

August 16, 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 is pleased to share concept notes that build on our policy brief of April 3, 2025, on operationalizing Indigenous Peoples participation in BBNJ governance. IITC is an Indigenous Peoples organization with General Consultative Status at the UN Economic and Social Council and represents over 300 Indigenous Peoples from North, Central, and South America, the Caribbean, and the Pacific.

The April policy brief was sponsored by IITC and developed through a broad consultation process from February 2 to March 28, 2025, using live Zoom consultations and written submissions from multiple regions. This process was grounded in Indigenous governance systems and knowledge.

Following PrepCom 1, IITC convened additional open consultations across regions. These produced the following four concept notes to inform PrepCom 2 and support practical, rights affirming implementation under the BBNJ Agreement:

1. **Annex I:** Establishing distinct observer status for Indigenous Peoples in BBNJ rules of procedure
2. **Annex II:** Ways and means of ensuring full membership for Indigenous knowledge holders in BBNJ subsidiary bodies and establishing Indigenous advisory mechanisms
3. **Annex III:** Establishing a voluntary fund for Indigenous Peoples' participation and enabling direct access to grant-based funding
4. **Annex IV:** Modalities for the participation of Indigenous Peoples in BBNJ reporting

IITC intends to submit the above as Conference Room Papers for PrepCom 2. We invite Member States and stakeholders to review and draw on them in proposals. IITC stands ready to brief delegations, provide suggested text on request, and support constructive solutions that uphold the rights, knowledge systems, and leadership of Indigenous Peoples under international law.

Thank you for your continued engagement and partnership.

Sincerely,

Andrea Carmen
Executive Director

ANNEX I: Establishing distinct observer status for Indigenous Peoples in BBNJ rules of procedure

Executive Summary

1. In the present note, ways and means of establishing distinct observer status for Indigenous Peoples in BBNJ rules of procedure are described, alongside legal foundations and precedents supporting such participation modalities.
2. First, a summary is presented of reasons why Indigenous Peoples require distinct observer status rather than civil society categorization and why such participation is essential for effective BBNJ implementation consistent with Indigenous rights under international law.
3. Second, details are provided of existing legal foundations within the BBNJ Agreement and precedents from other UN frameworks supporting Indigenous participation modalities distinct from civil society organizations.
4. The note includes a description of successful UN models including EMRIP, UNPFII, and LCIPP-FWG, alongside analysis of current deficiencies in draft BBNJ rules of procedure.
5. Third, specific amendments to BBNJ rules of procedure are proposed to establish Indigenous Peoples as a distinct observer category with appropriate accreditation procedures.
6. Fourth, implementation considerations are discussed, including resource requirements and procedural accommodations necessary for meaningful Indigenous participation.
7. Lastly, anticipated concerns regarding distinct Indigenous observer status are addressed, demonstrating that such arrangements enhance rather than complicate BBNJ institutional effectiveness.

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I. Introduction

1. The present note is submitted to the BBNJ Preparatory Commission pursuant to discussions regarding Indigenous Peoples' participation in BBNJ governance structures. Indigenous Peoples, representing multiple Indigenous socio-cultural regions, present this analysis of legal foundations and implementation modalities for establishing distinct observer status for Indigenous Peoples in BBNJ rules of procedure.
2. The note is consistent with the United Nations Declaration on the Rights of Indigenous Peoples, which the BBNJ Agreement's Preamble recalls, and which establishes in Article 18 that Indigenous Peoples have the right to participate in decision-making in matters which may affect their rights, through representatives chosen by themselves in accordance with their own procedures.
3. The analysis demonstrates that current draft BBNJ rules of procedure inappropriately categorize Indigenous Peoples alongside civil society organizations, contradicting the BBNJ Agreement's own commitments to Indigenous rights and established precedents from other UN frameworks that recognize Indigenous Peoples as a distinct category of participants.
4. The note builds upon successful precedents from other UN frameworks, particularly the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), the UN Permanent Forum on Indigenous Issues (UNPFII), and the Local Communities and Indigenous Peoples Platform Facilitative Working Group (LCIPP-FWG), where Indigenous participation operates through distinct procedures rather than civil society frameworks.
5. The present note is informed by the comprehensive nature of Indigenous rights and knowledge systems that encompass marine biodiversity governance, requiring Indigenous participation through procedures that recognize their distinct status as peoples rather than interest groups or stakeholders.
6. The purpose of the present note is to provide legal rationale and practical implementation modalities for establishing distinct Indigenous observer status in BBNJ rules of procedure,

building on established precedents while addressing the unique characteristics of Indigenous governance structures that require accommodation within BBNJ institutional frameworks.

II. Need to establish distinct observer status for Indigenous Peoples in BBNJ rules of procedure

A. Qualitative and functional differences between Indigenous Peoples and civil society organizations

1. Indigenous Peoples are qualitatively and functionally different from civil society organizations in purpose, accountability structures, and legal status under international law. The 2012 Secretary-General report to the Human Rights Council established that Indigenous organizations are "qualitatively and functionally different from non-governmental organizations in purpose, design and constituency."
2. Indigenous marine governance institutions often carry "considerable responsibilities towards their members, including in relation to cultures, lands, territories and resources" and their purposes may include "public governance of their peoples and/or territories, often in accordance with indigenous laws and traditions." These governmental functions distinguish Indigenous institutions from NGOs, which operate as private advocacy entities.
3. Indigenous institutions often represent "individuals, families, extended families and collectives who often share ancestry" with membership that "can be hereditary and based on indigenous legal and cultural norms." This contrasts fundamentally with NGOs, which operate through voluntary membership based on shared interests rather than ancestral or cultural connections.
4. Many Indigenous institutions have been "constitutionally, legally and/or politically acknowledged by the relevant State" or operate within frameworks where States recognize "the inherent and residual sovereignty of indigenous peoples and/or continuing jurisdiction of indigenous peoples' governance institutions." This legal recognition establishes Indigenous institutions as governmental or quasi-governmental entities rather than private associations.

5. Indigenous institutions operate according to traditional governance structures including hereditary leadership, consensus decision-making, ceremonial protocols, and customary law systems that do not conform to Western organizational models required for NGO status, yet represent legitimate governance systems recognized under international law.

B. Legal foundations for distinct Indigenous participation under international law

1. The United Nations Declaration on the Rights of Indigenous Peoples, which the BBNJ Agreement's Preamble recalls, establishes fundamental rights to participation that require distinct recognition rather than civil society categorization. Article 18 affirms that Indigenous Peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures.
2. Article 33 of the Declaration establishes that "indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures." This provision requires accommodation of Indigenous governance structures rather than forcing conformity to NGO organizational requirements.
3. The BBNJ Agreement's Preamble affirms 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." This creates legal obligations for BBNJ implementation to respect Indigenous rights, including participation rights.
4. Article 25 of the UN Declaration establishes that "indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources." For many Indigenous Peoples, this includes marine territories that extend into areas beyond national jurisdiction.
5. The legal foundation for distinct Indigenous participation rests on Indigenous Peoples' status as peoples with the right to self-determination under international law, rather than their utility as knowledge providers or stakeholders, requiring recognition through distinct participation procedures rather than civil society frameworks.

C. Barriers created by civil society categorization

1. Current draft BBNJ rules of procedure create systematic barriers that exclude legitimate Indigenous representatives through requirements designed for Western advocacy organizations rather than Indigenous governance institutions. The 2012 Secretary-General report documented that "many indigenous peoples' organizations can find it difficult to meet the criteria for consultative status with the Economic and Social Council as non-governmental organizations."
2. NGO frameworks require formal registration and documentation, but "*some Indigenous Peoples' organizations cannot register themselves owing to their unique constitution and others may not be recognized by the State.*" Additionally, "*some such organizations located within Indigenous communities may have no headquarters and may not be organized in such a way as to have an executive officer.*"
3. Documentation requirements impose Western literacy standards on institutions that operate according to traditional governance structures, as "*oral traditions, rather than written documentation, may provide for the functioning of indigenous peoples' organizations.*" The 2024 OHCHR stocktaking report confirms that "*many Indigenous Peoples' institutions or organizations do not have formal constitutions or statutes, and some may not have financial statements.*"
4. Geographic scope requirements discriminate against Indigenous institutions representing specific peoples or territories, as "indigenous peoples' organizations that represent particular indigenous peoples are likely to be representative of an indigenous segment of society and rarely in a large number of countries in different regions of the world."
5. The 2024 OHCHR report emphasizes that "Indigenous Peoples are generally not organized as NGOs and their governing structures and institutions are diverse," with most supporting "the addition of a separate category or status of participation that would afford at least the same level of participation as that accorded to NGOs in consultative status."

