accordance with their own procedures. Expected modalities for Indigenous Peoples' participation in BBNJ governance currently align with frameworks established for Non-Governmental Organizations (NGOs), such as observer status under UNFCCC COP or consultative status with the Economic and Social Council (ECOSOC). However, as explicitly recognized in the Report of the Secretary-General ([A/HRC/21/24](#)), existing consultative arrangements for non-State entities often inadequately accommodate the distinctive governance structures and statuses of Indigenous Peoples' representative institutions, including traditional Indigenous governments, parliaments, assemblies, and councils.

Drawing upon best practices highlighted by the Secretary-General's report from UN bodies specifically focused on Indigenous Peoples' issues, such as the UN Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples, the Agreement should recognize Indigenous Peoples as a distinct category, ensuring their direct participation at all levels of governance, including the COP. Such recognition should grant Indigenous Peoples' Organizations (IPOs) selected through their own self-selection processes and reflective of their diverse governance structures, participatory rights at least equal to NGOs in consultative status with ECOSOC, without necessarily requiring such status. This approach mirrors successful existing UN practices where Indigenous Peoples' institutions have been enabled to participate directly and meaningfully, contributing to a more inclusive, representative, and effective decision-making process.

The rules of procedure for the COP and its subsidiary bodies, to be decided at the first meeting of the COP (Article 47.4), should explicitly provide for such direct participation, ensuring that IPOs have the opportunity to contribute to agenda-setting, present their views, and engage in decision-making processes.

This approach aligns with the spirit and intent of UNDRIP Articles 18 and 19, which recognize the right to participate in decision-making on matters that may affect Indigenous rights.

C. Codifying Indigenous Peoples' Role in Consensus Building

Article 47 of the Agreement requires the COP to make every effort to adopt decisions and recommendations by consensus before resorting to the voting procedure by Parties. While voting remains a prerogative exclusive to Parties, the consensus-building process itself is not explicitly limited to State actors. The text refers to the COP as the body responsible for consensus-building, leaving room to argue that Observers, in particular Indigenous Peoples, should have a formalized role in shaping consensus with Parties in this process.

Under existing UN frameworks, including the UNFCCC, Observers may participate in the COPs “without the right to vote”. While this has often resulted in discretionary access to public and informal consultations, Indigenous Peoples have the opportunity to secure a distinct status as IPO within Observer rules of procedure, ensuring full participation in consensus-building discussions while respecting State prerogatives of their right to vote. This would allow representatives of Indigenous Peoples to:

- Engage constructively in consensus-building processes, including formal and informal negotiations, while respecting Parties' right to vote.
- Raise objections on record without necessarily breaking consensus.
- Secure procedural clarity on participation in decision making processes that may affect them, rather than relying on discretionary invitations.

This approach will benefit the efficacy and the legitimacy of the Agreement as it is aligned with the vast majority of Indigenous decision-making systems, which prioritize consensus over majority rule, and reinforces the UNDRIP and numerous calls of Indigenous Peoples for an enhanced consultative and participatory status within the UN system.

D. Ensuring Full Membership for Indigenous Knowledge Holders in All Subsidiary Bodies

Furthermore, the Agreement establishes several subsidiary bodies to support the work of the COP, including the STB, the Access and Benefit-Sharing Committee, the Capacity-building and Transfer of Marine Technology Committee, and the Implementation and Compliance Committee. While Article 49.2 mandates that the STB includes expertise in relevant traditional knowledge of Indigenous Peoples, as well as traditional knowledge of local communities, similar explicit requirements are lacking for other subsidiary bodies.

To ensure the full and effective integration of the knowledge of Indigenous Peoples across all relevant aspects of BBNJ governance, Indigenous knowledge holders must be granted full membership in all subsidiary bodies of the COP, with equal standing and decision-making rights as scientific and technical experts. Their role must not be reduced to advisory status but fully integrated into governance structures.

To achieve this:

- All nominations of Indigenous knowledge holders must go through Indigenous regions in accordance with their self-selection processes, rather than being determined by State Parties.
- Indigenous knowledge holders are not state representatives; they are selected based on Indigenous governance structures and expertise in accordance with Indigenous self-determination.

For reference, States should consider the UNFCCC precedents:

- *Decision 2/CP.23, paragraph 8: Processes under the platform shall take into account full and effective participation of Indigenous Peoples, equal status of Indigenous Peoples and Parties, and self-selection of Indigenous Peoples representatives in accordance with their own procedures.*
- *Decision 2/CP.24, paragraph 6: Indigenous Peoples representatives shall be appointed by Indigenous Peoples, through their focal points, with notification to relevant bodies.*

3. The Imperative for Parity Between Indigenous Knowledge and Science

The Agreement recognizes the value of relevant traditional knowledge of Indigenous Peoples, as well as traditional knowledge of local communities, by mandating its consideration alongside the best available science and scientific information in various contexts. These contexts include the formulation of proposals for area-based management tools (ABMTs), the screening and scoping phases of environmental impact assessments (EIAs), and the monitoring of impacts of authorized activities:

- Article 49.2 explicitly requires the STB to include expertise in relevant traditional knowledge

- Article 31.1(a)(ii) emphasizes the use of such knowledge in EIA screening processes.
- Article 15, concerning the Access and Benefit-Sharing Committee, acknowledges knowledge of Indigenous Peoples, as well as traditional knowledge of local communities, associated with MGRs, emphasizing the need for FPIC for its access.

However, these provisions risk framing the knowledge of Indigenous Peoples as supplementary or of lesser standing to scientific data rather than recognizing it as an equally authoritative and distinct system of knowledge. UNDRIP Article 31 recognizes the sciences of Indigenous Peoples in the context of their right to cultural heritage. Unlike scientific knowledge as it is usually defined, which is typically formalized, compartmentalized, and owned by institutions or individuals, and subject to peer review, the knowledge of Indigenous Peoples is collectively held, continuously maintained, time-tested, deeply rooted in cultural practices and ways of knowing, and transmitted across generations through lived experience and stewardship. It is deeply place-based, relational, and inherently tied to governance systems and responsibilities rather than extracted, documented, or owned as discrete units of information.

To achieve true epistemic parity, the knowledge of Indigenous Peoples must be:

1. Institutionalized as a co-equal and distinct decision-making system within BBNJ governance, carrying the same weight and authority as other types of scientific knowledge in policy development.
2. Directly integrated into decision-making frameworks, ensuring that governance decisions are informed equally by Indigenous knowledge holders and scientific experts.
3. Protected from external validation, ensuring that Indigenous knowledge is recognized through knowledge governance mechanisms of the Indigenous Peoples concerned.
4. Embedded in all relevant governance structures, ensuring that Indigenous knowledge holders are recognized as primary decision-makers, not merely as advisors, within all subsidiary bodies and governance processes.

To operationalize this, the PrepCom should establish Indigenous knowledge parity as an overarching governance principle and must guide the long-term evolution of BBNJ governance. This objective should ensure that the knowledge of Indigenous Peoples is treated with the same rigor and respect as scientific

knowledge and drive decisions in EIAs, ABMT proposals, MGR governance, and monitoring activities. Drawing upon reports of the Expert Mechanism on the Rights of Indigenous Peoples, Permanent Forum on Indigenous Issues, and relevant precedents such as the Convention on Biological Diversity (CBD)'s Working Group on Article 8(j) and the Local Communities and Indigenous Peoples Platform under the UN Framework Convention on Climate Change can provide valuable lessons in this regard.

4. Establishing a Standing COP Agenda Item on the Status of the Oceans

The Agreement does not establish formal entry for the systematic inclusion of the knowledge of Indigenous Peoples and traditional knowledge in ocean governance discussions at the COP. To create a permanent entry point onto the COP agenda and ensure ongoing consideration of the health and status of the oceans from both scientific and Indigenous and traditional knowledge perspectives, a standing agenda item on “Stocktake on the Status of the Oceans” should be established. This agenda item would provide a dedicated and regular dialogue on the state of marine biodiversity of areas beyond national jurisdiction, drawing upon scientific assessments, reports from subsidiary bodies, and, crucially, the observations, knowledge, and insights of Indigenous Peoples.

In particular, the standing agenda item would allow Indigenous Peoples to formally present their knowledge and perspectives on changes in ocean health, species distribution, ecosystem dynamics, and the impacts of human activities, contributing to a more holistic and comprehensive understanding of the marine environment. It would also facilitate the identification of emerging issues, the evaluation of the effectiveness of conservation and management measures, and the co-development of solutions grounded in both science and traditional knowledge. The COP, in defining its rules of procedure (Article 47.4), has the authority to establish such a standing agenda item, ensuring that traditional knowledge is not relegated to specific agenda points but is integrated into the overarching discussions on the health and future of the high seas.

Establishing this formal entry into the COP agenda would also provide an opportunity for Parties to enable Indigenous Peoples to address the COP through the seven Indigenous socio-cultural regions, where relevant and as determined by Indigenous Peoples themselves. Innovative approaches to structured dialogue could also be considered, such as an inverted speaking order, allowing Indigenous Peoples, SIDS and others to speak first before States and other stakeholders engage.