III. Existing legal foundations and precedents supporting distinct Indigenous participation

A. BBNJ Agreement provisions

1. The BBNJ Agreement's Preamble provides an explicit legal foundation for distinct Indigenous participation by recalling the United Nations Declaration on the Rights of Indigenous Peoples and affirming that "nothing in this Agreement shall be construed as diminishing or extinguishing the existing rights of Indigenous Peoples."
2. The Agreement's Preamble distinguishes Indigenous Peoples from local communities by stating "including as set out in the United Nations Declaration on the Rights of Indigenous Peoples, or of, as appropriate, local communities," demonstrating recognition of Indigenous Peoples' distinct status under international law.
3. Article 7 requires that traditional knowledge be taken into account in the implementation of the Agreement, while Article 11 addresses traditional knowledge in relation to marine genetic resources, and Article 17 requires consideration of traditional knowledge in area-based management tools, demonstrating the cross-cutting relevance of Indigenous knowledge requiring appropriate participation procedures.
4. Article 13 on environmental impact assessments requires consideration of cumulative impacts on Indigenous Peoples and their traditional knowledge, while Article 42 on capacity-building and transfer of marine technology emphasizes the importance of traditional knowledge, creating legal obligations for Indigenous participation in implementation processes.
5. The Agreement's integration of traditional knowledge throughout its provisions creates legal foundations for Indigenous participation across all BBNJ processes rather than limitation to specific technical areas, supporting distinct observer status rather than civil society categorization.

B. Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) model

1. EMRIP, established by Human Rights Council resolution 6/36, provides the most innovative precedent for Indigenous participation in UN processes. The mechanism explicitly permits participation by "indigenous peoples' organizations and non-governmental organizations, whose aims and purposes are in conformity with the spirit, purposes and principles of the Charter of the United Nations" regardless of their consultative status with ECOSOC.
2. Human Rights Council resolution 6/36, paragraph 13 establishes that participation is open to Indigenous organizations "regardless of their consultative status with the Economic and Social Council," demonstrating successful precedent for Indigenous participation without NGO requirements. The 2012 Secretary-General report confirms that "only those organizations that are not accredited under those or other such procedures, for example as national human rights institutions, must complete the forms to receive the security pass required to attend the annual sessions of the Expert Mechanism."
3. Resolution 6/36 establishes that "all participants in the annual sessions of the Expert Mechanism take part as observers, including States, national human rights institutions, indigenous peoples' organizations and other non-State actors, irrespective of their accreditation," providing precedent for equal treatment regardless of formal organizational status.
4. EMRIP employs "an open and transparent accreditation procedure" managed by OHCHR, which "reviews information provided in accreditation letters provided by the organizations and the answers to the questions on the form to determine whether to grant accreditation, in particular with a view to ensuring that the activities of the requesting organizations relate to the mandate of the Expert Mechanism."
5. The 2012 Secretary-General report confirms that "all observers enjoy the same opportunity to participate in the sessions with written and oral interventions," demonstrating that Indigenous participation without NGO status can be both meaningful and procedurally sound, providing a tested model for BBNJ implementation.

C. UN Permanent Forum on Indigenous Issues (UNPFII) model

1. UNPFII, established by ECOSOC resolution 2000/22, provides comprehensive precedent for Indigenous participation procedures. The resolution establishes that "organizations of indigenous people may equally participate as observers in accordance with the procedures which have been applied in the Working Group on Indigenous Populations."
2. ECOSOC resolution 2000/22 reference to Working Group procedures establishes continuity with over four decades of successful Indigenous participation without NGO consultative status requirements. The 2012 Secretary-General report confirms that the Working Group on Indigenous Populations was "the first United Nations body to open participation to indigenous peoples' organizations without consultative status with the Economic and Social Council."
3. The 2012 Secretary-General report documents that "the Secretariat of the Permanent Forum and the Civil Society and Outreach Unit of the Division for Social Policy and Development, part of the Department of Economic and Social Affairs, make practical arrangements for the pre-registration of civil society participants to attend the annual sessions of the Permanent Forum."
4. UNPFII recognizes "five categories of participants" that can pre-register: "indigenous peoples' organizations; indigenous parliamentarians; non-governmental organizations in consultative status with the Economic and Social Council; national human rights institutions; and academic institutions," demonstrating systematic accommodation of Indigenous institutions as a distinct category.
5. The 2024 OHCHR stocktaking report confirms that UNPFII provides "reserved seats and nameplates arranged for Indigenous Peoples' organizations in the conference rooms where the official meetings are held, including in the General Assembly Hall," providing physical recognition that symbolizes Indigenous Peoples' distinct status rather than civil society participation.

D. UNFCCC Facilitative Working Group (LCIPP-FWG) model

1. The LCIPP-FWG, established under UNFCCC Decision 2/CP.24, demonstrates successful Indigenous participation in technical environmental governance. The platform includes Indigenous representatives "appointed by the Indigenous peoples, through their focal points" without any NGO status requirements.
2. Decision 2/CP.24, paragraph 7 establishes that "The Facilitative Working Group shall consist of fourteen members, seven of whom shall be Indigenous Peoples representatives appointed by Indigenous Peoples and seven of whom shall be Party representatives," demonstrating equal partnership between Indigenous Peoples and States.
3. Decision 2/CP.24, paragraph 6 establishes that "Indigenous Peoples representatives shall be appointed by Indigenous Peoples, through their focal points, with notification to relevant bodies," providing precedent for Indigenous-controlled appointment processes within formal UN frameworks.
4. Decision 2/CP.23, paragraph 8 establishes critical principles: "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."
5. The LCIPP-FWG demonstrates successful integration of Indigenous knowledge systems into technical UN processes while maintaining Indigenous Peoples' distinct status, providing directly relevant precedent for marine biodiversity governance where Indigenous knowledge is essential for conservation effectiveness.

IV. Current deficiencies in draft BBNJ rules of procedure

A. Inappropriate categorization of Indigenous Peoples

1. Draft Rule 6 inappropriately categorizes Indigenous Peoples alongside civil society organizations by stating that "representatives of States not party to the 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" may participate as observers.

2. This formulation creates categorical confusion by listing Indigenous Peoples alongside civil society organizations and other stakeholders, obscuring their distinct status as peoples with inherent rights rather than interest groups with advocacy positions.
3. The reference to Indigenous Peoples "with relevant traditional knowledge" reduces Indigenous participation to their utility as knowledge providers rather than recognizing their rights as peoples affected by marine biodiversity decisions, contradicting the rights-based approach required under international law.
4. The current categorization forces Indigenous institutions to conform to civil society participation frameworks designed for advocacy organizations rather than governance institutions, creating systematic barriers to legitimate Indigenous participation.
5. Draft Rule 6 fails to recognize Indigenous Peoples' distinct status under international law as established by the UN Declaration on the Rights of Indigenous Peoples, contradicting the BBNJ Agreement's own commitments to Indigenous rights.

B. Conditional participation dependent on presidential discretion

1. Draft Rule 7 makes Indigenous participation conditional by stating that observers "may, upon the invitation of the President, participate without the right to vote in the proceedings," making Indigenous participation dependent on presidential discretion rather than recognizing it as a right.
2. This conditional framework violates Indigenous Peoples' right to participate in decision-making as established by Article 18 of the UN Declaration, which affirms participation "through representatives chosen by themselves in accordance with their own procedures" rather than external authorization.

3. The presidential discretion framework treats Indigenous participation as a privilege granted by States rather than a right flowing from Indigenous Peoples' status as peoples with rights under international law, contradicting established international legal standards.
4. Conditional participation undermines the meaningful participation required by Article 19 of the UN Declaration, which establishes that States shall consult and cooperate in good faith with Indigenous Peoples through their own representative institutions.
5. The current framework creates uncertainty regarding Indigenous participation that could exclude Indigenous representatives from critical discussions affecting their rights and territories, violating the BBNJ Agreement's commitments to Indigenous rights.

C. Absence of appropriate accreditation procedures

1. Draft BBNJ rules of procedure do not specify alternative accreditation procedures for Indigenous Peoples, implying that they must meet the same organizational requirements as NGOs despite their fundamentally different nature and governance structures.
2. The absence of Indigenous-specific accreditation procedures forces Indigenous institutions to conform to Western organizational models including formal registration, headquarters requirements, and executive officer structures that contradict traditional governance systems.
3. Current procedures fail to accommodate Indigenous institutions that "cannot register due to their unique constitution" or operate according to "oral traditions, rather than written documentation," creating systematic exclusion of legitimate Indigenous representatives.
4. The lack of self-identification procedures contradicts Indigenous Peoples' right to "determine the structures and to select the membership of their institutions in accordance with their own procedures" as guaranteed by Article 33 of the UN Declaration.
5. Absence of appropriate accreditation procedures undermines the BBNJ Agreement's integration of traditional knowledge by preventing participation by the Indigenous institutions that are custodians of such knowledge systems.

V. Proposed amendments to establish distinct Indigenous observer status

A. Amendment to Rule 6 - Distinct categorization

1. Rule 6 should be amended to establish Indigenous Peoples as a distinct observer category separate from civil society organizations. The proposed amendment would restructure the rule to clearly distinguish Indigenous Peoples from other observer categories.
2. Proposed text for amended Rule 6: "The following may participate as observers in meetings of the Conference of the Parties and its subsidiary bodies:
 - a. *Representatives of States not party to the Agreement;*
 - b. *The United Nations, its specialized agencies and related organizations;*
 - c. *Relevant global, regional, subregional and sectoral bodies;*
 - d. *Indigenous Peoples;*
 - e. *Local communities with relevant traditional knowledge, the scientific community, civil society organizations and other relevant stakeholders with expertise in matters pertaining to the Conference of the Parties."*
3. The amendment establishes Indigenous Peoples as subsection (d) with distinct recognition, applies the principle of self-identification consistent with international standards, eliminates formal organizational status requirements that create barriers, and separates Indigenous Peoples from civil society organizations in subsection (f).
4. The proposed amendment recognizes Indigenous Peoples' distinct status under international law while maintaining appropriate standards for relevance and participation, consistent with successful precedents from EMRIP, UNPFII, and LCIPP-FWG.
5. This amendment would align BBNJ rules of procedure with the Agreement's own commitments to Indigenous rights and establish international standards for Indigenous participation in UN processes.

B. Amendment to Rule 7 - Rights-based participation

1. Rule 7 should be amended to recognize Indigenous participation as flowing from their rights rather than presidential discretion. The proposed amendment would establish different participation modalities for different observer categories.
2. Proposed text for amended Rule 7: "*Observers listed in Rule 6 may participate without the right to vote in the proceedings of meetings of the Conference of the Parties and its subsidiary bodies as follows:*
 - a. *Indigenous Peoples and their organizations may participate in all proceedings in accordance with the United Nations Declaration on the Rights of Indigenous Peoples;*
 - b. *Other observers may, upon the invitation of the President, participate in proceedings in matters pertaining to the Conference of the Parties in which they have an interest, unless otherwise decided by the Conference of the Parties.*"
3. The amendment establishes Indigenous participation as a right in subsection (a), maintains presidential discretion for other observers in subsection (b), recognizes the scope of Indigenous rights including territories and knowledge, and references the UN Declaration as the governing legal framework.
4. This amendment would ensure that Indigenous participation is recognized as flowing from their status as peoples with rights under international law rather than as a privilege granted by States, consistent with established international legal standards.
5. The proposed amendment maintains appropriate limitations on participation scope while ensuring that Indigenous Peoples can participate meaningfully in all matters affecting their rights, territories, or knowledge systems.

C. Adoption of existing Indigenous accreditation models

1. Rather than creating new accreditation procedures, BBNJ should adopt proven accreditation mechanisms from existing UN frameworks that successfully accommodate Indigenous participation, including EMRIP, UNPFII, and LCIPP-FWG models.

2. The EMRIP model (33/25 para 13) provides "*an open and transparent accreditation procedure*" that applies the principle of self-identification, allowing organizations to participate based on their Indigenous identity rather than external verification, with participation "*open to Indigenous Peoples organizations*" regardless of their consultative status with the Economic and Social Council.
3. The UNPFII model (2000/22) utilizes procedures from the Working Group on Indigenous Populations, where the Department of Economic and Social Affairs "*organizations of indigenous people may equally participate as observers in accordance with the procedures which have been applied in the Working Group on Indigenous Populations of the Subcommission on the Promotion and Protection of Human Rights*" with the principle of self-identification applying, demonstrating streamlined procedures that eliminate bureaucratic barriers.
4. The LCIPP-FWG model demonstrates Indigenous-controlled appointment processes where "*Indigenous Peoples representatives shall be appointed by Indigenous Peoples, through their focal points, with notification to relevant bodies,*" providing precedent for Indigenous autonomy in representative selection.
5. These existing models provide tested frameworks that can be directly adapted for BBNJ implementation without requiring new procedural innovations, ensuring consistency with established UN practice while respecting Indigenous Peoples' self-organization, self-representation, self-identification and self-determination rights.

VI. Implementation considerations

A. Resource requirements and support mechanisms

1. Implementation of distinct Indigenous observer status would require adequate financial support through voluntary funds to ensure full, effective direct and meaningful participation opportunities for Indigenous Peoples from all regions, particularly those from remote marine territories.
2. Enhanced capacity-building support should be provided to help Indigenous representatives engage effectively with BBNJ processes while maintaining their distinct knowledge systems and

perspectives, including training on UNCLOS procedures and technical aspects of marine biodiversity governance.

3. Resource mobilization should include support for Indigenous Peoples' marine biodiversity conservation projects.
4. Technical support should be provided for Indigenous Peoples to undertake regional coordination processes, while accommodating their traditional governance structures and decision-making processes.
5. Funding mechanisms should recognize the additional costs associated with Indigenous Peoples' participation, including interpretation and translation services into Indigenous languages, and extended consultation processes required for consensus-based decision-making.

B. Procedural accommodations and cultural protocols

1. BBNJ meetings should accommodate Indigenous languages, protocols, and communication methods, including time for Indigenous caucuses and respect for Indigenous decision-making processes that may require extended consultation periods.
2. Meeting schedules and procedures should accommodate Indigenous ceremonial requirements and traditional protocols, including opening and closing ceremonies that recognize Indigenous spiritual relationships with marine territories.
3. Documentation should be made available in Indigenous languages where feasible, and interpretation services should be provided to ensure meaningful participation by Indigenous representatives who may not be fluent in UN working languages.
4. Meeting rooms should provide appropriate space for Indigenous caucuses, including for coordination during COP meetings and space for ceremonies where culturally appropriate.

5. Procedural accommodations should recognize that Indigenous decision-making may require consensus-building processes that operate on different timelines than Western procedures, requiring flexibility in meeting schedules and decision-making processes.

C. Coordination with existing Indigenous participation frameworks

1. BBNJ Indigenous participation should be coordinated with existing Indigenous participation frameworks in other UN processes to ensure consistency, including coordination with EMRIP, UNPFII, and LCIPP-FWG.
2. The seven Indigenous socio-cultural regions framework utilized in other UN mechanisms should be considered for BBNJ implementation to ensure Indigenous Peoples' participation and systematic representation across all ocean basins and marine biodiversity areas.
3. All entities established under the Agreement shall ensure that their processes acknowledge the distinct status of Indigenous Peoples and respect the role of Indigenous knowledge holders. Such mechanisms shall not be interpreted or used as substitutes for the direct participation of Indigenous Peoples in the work of the Agreement, thereby avoiding competition, conflict, or misrepresentation.
4. Regular consultation should be conducted with Indigenous Peoples to ensure that BBNJ participation procedures remain responsive to Indigenous needs and consistent with Indigenous governance structures.

VII. Addressing anticipated concerns

A. Concerns about participation levels

1. Some may argue that recognizing Indigenous Peoples as a distinct observer category would lead to unmanageable participation levels. However, the experience of EMRIP, UNPFII, and LCIPP-FWG demonstrates that Indigenous participation can be managed effectively through appropriate accreditation procedures.

2. The number of legitimate Indigenous marine governance institutions is actually quite limited compared to the broader NGO community. Indigenous Peoples represent less than 5% of the global population, and only a subset have direct connections to marine territories relevant to BBNJ.
3. Indigenous participation frameworks in other UN mechanisms have not resulted in unmanageable participation levels, demonstrating that concerns about "opening floodgates" are unfounded and appear to be based on misconceptions about Indigenous demographics.
4. Self-identification procedures combined with relevance requirements provide appropriate filters to ensure that participation is limited to legitimate Indigenous institutions with genuine connections to marine biodiversity governance.
5. The benefits of Indigenous participation in terms of knowledge integration and rights compliance far outweigh any administrative costs associated with managing Indigenous participation, particularly given the limited numbers involved.

B. Concerns about accountability and representation

1. Some question whether Indigenous representatives chosen through Indigenous procedures have adequate accountability. However, Indigenous selection processes operate according to traditional accountability mechanisms that are often more direct and culturally appropriate than Western organizational structures.
2. Indigenous marine governance institutions are typically accountable to specific Indigenous Peoples and their communities and territories through their Indigenous systems, hereditary leadership structures, and consensus decision-making processes that have sustained Indigenous marine management for millennia.
3. The principle of self-identification ensures that Indigenous representatives are selected by and accountable to Indigenous Peoples rather than external authorities, maintaining the authenticity and legitimacy of Indigenous Peoples' participation.

4. Indigenous accountability mechanisms are recognized under international law through the UN Declaration on the Rights of Indigenous Peoples, which affirms Indigenous Peoples' right to determine their own institutional structures and selection procedures.
5. External requirements for accountability would violate Indigenous Peoples' right to self-determination and contradict the principle of self-identification that governs Indigenous participation in international processes.

C. Concerns about procedural complexity

1. Some worry that accommodating Indigenous participation would create excessive procedural complexity. However, successful UN mechanisms demonstrate that procedural accommodation can be achieved without compromising institutional effectiveness.
2. The proposed amendments actually simplify procedures for Indigenous Peoples by eliminating inappropriate NGO requirements while maintaining clear standards for relevance and identity, reducing rather than increasing procedural complexity.
3. Indigenous knowledge offers innovative approaches to marine biodiversity governance that can enhance BBNJ effectiveness, with the benefits of knowledge integration far outweighing any procedural accommodations required.
4. Procedural accommodations for Indigenous participation are required under international law through the UN Declaration on the Rights of Indigenous Peoples, making such accommodations legal obligations rather than optional considerations.
5. The complexity lies in forcing Indigenous institutions to conform to Western organizational models rather than recognizing their distinct status, with distinct observer status actually reducing procedural barriers and complications.

VIII. Conclusion

1. The evidence presented in this concept demonstrates conclusively that Indigenous Peoples require distinct observer status in BBNJ rules of procedure based on their fundamental differences from

civil society organizations, their rights under international law, and successful precedents from other UN mechanisms.