III. Recommendations for the Preparatory Commission

1. **Clarify Terminology:** Ensure that all PrepCom documents and draft rules of procedure explicitly and consistently differentiate between “Indigenous Peoples” and “local communities,” reflecting their distinct legal status and rights under international law, particularly UNDRIP. Replace ambiguous references to “Indigenous Peoples and local communities” with language that clearly reflects their distinct and separate standing.
2. **Establish Rules of Procedure for the COP:** Draft rules of procedure for the first COP that is modeled after Indigenous Peoples’ distinct IPO category at the UNPFII and EMRIP with, at a minimum, the same participatory rights as NGOs with observer status with the UNFCCC COP and/or in consultative status with ECOSOC without necessarily requiring such status, with a view to include Indigenous Peoples in the efforts by the COP to adopt decisions and recommendations by consensus.
3. **Prepare Rules of Procedure for Subsidiary Bodies:** Draft rules of procedure for the STB, the Access and Benefit-Sharing Committee, the Capacity-building and Transfer of Marine Technology Committee, and the Implementation and Compliance Committee to explicitly ensure full membership for Indigenous knowledge holders, selected through Indigenous Peoples’ self-determined processes at the regional level, rather than by State Parties. Indigenous knowledge holders must be recognized as full members based on their own systems of knowledge and governance, without requiring validation by State or intergovernmental processes.
4. **Develop Guidelines for Integrating Indigenous Knowledge:** Initiate the development of clear and culturally sensitive guidelines, in collaboration/partnership with the Indigenous knowledge holders, for the respectful and effective integration of the knowledge of Indigenous Peoples into all relevant aspects of BBNJ governance, including EIAs, ABMT proposals, MGR governance, and monitoring activities. These guidelines should ensure FPIC is obtained before accessing and utilizing the knowledge of Indigenous Peoples.
5. **Recommend Establishment of a Standing COP Agenda Item:** Recommend that the agenda for the first COP include the establishment of a standing agenda item on “Stocktake on the Status of

the Oceans” to provide a permanent entry point for the inclusion of the knowledge and perspectives of Indigenous Peoples.

6. **Outline Options for a Dedicated Funding Mechanism:** Develop options and recommendations for the establishment of a dedicated funding mechanism within the BBNJ financial framework (Article 52) to support the full and effective participation of Indigenous Peoples in all relevant BBNJ processes, including preparatory meetings, COP sessions, subsidiary body meetings, and capacity-building initiatives. These options should consider simplified application and approval procedures and direct access to funding for Indigenous-led initiatives.

IV. Decisions Required at the First and Subsequent COPs

1. **Adopt Rules of Procedure:** The first COP should adopt the rules of procedure for the COP and its subsidiary bodies, incorporating the amendments recommended by the PrepCom to recognize Indigenous Peoples as a distinct category known as IPO and ensure full membership for the Indigenous knowledge holders.
2. **Establish a Standing COP Agenda Item:** The first COP should formally establish a standing agenda item on “Stocktake on the Status of the Oceans”.
3. **Establish Subsidiary Body Terms of Reference and Modalities:** The first COP should establish the terms of reference and modalities for the operation of all subsidiary bodies, ensuring that these explicitly reflect the requirement for the Indigenous knowledge holder’s membership and the need to integrate the knowledge of Indigenous Peoples into their work. The selection processes for these bodies must ensure that all nominations of Indigenous knowledge holders go through Indigenous regions in accordance with their self-selection processes, rather than being determined by State Parties. Indigenous knowledge holders are not state representatives; they are selected based on Indigenous governance structures and recognized areas of expertise in accordance with Indigenous self-determination. Their nomination follows established culturally appropriate self-selection processes that ensure legitimate representation of Indigenous Peoples’ knowledge systems, rather than political representation in a state-like sense.

4. **Adopt Guidelines for Integrating Indigenous Knowledge:** The first or subsequent COPs should aim to adopt the guidelines developed by the STB, in collaboration with the Indigenous knowledge holders, for the respectful and effective integration of the knowledge of Indigenous Peoples.
5. **Establish a Dedicated Funding Mechanism:** The COP should establish a dedicated funding mechanism to support the full and effective participation of Indigenous Peoples, ensuring simplified access and considering direct support for Indigenous-led initiatives from the seven Indigenous socio-cultural regions. The COP should also consider Indigenous representation in the Finance Committee (if established) to ensure equitable distribution of resources.
6. **Establishment of Indigenous Focal Point within Secretariat:** Consider designating a dedicated focal point for Indigenous Peoples within the Secretariat to provide ongoing input and oversight across all aspects of BBNJ governance.