2. Current draft BBNJ rules of procedure create systematic barriers that exclude legitimate Indigenous marine governance institutions while contradicting the BBNJ Agreement's own commitments to Indigenous rights, requiring immediate amendment to align implementation with legal obligations.
3. The proposed amendments to Rules 6 and 7, along with new Rule 6bis, would establish Indigenous Peoples as a distinct observer category with appropriate accreditation procedures that respect Indigenous governance structures while maintaining institutional effectiveness.
4. Implementation of distinct Indigenous observer status would enhance BBNJ effectiveness through Indigenous knowledge integration while ensuring compliance with international Indigenous rights standards, providing benefits that far outweigh any administrative costs or procedural accommodations required.
5. The opportunity exists now, while BBNJ rules of procedure remain in draft form, to align BBNJ implementation with international best practices for Indigenous participation and the Agreement's own commitments to Indigenous rights.
6. Member States should adopt the proposed amendments to establish Indigenous Peoples as a distinct observer category in BBNJ rules of procedure, ensuring that marine biodiversity governance benefits from Indigenous knowledge while respecting Indigenous rights as peoples under international law.
7. The future of marine biodiversity conservation depends on meaningful Indigenous participation based on recognition of their distinct status as peoples with rights, territories, and knowledge systems essential for achieving BBNJ conservation objectives.

ANNEX II: Ways and means of ensuring full membership for Indigenous knowledge holders in BBNJ subsidiary bodies and establishing Indigenous advisory mechanisms

Executive Summary

1. In the present note, ways and means of ensuring full membership for Indigenous knowledge holders in BBNJ subsidiary bodies are described, alongside minimum standards for Indigenous advisory mechanisms if established as secondary considerations.
2. First, a summary is presented of reasons why Indigenous Peoples require full membership rather than advisory status and why such participation is essential for effective BBNJ implementation.
3. Second, details are provided of existing legal foundations within the BBNJ Agreement and precedents from other UN frameworks supporting Indigenous participation modalities.
4. The note includes a description of the LCIPP Facilitative Working Group model and positive signals from PrepCom 2 co-chairs' note regarding Indigenous-controlled selection processes.
5. Third, possible ways forward in terms of implementing Indigenous knowledge holder membership across all subsidiary bodies are outlined.
6. Fourth, minimum standards for Indigenous advisory mechanisms are described, utilizing the EMRIP model while rejecting problematic approaches.

7. Lastly, issues that would need to be considered in order to implement comprehensive Indigenous participation frameworks are discussed.

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I. Introduction

1. The present note is submitted to the BBNJ Preparatory Commission pursuant to discussions during the first session regarding Indigenous Peoples' participation in BBNJ governance structures. Indigenous Peoples, representing the four of the seven Indigenous socio-cultural regions of the world, present this analysis of legal foundations and implementation modalities for ensuring full membership of Indigenous knowledge holders in all BBNJ subsidiary bodies, alongside minimum standards for Indigenous advisory mechanisms if established as secondary considerations.
2. The note is consistent with the United Nations Declaration on the Rights of Indigenous Peoples, which the BBNJ Agreement's Preamble recalls, and which establishes in Article 18 that Indigenous Peoples have the right to participate in decision-making in matters which may affect their rights, through representatives chosen by themselves in accordance with their own procedures. Article 19 further establishes that States shall consult and cooperate in good faith with Indigenous Peoples through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing measures that may affect them.
3. The note also appreciates positive signals from the second Preparatory Commission co-chairs' note (A/AC.296/2025/15) regarding Indigenous Peoples' selection processes for the Clearing-House Mechanism expert group, which demonstrate institutional openness to Indigenous participation modalities that should be extended across all BBNJ subsidiary bodies and advisory mechanisms.
4. The note builds upon successful precedents from other UN frameworks, particularly the LCIPP Facilitative Working Group under the UNFCCC, where Decision 2/CP.24 establishes that *"Indigenous Peoples representatives shall be appointed by Indigenous Peoples, through their focal points, with notification to relevant bodies,"* demonstrating tested frameworks for Indigenous-controlled appointment processes within formal UN structures.
5. It is further informed by the comprehensive nature of Indigenous knowledge that encompasses all aspects of marine biodiversity governance, requiring Indigenous knowledge holder participation across all BBNJ subsidiary bodies rather than limitation to the Scientific and Technical Body.

Indigenous knowledge integrates ecological, social, cultural, legal and governance dimensions that span *inter alia* marine genetic resources, area-based management, environmental impact assessments, capacity building, technology transfer, and compliance monitoring.

6. The purpose of the present note is to provide legal rationale and practical implementation modalities for comprehensive Indigenous participation in BBNJ governance, building on established precedents while addressing the unique characteristics of Indigenous knowledge and governance structures that require accommodation within BBNJ institutional frameworks.

II. Need to ensure full membership for Indigenous knowledge holders in BBNJ subsidiary bodies

A. Qualitative and functional differences between Indigenous knowledge holders and other experts

1. Indigenous knowledge holders are qualitatively and functionally different from other technical or scientific experts in purpose, accountability structures, and knowledge systems. Indigenous knowledge holders represent comprehensive knowledge systems spanning millennia of (marine) stewardship across all ocean basins, with accountability to their communities and governance structures rather than academic or professional institutions.
2. Indigenous knowledge also encompasses not only ecological knowledge but also governance systems, intellectual property protocols, sustainable use practices, and rights-based approaches to conservation. This comprehensive knowledge cannot be appropriately represented through external consultation processes or advisory mechanisms that separate Indigenous knowledge from Indigenous governance and rights frameworks.
3. Indigenous knowledge holders serve as custodians of knowledge systems that are collectively owned by Indigenous Peoples and governed by Indigenous protocols regarding appropriate sharing, application, and protection. Their participation in subsidiary bodies ensures that Indigenous knowledge integration occurs with appropriate consent, recognition, and

benefit-sharing arrangements rather than knowledge extraction without Indigenous Peoples' right to free, prior and informed consent.

B. Legal foundations for Indigenous participation under international law

1. The United Nations Declaration on the Rights of Indigenous Peoples, which the BBNJ Agreement's Preamble recalls, establishes fundamental rights to participation in decision-making that require full membership rather than advisory status. Article 18 affirms that Indigenous Peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures.
2. Article 19 of the Declaration establishes that States shall consult and cooperate in good faith with Indigenous Peoples through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them. BBNJ subsidiary body decisions constitute administrative measures affecting Indigenous rights and territories, requiring Indigenous participation in decision-making processes.
3. The BBNJ Agreement's integration of traditional knowledge throughout its provisions, including in marine genetic resources, area-based management tools, environmental impact assessments, and capacity building, creates legal obligations for appropriate Indigenous Peoples' participation across all implementation mechanisms rather than limitation to specific technical areas.

C. Functional advantages of Indigenous knowledge holder participation in the BBNJ

1. Indigenous knowledge holder participation enhances BBNJ implementation effectiveness through Indigenous knowledge integration at the source of technical and policy advice rather than external consultation processes that often result in superficial incorporation or misappropriation of Indigenous knowledge. Indigenous knowledge holders can immediately identify when recommendations conflict with Indigenous rights or interests, propose alternative approaches, and ensure appropriate consent and benefit-sharing arrangements.

2. Indigenous knowledge provides essential expertise for marine biodiversity conservation beyond national jurisdiction, with traditional governance approaches offering tested frameworks for sustainable resource management, ecosystem-based management, and rights-based conservation that complement scientific approaches while addressing social and cultural dimensions often overlooked in technical assessments.
3. Indigenous knowledge holder participation addresses the frequent marginalization and exclusion of Indigenous Peoples from environmental decision-making processes that affect their territories and livelihoods. Their participation facilitates strengthening cooperation between States and Indigenous Peoples in peaceful and constructive fashion while ensuring that BBNJ implementation respects Indigenous rights and contributes to Indigenous Peoples' right to self-determination rather than perpetuating colonial patterns of exclusion.

III. Existing legal foundations and precedents supporting Indigenous participation

A. BBNJ Agreement provisions

1. Article 49.2 establishes explicit precedent for Indigenous knowledge holder membership by requiring the Scientific and Technical Body to include "expertise in relevant traditional knowledge of Indigenous Peoples and local communities" alongside scientific and technical expertise. This provision creates a legal foundation for extending Indigenous expertise requirements to all subsidiary bodies based on the comprehensive nature of traditional knowledge.
2. Article 47(6)(d) provides the Conference of the Parties with broad authority to establish subsidiary bodies "as it deems necessary for the implementation of this Agreement," enabling COP to determine appropriate composition including Indigenous membership modalities. This authority extends to establishing advisory mechanisms that supplement subsidiary body work while maintaining Indigenous autonomy.
3. The BBNJ Agreement's integration of traditional knowledge throughout its provisions demonstrates that Indigenous expertise is necessary across all implementation areas. Article 7

requires that traditional knowledge be taken into account in the implementation of the Agreement, Article 11 addresses traditional knowledge in relation to marine genetic resources, and Article 17 requires consideration of traditional knowledge in area-based management tools.

4. Article 13 on environmental impact assessments requires consideration of cumulative impacts on Indigenous Peoples and their traditional knowledge, while Article 42 on capacity-building and transfer of marine technology emphasizes the importance of traditional knowledge and Indigenous and community conserved areas. These provisions demonstrate the cross-cutting nature of Indigenous knowledge requiring participation across all subsidiary bodies.
5. The Agreement's Preamble recalls the United Nations Declaration on the Rights of Indigenous Peoples, making it a primary interpretive framework for Indigenous participation requirements. This legal foundation supports Indigenous knowledge holder membership across all subsidiary bodies rather than limitation to advisory roles that would violate Indigenous rights to participate in decision-making.

B. LCIPP Facilitative Working Group model

1. The LCIPP Facilitative Working Group under the UNFCCC provides tested precedent for Indigenous participation within formal UN frameworks that maintains Indigenous autonomy while satisfying institutional requirements. Decision 2/CP.24, paragraph 7 establishes that "The Facilitative Working Group shall consist of fourteen members, seven of whom shall be Indigenous Peoples representatives appointed by Indigenous Peoples and seven of whom shall be Party representatives."
2. Decision 2/CP.24, paragraph 6 establishes that "Indigenous Peoples representatives shall be appointed by Indigenous Peoples, through their focal points, with notification to relevant bodies." This framework demonstrates that Indigenous-controlled appointment processes can operate within formal UN requirements, with Parties serving notification functions while Indigenous Peoples maintain substantive control over selection.
3. Decision 2/CP.23, paragraph 8 establishes critical principles for Indigenous participation: "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." These principles provide framework for BBNJ implementation.

4. The LCIPP-FWG model demonstrates that Indigenous participation enhances environmental governance effectiveness through knowledge integration while respecting Indigenous rights and self-determination. This shows that Indigenous-controlled appointment processes enable authentic Indigenous knowledge integration while maintaining Indigenous accountability to regions, communities and governance systems.
5. The seven Indigenous socio-cultural regions framework utilized in LCIPP-FWG provides a systematic representation structure that can be adapted for BBNJ subsidiary bodies and advisory mechanisms. These regions reflect Indigenous governance systems while enabling comprehensive representation across all ocean basins and marine biodiversity areas.

C. PrepCom 2 positive signals for Indigenous participation

1. The co-chairs' note for the second Preparatory Commission (A/AC.296/2025/15) provides positive signals of institutional openness within the BBNJ preparatory process for Indigenous Peoples to be members of technical bodies. While the draft terms of reference for the Clearing-House Mechanism expert group contain bracketed text that has not yet been adopted, the inclusion of Indigenous experts as members represents institutional consideration of Indigenous participation modalities.
2. Paragraph 6 bis(b) [bracketed text] States: "*Up to seven experts nominated by representatives of Indigenous Peoples and local communities, with no more than one expert from each of the following seven sociocultural regions: Asia; Central and South America and the Caribbean; the Arctic; Eastern Europe, the Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific.*" This provision signals institutional consideration of Indigenous-controlled nomination processes and seven regions representation framework.
3. Paragraph 6 quater [bracketed text] States: "*Members of the Group will serve in their personal capacity.*" This provision supports expertise-based participation while maintaining community accountability, demonstrating institutional understanding that Indigenous experts serve based on

traditional knowledge competency rather than State representation.

4. These provisions signal institutional consideration of Indigenous-nominated experts serving as full members of BBNJ technical bodies, seven Indigenous socio-cultural regions as representation framework, personal capacity service emphasizing expertise rather than State representation, and direct Indigenous nomination through Indigenous representatives as viable modality.
5. The Clearing-House Mechanism expert group provisions demonstrate that BBNJ institutional framework is considering modalities for Indigenous-nominated experts serving as full members of technical bodies. These positive signals support extending similar arrangements to all subsidiary bodies and advisory mechanisms, as the same legal and institutional framework applies across BBNJ implementation mechanisms.

D. Expert Mechanism on the Rights of Indigenous Peoples

1. The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) provides a successful precedent for Indigenous advisory mechanisms within UN frameworks that maintain Indigenous autonomy while providing comprehensive oversight. Human Rights Council Resolution 33/25 established EMRIP with seven Indigenous experts serving in personal capacity, demonstrating the legal framework for Indigenous advisory mechanisms.
2. Resolution 33/25, paragraph 1(a) establishes EMRIP mandate "*to provide the Human Rights Council with expertise and advice on the rights of Indigenous Peoples as set out in the United Nations Declaration on the Rights of Indigenous Peoples.*" This comprehensive rights-based mandate demonstrates appropriate framework for Indigenous advisory mechanisms that address systemic issues rather than technical advice limited to specific areas.
3. Resolution 33/25, paragraph 1(b) establishes that "*the Expert Mechanism shall consist of seven independent experts, one from each of the seven indigenous sociocultural regions, the selection of whom shall be based on recognized competence and expertise in the field of human rights and Indigenous Peoples' issues.*" This framework provides precedent for seven regions representation and expertise-based selection.

4. Resolution 33/25, paragraph 2 establishes that "*within its mandate, the Expert Mechanism shall determine its own methods of work.*" This procedural autonomy enables accommodation of Indigenous protocols and decision-making approaches, demonstrating a successful framework for Indigenous advisory mechanisms that maintain Indigenous autonomy while operating within UN structures.
5. EMRIP provides an appropriate model for any BBNJ Indigenous advisory mechanism, contrasting with problematic models such as the KMGBF subsidiary body on Article 8(j) that subordinates Indigenous participation to State control and conflates Indigenous Peoples with other groups, undermining Indigenous rights specificity and self-determination.

E. Santiago Network on Loss and Damage

1. In support of the EMRIP model, the Santiago Network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, established under Decision 12/CMA.4, provides precedent for Indigenous participation in climate-related technical assistance mechanisms. The Santiago Network Advisory Board includes "Mr. Gideon Sanago, Representative of the Indigenous Peoples organizations," demonstrating institutional recognition of Indigenous expertise in loss and damage governance.
2. Decision 12/CMA.4 established the Santiago Network Advisory Board composition including representatives from various constituencies, with Indigenous Peoples organizations having designated representation alongside women and gender constituencies, children and youth NGOs, and regional groups. This framework demonstrates institutional acceptance of Indigenous representation in advisory mechanisms for climate-related technical assistance.
3. The Santiago Network membership structure enables Indigenous Peoples organizations to join as members of the network's growing community, providing technical assistance to countries and communities most vulnerable to climate change. This membership model demonstrates pathways for Indigenous participation in technical assistance delivery while maintaining organizational autonomy and expertise-based contributions.
4. The Santiago Network's recognition of Indigenous Peoples as both advisors and technical assistance providers demonstrates institutional understanding that Indigenous knowledge and

governance systems contribute essential expertise for addressing climate impacts, particularly loss and damage affecting Indigenous territories and communities.

5. The Santiago Network precedent supports Indigenous participation in BBNJ technical assistance mechanisms, demonstrating that Indigenous expertise is recognized as essential for addressing environmental challenges affecting Indigenous territories and knowledge, providing a framework for Indigenous advisory and membership roles in BBNJ implementation.

F. Green Climate Fund Indigenous Peoples Advisory Group

1. The Green Climate Fund Indigenous Peoples Advisory Group (IPAG), established through the GCF Indigenous Peoples Policy and operationalized in 2022, provides precedent for Indigenous advisory mechanisms within climate finance institutions. IPAG functions to enhance coordination between GCF, accredited entities, and Indigenous Peoples while ensuring Indigenous rights and knowledge are respected in climate finance operations.
2. The IPAG composition includes Indigenous experts from the seven Indigenous socio-cultural regions, with both primary and alternate members selected through Indigenous-controlled processes. Decision B.BM-2021/18 establishes IPAG membership for 2022-2024, demonstrating systematic Indigenous representation in climate finance governance.
3. The IPAG mandate includes providing advice to the GCF Board and Secretariat on Indigenous Peoples issues, reviewing GCF policies and procedures from Indigenous perspectives, facilitating Indigenous participation in GCF processes, and ensuring Indigenous rights and traditional knowledge protection in climate finance operations. This comprehensive mandate demonstrates an appropriate framework for Indigenous advisory mechanisms in environmental finance.
4. The GCF Indigenous Peoples Policy establishes that "*the Fund will ensure the full and effective participation of Indigenous Peoples in Fund-supported activities in a manner that is consistent with their rights as set out in applicable international instruments.*" This policy framework provides precedent for Indigenous participation requirements in environmental finance mechanisms.

5. IPAG experience demonstrates that Indigenous advisory mechanisms can effectively enhance environmental finance operations while maintaining Indigenous autonomy and rights-based approaches, providing a tested framework for Indigenous advisory mechanisms in BBNJ financial mechanisms and implementation support.

G. Climate Technology Centre and Network Indigenous engagement

1. The Climate Technology Centre and Network (CTCN), established under the UNFCCC Technology Mechanism, demonstrates pathways for Indigenous participation in climate technology governance through its Advisory Board structure and technical assistance delivery. The CTCN Advisory Board determines operational modalities and rules of procedure, with provisions for observer participation that can accommodate Indigenous organizations.
2. CTCN technical assistance delivery includes integration of Indigenous and traditional knowledge in climate technology solutions, as evidenced in CTCN initiatives that recognize Indigenous knowledge as essential for climate technology effectiveness. The CTCN Gender and Climate Technology Expert Roster includes "grassroots individuals to indigenous leaders" demonstrating institutional recognition of Indigenous expertise in climate technology.
3. Decision 25/CP.19 establishes CTCN modalities and procedures including provisions for observer participation in Advisory Board meetings, stating "The Board may decide on additional procedures for the participation of observer organizations." This framework provides the opportunity for Indigenous Peoples organization (or Indigenous caucus) participation in climate technology governance mechanisms.
4. CTCN experience demonstrates that climate technology mechanisms can accommodate Indigenous knowledge integration and participation while maintaining technical effectiveness, providing a framework for Indigenous participation in BBNJ technology transfer and capacity building mechanisms.
5. The CTCN example supports the EMRIP model in relation to Indigenous participation in BBNJ technology-related subsidiary bodies, demonstrating institutional precedent for Indigenous

expertise in technology transfer, capacity building, and technical assistance delivery that respects Indigenous knowledge while enhancing environmental governance effectiveness.