Annex: Relevant Provisions

- **Preamble:** Recalling the United Nations Declaration on the Rights of Indigenous Peoples, Affirming that nothing in this Agreement shall be construed as diminishing or extinguishing the existing rights of Indigenous Peoples, including as set out in the United Nations Declaration on the Rights of Indigenous Peoples, or of, as appropriate, local communities,
- **Article 7:** In order to achieve the objectives of this Agreement, Parties shall be guided by the following principles and approaches: (j) The use of relevant traditional knowledge of Indigenous Peoples and local communities, where available; (k) The respect, promotion and consideration of their respective obligations, as applicable, relating to the rights of Indigenous Peoples or of, as appropriate, local communities when taking action to address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;
- **Article 13:** Parties shall take legislative, administrative or policy measures, where relevant and as appropriate, with the aim of ensuring that traditional knowledge associated with marine genetic resources in areas beyond national jurisdiction that is held by Indigenous Peoples and local communities shall only be accessed with the free, prior and informed consent or approval and involvement of these Indigenous Peoples and local communities. Access to such traditional knowledge may be facilitated by the Clearing-House Mechanism. Access to and use of such traditional knowledge shall be on mutually agreed terms.
- **Article 19:** Parties shall collaborate and consult, as appropriate, with relevant stakeholders, including States and global, regional, subregional and sectoral bodies, as well as civil society, the scientific community, the private sector, Indigenous Peoples and local communities, for the development of proposals, as set out in this Part.
- **Article 19.3:** Proposals shall be formulated on the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, taking into account the precautionary approach and an ecosystem approach.

- **Article 19.4:** Proposals with regard to identified areas shall include the following key elements:
 - (c) Human activities in the area, including uses by Indigenous Peoples and local communities, and their possible impact, if any; (j) Relevant scientific input and, where available, traditional knowledge of Indigenous Peoples and local communities.

- **Article 21.1:** Consultations on proposals submitted under article 19 shall be inclusive, transparent and open to all relevant stakeholders, including States and global, regional, subregional and sectoral bodies, as well as civil society, the scientific community, Indigenous Peoples and local communities.

- **Article 21.2:** The secretariat shall facilitate consultations and gather input as follows:
 - (c) Indigenous Peoples and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders shall be invited to submit, inter alia: (iii) Any relevant traditional knowledge of Indigenous Peoples and local communities;

- **Article 24.3:** Measures adopted on an emergency basis shall be based on the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities and shall take into account the precautionary approach. Such measures may be proposed by Parties or recommended by the Scientific and Technical Body and may be adopted intersessionally. The measures shall be temporary and must be reconsidered for decision at the next meeting of the Conference of the Parties following their adoption.

- **Article 26.5:** Following the review, the Conference of the Parties shall, as necessary, take decisions or recommendations on the amendment, extension or revocation of area-based management tools, including marine protected areas, and any related measures adopted by the Conference of the Parties, on the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, taking into account the precautionary approach and an ecosystem approach.

- **Article 31.1:** Parties shall ensure that the process for conducting an environmental impact assessment pursuant to this Part includes the following steps: (a) Screening. Parties shall

undertake screening, in a timely manner, to determine whether an environmental impact assessment is required in respect of a planned activity under its jurisdiction or control, in accordance with article 30, and make its determination publicly available: (ii) On the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, a Party may register its views on the potential impacts of a planned activity on which a determination has been made in accordance with subparagraph (a) (i) above with the Party that made the determination and the Scientific and Technical Body, within 40 days of the publication thereof; (iii) If the Party that registered its views expressed concerns on the potential impacts of a planned activity on which the determination was made, the Party that made that determination shall give consideration to such concerns and may review its determination; (iv) Upon consideration of the concerns registered by a Party under subparagraph (a) (ii) above, the Scientific and Technical Body shall consider and may evaluate the potential impacts of the planned activity on the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities and, as appropriate, may make recommendations to the Party that made the determination after giving that Party an opportunity to respond to the concerns registered and taking into account such response;

- **Article 31.1(b) Scoping.** Parties shall ensure that key environmental and any associated impacts, such as economic, social, cultural and human health impacts, including potential cumulative impacts and impacts in areas within national jurisdiction, as well as alternatives to the planned activity, if any, to be included in the environmental impact assessments that shall be conducted under this Part, are identified. The scope shall be defined by using the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities;
- **Article 31.1(c) Impact assessment and evaluation.** Parties shall ensure that the impacts of planned activities, including cumulative impacts and impacts in areas within national jurisdiction, are assessed and evaluated using the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities;