IV. Ways and means of implementing Indigenous knowledge holder membership

A. Extension of Article 49.2 expertise requirements

1. Article 49.2 expertise requirements for the Scientific and Technical Body should be extended to all subsidiary bodies established under the BBNJ Agreement, creating binding obligations for Indigenous traditional knowledge expertise alongside other technical requirements. The comprehensive nature of traditional knowledge systems necessitates Indigenous expertise across all BBNJ implementation areas.
2. Specific expertise requirements should be developed for each subsidiary body including relevant Indigenous traditional knowledge areas: marine genetic resources and traditional knowledge experts for the Access and Benefit-Sharing Committee; traditional governance and capacity building experts for the Capacity-building and Transfer of Marine Technology Committee; Indigenous rights and compliance monitoring experts for the Implementation and Compliance Committee.
3. Indigenous expertise requirements should be mandatory rather than optional considerations, ensuring Indigenous presence across all subsidiary bodies with equal standing and decision-making rights rather than advisory status. Minimum representation requirements should ensure systematic Indigenous participation across all subsidiary bodies.
4. The legal logic for extension rests on the comprehensive nature of traditional knowledge that encompasses all BBNJ implementation areas. Indigenous expertise is necessary across all (subsidiary) bodies to ensure appropriate Indigenous knowledge integration and protection, creating legal foundation for Indigenous membership requirements.

5. Extension of expertise requirements should specify that Indigenous knowledge holders serve as full members with equal standing and decision-making rights, maintaining accountability to Indigenous Peoples and governance systems rather than State representation, with rules of procedure accommodating Indigenous protocols and decision-making approaches.

B. Implementation of LCIPP-FWG appointment model

1. The LCIPP Facilitative Working Group appointment model for members and knowledge holders should be implemented for all BBNJ subsidiary bodies, enabling Indigenous representatives from seven socio-cultural regions to appoint Indigenous knowledge holders through their own governance systems while Parties serve formal nomination functions following Decision 2/CP.24 procedures.
2. Implementation would involve Indigenous representatives from seven socio-cultural regions, albeit through a potential advisory mechanism, appointing subsidiary body members with relevant traditional knowledge expertise, selected Indigenous experts serving in personal capacity based on Indigenous knowledge competency and community accountability, Indigenous-controlled decision-making processes ensuring appropriate cultural protocols and protection, and communicated through designated focal-points for formal COP-presidency nomination.
3. It should be established that Indigenous regions control nomination coordination, ensuring Indigenous-appointed candidates are formally nominated without political interference or modification based on State preferences, with timelines accommodating Indigenous decision-making processes and Indigenous regional consultation requirements.
4. The LCIPP-FWG model enables Indigenous Peoples to maintain control over representative selection while operating within formal UN frameworks, providing practical precedent for BBNJ implementation that respects Indigenous self-determination while satisfying institutional requirements.
5. Indigenous regions would conduct selection through their existing decision-making processes that are already functioning effectively in various international contexts, including under the UNFCCC

framework, demonstrating viability for BBNJ implementation without requiring new institutional structures or processes.

C. Seven Indigenous socio-cultural regions framework

1. The seven Indigenous socio-cultural regions framework should be utilized for systematic Indigenous representation across all BBNJ subsidiary bodies and advisory mechanisms: Africa; the Arctic; Asia; Central and South America and the Caribbean; Eastern Europe, Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific.
2. Each region would utilize existing Indigenous decision-making processes to nominate knowledge holders with relevant expertise for specific subsidiary bodies while maintaining accountability to Indigenous communities and governance systems. These processes have governed Indigenous Peoples for decades and are already functioning effectively in international contexts.
3. Regional representation ensures comprehensive Indigenous participation across all ocean basins and marine biodiversity areas, addressing the global scope of BBNJ implementation while respecting Indigenous governance diversity and enabling systematic coordination among Indigenous participants across subsidiary bodies.
4. The seven regions framework provides tested structure for Indigenous representation that balances comprehensive coverage with practical implementation, enabling Indigenous coordination across subsidiary bodies while maintaining regional autonomy and governance diversity.
5. Regional frameworks should accommodate Indigenous governance structures and decision-making approaches rather than imposing external requirements, ensuring that Indigenous selection processes maintain cultural appropriateness and community accountability while satisfying BBNJ institutional requirements.

V. Minimum standards for Indigenous advisory mechanisms

A. EMRIP model implementation under BBNJ

1. Based on suggestions from the first Preparatory Commission regarding advisory mechanisms as secondary considerations to full membership, any Indigenous advisory mechanism established under BBNJ should follow the Expert Mechanism on the Rights of Indigenous Peoples model rather than problematic frameworks that subordinate Indigenous participation to State control.
2. EMRIP model implementation under BBNJ would involve seven Indigenous experts from seven socio-cultural regions serving in personal capacity with Indigenous-controlled selection processes following LCIPP-FWG procedures, comprehensive mandate providing advice across all BBNJ implementation areas, procedural autonomy enabling accommodation of Indigenous protocols and decision-making approaches, and direct COP placement ensuring advisory authority across all BBNJ entities.
3. The advisory mechanism should supplement the work of all bodies under COP, ensuring Indigenous knowledge and rights issues are not dealt with in compartmentalized silos that undermine the holistic view of Indigenous knowledge integrating ecological, social, cultural, legal and governance dimensions across all BBNJ implementation mechanisms.
4. The advisory mechanism authority should extend across all BBNJ implementation mechanisms rather than subordination to individual subsidiary bodies, enabling comprehensive Indigenous oversight while preventing institutional silos that fragment Indigenous knowledge integration and undermine Indigenous rights protection.
5. The EMRIP model provides a tested framework for Indigenous advisory mechanisms that maintain Indigenous autonomy while providing comprehensive oversight within UN structures, demonstrating a successful approach that respects Indigenous self-determination while enabling effective institutional participation.

B. EMRIP mandate precedents for advisory mechanisms

1. Human Rights Council Resolution 33/25 provides specific language that negotiators can reference for establishing Indigenous advisory mechanisms, demonstrating established UN practice for

Indigenous expert mechanisms with: Indigenous-controlled composition through regional representation; independent expertise rather than state representation; autonomous working methods within defined mandate parameters; technical assistance authority for states upon request; research and advisory functions with direct reporting to governing body.

2. **Resolution 33/25, paragraph 1(a):** *"Decides to amend the mandate of the Expert Mechanism on the Rights of Indigenous Peoples to provide the Human Rights Council with expertise and advice on the rights of Indigenous Peoples as set out in the United Nations Declaration on the Rights of Indigenous Peoples, and to assist Member States, upon request, in achieving the ends of the Declaration through the promotion, protection and fulfilment of the rights of Indigenous Peoples."*
3. **Resolution 33/25, paragraph 1(b):** *"Also decides that the Expert Mechanism shall consist of seven independent experts, one from each of the seven indigenous sociocultural regions, the selection of whom shall be based on the following criteria: (i) Recognized competence and expertise in the field of human rights and Indigenous Peoples' issues; (ii) Expertise in areas relevant to the mandate of the Expert Mechanism; (iii) Independence and impartiality."*
4. **Resolution 33/25, paragraph 2:** *"Further decides that, within its mandate, the Expert Mechanism shall determine its own methods of work, although the Expert Mechanism may not adopt resolutions or decisions."*
5. **Resolution 33/25, paragraph 3:** *"Decides that the Expert Mechanism shall engage with Member States at the national level by offering technical assistance on legislation, policies and programmes relating to the rights of Indigenous Peoples, upon request and with the consent of the States concerned."*
6. **Resolution 33/25, paragraph 4:** *"Also decides that the Expert Mechanism shall prepare studies and research-based advice at the request of the Human Rights Council and may suggest proposals to be submitted to the Human Rights Council for its consideration and approval."*

C. Ex officio roles and coordination functions

1. Advisory mechanism members should be placed ex officio in subsidiary bodies based on their specific expertise areas while maintaining coordination functions through regular advisory mechanism meetings, ensuring comprehensive Indigenous oversight across all BBNJ

implementation mechanisms.

2. Ex officio placement would designate Indigenous knowledge experts in Access and Benefit-Sharing Committee, traditional governance and capacity building experts in Capacity-building and Transfer of Marine Technology Committee, Indigenous rights and compliance monitoring experts in Implementation and Compliance Committee, traditional economic systems and funding accessibility experts in Finance Committee, and marine biodiversity and Indigenous knowledge experts in Scientific and Technical Body, amongst others.
3. Coordination of this mechanism should include regular coordination meetings, open to the participation of Indigenous Peoples, Parties and observers, among Indigenous members of different subsidiary bodies to prevent institutional silos, unified position development on cross-cutting issues affecting multiple subsidiary bodies, peer support mechanisms for Indigenous members operating in predominantly non-Indigenous institutional structures, and cross-subsidiary body mechanisms ensuring Indigenous knowledge integration across all BBNJ implementation areas.
4. The dual function framework ensures that Indigenous knowledge issues are not dealt with in institutional silos while maintaining the holistic view of Indigenous knowledge that integrates ecological, social, cultural, legal and governance dimensions across all BBNJ implementation mechanisms.
5. Advisory mechanism coordination should respect the rights of Indigenous Peoples while ensuring effective institutional participation, enabling Indigenous members to maintain accountability to Indigenous Peoples while participating effectively in subsidiary body deliberations and decision-making processes.

D. Problematic models to avoid

1. The KMGBF subsidiary body on Article 8(j) represents a problematic model that should be avoided for any BBNJ Indigenous advisory mechanism due to its State-dominated composition, constrained technical advisory role, State-controlled procedures, and problematic conflation of

Indigenous Peoples with local communities that undermines Indigenous rights specificity.

2. KMGBF SB8j limitations include constrained technical advisory role limited to specific biodiversity issues without comprehensive rights framework, State-dominated composition with limited Indigenous representation subject to State approval processes, State-controlled procedures following standard UN formats without Indigenous protocol accommodation, problematic conflation of Indigenous Peoples with local communities undermining Indigenous rights specificity, and subordinate status within CBD framework limiting independent advisory capacity.
3. In contrast, EMRIP provides the appropriate framework with comprehensive rights-based mandate covering all aspects of Indigenous rights implementation with authority to address systemic issues, seven Indigenous experts selected through Indigenous-controlled processes serving in personal capacity, procedural autonomy with authority to determine own working methods and accommodate Indigenous protocols, Indigenous-specific focus maintaining distinction between Indigenous Peoples and other groups, and direct Human Rights Council advisory relationship with independent advocacy capacity.
4. Any BBNJ Indigenous advisory mechanism should follow EMRIP model principles including Indigenous-controlled selection, comprehensive mandate, procedural autonomy, Indigenous-specific focus, and independent advisory authority rather than subordination to State control or conflation with other groups that would undermine Indigenous rights and self-determination.
5. The comparison demonstrates that the EMRIP model represents an appropriate framework for Indigenous advisory mechanisms that maintain Indigenous autonomy while providing comprehensive oversight, contrasting with problematic approaches that subordinate Indigenous participation to State control and undermine Indigenous rights specificity.

VI. Implementation considerations

A. Funding mechanisms and resource allocation

1. Dedicated funding mechanisms should be established within BBNJ financial frameworks to ensure sustainable Indigenous knowledge holder participation across all subsidiary bodies rather than project-based support that creates participation gaps and perpetuates marginalization of Indigenous voices in decision-making processes.
2. Funding mechanisms should include dedicated funding streams for Indigenous participation within BBNJ financial mechanisms with long-term sustainability guarantees, simplified access procedures accommodating Indigenous governance structures and decision-making timelines, application processes respecting Indigenous documentation requirements and oral traditions, and equitable funding allocation across all seven Indigenous socio-cultural regions.
3. Advisory mechanism funding should be integrated with subsidiary body participation support, enabling advisory mechanism members to participate effectively in subsidiary bodies while maintaining coordination functions, ensuring comprehensive Indigenous participation support while preventing funding fragmentation across different participation modalities.
4. Funding procedures should accommodate Indigenous governance structures and decision-making timelines rather than imposing inappropriate requirements that create barriers to Indigenous participation, recognizing that Indigenous governance systems operate according to Indigenous protocols and timelines requiring accommodation rather than conformity to Western institutional requirements.
5. Resource allocation should address diverse regional needs and circumstances while ensuring systematic representation across all regions, with reporting mechanisms aligning with Indigenous accountability systems while satisfying institutional requirements for transparency and effectiveness monitoring.

B. Procedural accommodations and cultural protocols

1. Rules of procedure for subsidiary bodies and advisory mechanisms should accommodate Indigenous protocols, consensus-building processes, ceremonial requirements, and cultural protocols while ensuring effective participation in technical and policy discussions with equal

standing and decision-making rights.

2. Procedural accommodations should include accommodation of Indigenous consensus-building processes and decision-making timelines, recognition of ceremonial requirements and cultural protocols in meeting procedures, provision of interpretation services for Indigenous languages when necessary, and accommodation of Indigenous documentation requirements and oral traditions in information sharing and decision-making processes.
3. Indigenous knowledge holders' accountability should always be to Indigenous Peoples and their governance systems rather than State representation, with clear understanding that Indigenous members represent Indigenous knowledge and interests rather than State positions, ensuring Indigenous autonomy and self-determination in participation modalities.
4. Cultural protocols should be respected in Indigenous knowledge sharing and protection, including appropriate free, prior and informed consent mechanisms ensuring Indigenous Peoples retain control over knowledge dissemination, culturally appropriate sharing mechanisms respecting Indigenous intellectual property and cultural protocols, and authority to prevent knowledge extraction without Indigenous control while facilitating appropriate scientific collaboration.
5. Procedural frameworks should enable Indigenous members to maintain their cultural identity and governance relationships while participating effectively in subsidiary body deliberations, ensuring that Indigenous participation enhances rather than undermines Indigenous self-determination and cultural integrity.

VII. Conclusion

1. The legal foundations within the BBNJ Agreement, combined with successful precedents from other UN frameworks, provide clear pathways for ensuring full membership of Indigenous knowledge holders across all BBNJ subsidiary bodies while establishing appropriate advisory mechanisms that supplement rather than replace direct participation in decision-making processes.

2. The LCIPP Facilitative Working Group model demonstrates that Indigenous-controlled appointment processes can operate effectively within formal UN frameworks, enabling Indigenous Peoples to maintain substantive control over representative selection while satisfying institutional requirements through Party nomination functions.
3. The positive signals from PrepCom 2 co-chairs' note regarding Indigenous-controlled selection for the Clearing-House Mechanism expert group demonstrate institutional openness that should be extended across all BBNJ subsidiary bodies and advisory mechanisms, providing foundation for comprehensive Indigenous participation frameworks.
4. Implementation of comprehensive Indigenous participation requires dedicated funding mechanisms, procedural accommodations for Indigenous protocols, and recognition that Indigenous knowledge holders serve based on traditional knowledge expertise and community accountability rather than State representation, ensuring that BBNJ implementation respects Indigenous rights and contributes to Indigenous self-determination.
5. The success of BBNJ implementation depends not only on scientific and technical expertise but also on traditional knowledge systems and rights-based approaches that Indigenous Peoples have developed through millennia of marine stewardship, making Indigenous knowledge holder participation essential for effective marine biodiversity conservation beyond national jurisdiction while respecting Indigenous rights and contributing to global environmental governance that serves both conservation and social justice objectives.

ANNEX III: Establishing a voluntary fund for Indigenous Peoples' participation and enabling direct access to grant-based funding

Executive Summary

1. This concept note proposes the establishment of a dedicated voluntary fund for Indigenous Peoples' participation in 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 Agreement), complementing the existing voluntary trust fund established under Article 52, paragraph 4(a) for developing States Parties.
2. The proposed Indigenous Peoples' Voluntary Fund would address a critical gap in the current BBNJ financial mechanism by ensuring meaningful participation of Indigenous Peoples' representatives in BBNJ processes, drawing upon the successful precedent of the United Nations Voluntary Fund for Indigenous Peoples established by General Assembly resolution 40/131 of 13 December 1985.
3. The concept note further proposes enabling direct access mechanisms that allow Indigenous Peoples' institutions to receive grant-based funding directly from the BBNJ special fund established under Article 52, paragraph 4(b), without requiring intermediary implementing entities, consistent with the Agreement's recognition of Indigenous Peoples as "holders of traditional knowledge" in Article 52, paragraph 6(c).
4. These proposals would operationalize the BBNJ Agreement's commitments to Indigenous rights and knowledge while ensuring consistency with established UN practice for Indigenous participation funding, providing tested frameworks that can be directly adapted for BBNJ implementation.
5. Implementation would require amendments to the draft financial rules governing the BBNJ financial mechanism and establishment of appropriate governance structures, administrative arrangements, and eligibility criteria based on proven models from existing UN Indigenous voluntary funds.

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I. Introduction

1. Among the Agreement's most significant innovations is its systematic integration of Indigenous Peoples' rights and knowledge throughout its substantive provisions. From the Preamble's acknowledgment of Indigenous Peoples "as stewards of biodiversity" to specific operational requirements for free, prior, and informed consent in accessing their knowledge associated with marine genetic resources, the BBNJ Agreement establishes Indigenous Peoples as essential partners in high seas conservation rather than peripheral stakeholders to be consulted.