- **Article 32.3:** Stakeholders in this process include Indigenous Peoples and local communities with relevant traditional knowledge, relevant global, regional, subregional and sectoral bodies, civil society, the scientific community and the public.
- **Article 35:** Parties shall, by using the best available science and scientific information and, where available, the relevant traditional knowledge of Indigenous Peoples and local communities, keep under surveillance the impacts of any activities in areas beyond national jurisdiction that they permit or in which they engage in order to determine whether these activities are likely to pollute or have adverse impacts on the marine environment. In particular, each Party shall monitor the environmental and any associated impacts, such as economic, social, cultural and human health impacts, of an authorized activity under their jurisdiction or control in accordance with the conditions set out in the approval of the activity.
- **Article 37.4 (a):** On the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, a Party may register its concerns, with the Party that authorized the activity and with the Scientific and Technical Body, that the authorized activity may have significant adverse impacts that were either not foreseen in the environmental impact assessment, in nature or severity, or that arise from a breach of any conditions of approval of the authorized activity; (c) Upon consideration of the concerns registered by a Party, the Scientific and Technical Body shall consider and may evaluate the matter based on the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities and may notify the Party that authorized the activity, if it considers that such activity may have significant adverse impacts that were either not foreseen in the environmental impact assessment or that arise from a breach of any conditions of approval of the authorized activity and, after giving that Party an opportunity to respond to the concerns registered and taking into account such response and as appropriate, may make recommendations to the Party that authorized the activity;
- **Article 41.2:** In providing capacity-building and the transfer of marine technology under this Agreement, Parties shall cooperate at all levels and in all forms, including through partnerships with and involving all relevant stakeholders, such as, where appropriate, the private sector, civil society, and Indigenous Peoples and local communities as holders of traditional knowledge, as

well as through strengthening cooperation and coordination between relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

- **Article 44.1:** In support of the objectives set out in article 40, the types of capacity-building and of the transfer of marine technology may include, but are not limited to, support for the creation or enhancement of the human, financial management, scientific, technological, organizational, institutional and other resource capabilities of Parties, such as: (b) Information dissemination and awareness-raising, including with respect to relevant traditional knowledge of Indigenous Peoples and local communities, in line with the free, prior and informed consent of these Indigenous Peoples and, as appropriate, local communities;
- **Article 47:** The Conference of Parties shall make every effort to adopt decisions and recommendations by consensus. Except as otherwise provided in this Agreement, if all efforts to reach consensus have been exhausted, decisions and recommendations of the Conference of the Parties on questions of substance shall be adopted by a two-thirds majority of the Parties present and voting, and decisions on questions of procedure shall be adopted by a majority of the Parties present and voting.
- **Article 48.3:** The Conference of the Parties shall promote transparency in the implementation of this Agreement, including through the public dissemination of information and the facilitation of the participation of, and consultation with, relevant global, regional, subregional and sectoral bodies, Indigenous Peoples and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders, as appropriate and in accordance with the provisions of this Agreement.
- **Article 48.4:** Representatives of States not party to this Agreement, relevant global, regional, subregional and sectoral bodies, Indigenous Peoples and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders with an interest in matters pertaining to the Conference of the Parties may request to participate as observers in the meetings of the Conference of the Parties and of its subsidiary bodies. The rules of procedure of the Conference of the Parties shall provide for modalities for such participation and shall not be unduly restrictive in this respect. The rules of procedure shall also provide for

such representatives to have timely access to all relevant information.

- **Article 49.1:** The Scientific and Technical Body shall be composed of members serving in their expert capacity and in the best interest of the Agreement, nominated by Parties and elected by the Conference of the Parties, with suitable qualifications, taking into account the need for multidisciplinary expertise, including relevant scientific and technical expertise and expertise in relevant traditional knowledge of Indigenous Peoples and local communities, gender balance and equitable geographical representation. The terms of reference and modalities for the operation of the Scientific and Technical Body, including its selection process and the terms of members' mandates, shall be determined by the Conference of the Parties at its first meeting.
- **Article 51.3:** The Clearing-House Mechanism shall: (c) Provide links to relevant global, regional, subregional, national and sectoral clearing-house mechanisms and other gene banks, repositories and databases, including those pertaining to relevant traditional knowledge of Indigenous Peoples and local communities, and promote, where possible, links with publicly available private and non- governmental platforms for the exchange of information;
- **Article 52.6:** The special fund and the Global Environment Facility trust fund shall be utilized in order to: (c) Support conservation and sustainable use programmes by Indigenous Peoples and local communities as holders of traditional knowledge;