2. This recognition reflects both the evolution of international law toward greater respect for Indigenous rights and the growing scientific understanding of Indigenous knowledge systems as vital sources of information for effective ecosystem-based management. Indigenous Peoples maintain traditional territories and knowledge systems that extend into areas beyond national jurisdiction, providing unique insights into marine biodiversity patterns, sustainable use practices, and conservation strategies that have been developed and refined over millennia of intimate relationship with ocean ecosystems.
3. However, the Agreement's progressive commitments to Indigenous participation face a fundamental implementation challenge: the absence of adequate financial mechanisms to ensure meaningful Indigenous engagement in BBNJ processes. While the Agreement establishes a voluntary trust fund to support developing States Parties' participation and recognizes Indigenous Peoples as "holders of traditional knowledge" eligible for special fund support, these provisions do not address the specific needs and governance structures of Indigenous Peoples seeking to participate in BBNJ decision-making processes.
4. The current financial architecture reflects a State-centric approach to international environmental governance that, while appropriate for supporting government participation, fails to accommodate the distinct status of Indigenous Peoples as rights-holders under international law with their own governance structures, decision-making processes, and institutional arrangements. This gap threatens to exclude Indigenous voices from the very processes where their participation is most needed and legally required, undermining both the Agreement's conservation objectives and its human rights commitments.
5. This concept note addresses this critical implementation gap by proposing the establishment of a dedicated BBNJ Indigenous Peoples' Voluntary Fund, complemented by direct access mechanisms that would enable Indigenous institutions to receive grant-based funding directly from BBNJ financial mechanisms. These proposals build upon nearly four decades of successful experience with Indigenous participation funding within the United Nations system, drawing particularly upon the precedent of the UN Voluntary Fund for Indigenous Peoples established in 1985.
6. The proposed fund represents more than a technical adjustment to BBNJ financial arrangements; it embodies a fundamental recognition that effective ocean governance requires the full participation of all knowledge-holders and rights-holders, including Indigenous Peoples whose knowledge and governance systems offer essential contributions to marine biodiversity conservation. By ensuring Indigenous participation in BBNJ processes, the fund would not only

fulfill the Agreement's legal obligations regarding Indigenous rights but also enhance the quality and effectiveness of conservation decisions through the integration of diverse knowledge systems and perspectives.

7. The timing of this proposal is critical. As the Preparatory Commission works to establish the institutional framework for BBNJ implementation, decisions made during this preparatory phase will determine whether the Agreement's pioneering recognition of Indigenous rights translates into meaningful participation or remains an unfulfilled commitment. The establishment of appropriate financial mechanisms for Indigenous participation represents one of the most important tests of the international community's commitment to inclusive and effective ocean governance.
8. The recommendations presented in this concept note are grounded in extensive consultation with Indigenous Peoples' organizations, analysis of existing UN precedents for Indigenous participation funding, and careful consideration of the BBNJ Agreement's specific provisions and institutional requirements. They offer a practical pathway for operationalizing the Agreement's Indigenous rights commitments while building upon proven models that have successfully facilitated Indigenous participation in other international processes.
9. The establishment of a dedicated Indigenous Peoples' Voluntary Fund and direct access mechanisms would signal the international community's commitment to a new paradigm of ocean governance—one that recognizes Indigenous Peoples as essential partners in protecting the marine biodiversity upon which all life depends. This concept note provides the roadmap for achieving that transformation.

II. Legal and policy foundations

A. BBNJ Agreement provisions on Indigenous Peoples and traditional knowledge

1. The BBNJ Agreement establishes comprehensive legal foundations for Indigenous participation through multiple provisions that recognize Indigenous Peoples' distinct status and contributions to marine biodiversity conservation. The Agreement's Preamble acknowledges "the need to address, in a coherent and cooperative manner, biodiversity loss and degradation of ecosystems of the ocean" while "recognizing the important role of Indigenous Peoples and local communities as stewards of biodiversity."

2. Article 7, paragraph 5(b) establishes that Parties shall be guided by "*respect for, preservation of and maintenance of knowledge, innovations and practices of Indigenous Peoples and local communities that contribute to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.*" This provision creates legal obligations for meaningful Indigenous participation in BBNJ implementation processes.
3. Article 9 on area-based management tools requires that "*traditional knowledge of Indigenous Peoples and local communities*" be considered in the identification of areas requiring protection, while Article 12 on environmental impact assessments mandates consideration of "*cumulative impacts on Indigenous Peoples and local communities*" and their traditional knowledge systems.
4. Article 52, paragraph 6(c) specifically provides that the special fund and Global Environment Facility trust fund "*shall be utilized in order to support conservation and sustainable use programmes by Indigenous Peoples and local communities as holders of traditional knowledge,*" establishing direct legal foundations for Indigenous Peoples' access to BBNJ funding mechanisms.
5. The Agreement's integration of Indigenous knowledge throughout its substantive provisions creates legal obligations for Indigenous participation across all BBNJ processes rather than limitation to specific technical areas, supporting the establishment of dedicated participation funding mechanisms rather than reliance on general civil society frameworks.

B. United Nations Declaration on the Rights of Indigenous Peoples foundations

1. The United Nations Declaration on the Rights of Indigenous Peoples, adopted by General Assembly resolution 61/295 of 13 September 2007, provides fundamental legal foundations for Indigenous participation in international processes affecting their rights, territories, and knowledge systems. Article 18 establishes that "*Indigenous Peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures.*"
2. Article 19 requires that "*States shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.*" This provision creates obligations for meaningful Indigenous participation in BBNJ processes that may affect Indigenous marine territories or knowledge.
3. Article 31 recognizes Indigenous Peoples' rights to "*maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions*" as well as "*intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions,*" establishing rights-based foundations for Indigenous participation in BBNJ Indigenous knowledge processes.

4. Article 41 provides that "*the organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance,*" creating obligations for UN mechanisms to support Indigenous participation through appropriate funding mechanisms.
5. The Declaration's comprehensive framework for Indigenous rights provides legal foundations for distinct Indigenous participation procedures and funding mechanisms that recognize Indigenous Peoples' status as peoples with rights under international law rather than as civil society stakeholders.

C. Current gaps in BBNJ financial mechanism

1. The voluntary trust fund established under Article 52, paragraph 4(a) is specifically designed "*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.*" This State-focused framework does not address Indigenous Peoples' participation needs as distinct rights-holders.
2. While Article 52, paragraph 6(c) provides for Indigenous access to special fund resources for "*conservation and sustainable use programmes,*" this provision addresses programmatic funding rather than participation support, creating a gap in funding mechanisms for Indigenous representatives to participate meaningfully in BBNJ decision-making processes.
3. The current BBNJ financial mechanism lacks specific provisions for Indigenous Peoples' institutions to access funding directly, potentially requiring Indigenous organizations to work through State or international implementing entities that may not understand or respect Indigenous governance structures and decision-making processes.
4. Document A/AC.296/2025/18 on operationalization of BBNJ financial provisions acknowledges that "*implementing entities*" may include "*institutions or government authorities identified by Indigenous Peoples and local communities to receive such funds,*" but does not establish clear procedures for Indigenous Peoples to qualify as implementing entities or access funding directly.
5. The absence of dedicated Indigenous participation funding creates systematic barriers that may exclude Indigenous voices from BBNJ processes, contradicting the Agreement's own commitments to Indigenous rights and Indigenous knowledge integration, and requiring establishment of complementary funding mechanisms based on proven UN precedents.

III. Precedents from existing UN Indigenous voluntary funds

A. United Nations Voluntary Fund for Indigenous Peoples model

1. The United Nations Voluntary Fund for Indigenous Peoples, established by General Assembly resolution 40/131 of 13 December 1985, provides the most comprehensive precedent for Indigenous participation funding within the UN system. The Fund *"offers financial support in the form of grants"* that *"aim to help representatives of indigenous communities and organizations to participate in UN mechanisms and processes most relevant to indigenous issues."*
2. General Assembly resolution 40/131 establishes that *"any member of an indigenous community can apply for a grant,"* demonstrating successful precedent for individual Indigenous participation support without requiring formal organizational structures or NGO consultative status. This approach accommodates Indigenous governance structures that may not conform to Western organizational models.
3. The Fund's scope has been systematically expanded through subsequent General Assembly resolutions to include participation in new UN mechanisms: Resolution 56/140 (2001) for the Permanent Forum on Indigenous Issues, resolution 63/161 (2008) for the Expert Mechanism on the Rights of Indigenous Peoples, resolution 65/198 (2010) for Human Rights Council sessions and treaty body meetings, and resolution 74/135 (2019) for the UN Forum on Business and Human Rights and UNFCCC processes.
4. The Fund operates through *"grants issued to successful applicants based on fixed criteria and review by the Board of Trustees,"* with administration *"in accordance with the Financial Regulations and Rules of the United Nations by the Secretary-General assisted by the Board of Trustees."* This governance structure provides tested precedent for Indigenous fund administration within UN frameworks.
5. The Fund's mandate demonstrates that Indigenous participation funding can be both effective and procedurally sound, with the Board of Trustees advising *"the Secretary-General on the use of funds, through the Office of the High Commissioner for Human Rights who also serves as the Secretariat of the Fund,"* providing proven administrative arrangements that can be adapted for BBNJ implementation.

B. Convention on Biological Diversity Voluntary Fund precedent

1. The Convention on Biological Diversity has established a voluntary fund specifically for Indigenous Peoples and local communities that provides direct precedent for biodiversity-related Indigenous participation funding. According to CBD documentation, *"this Fund remains the only United Nations fund specifically for indigenous peoples and local community participation in meetings related to the Convention."*
2. The CBD Voluntary Fund demonstrates successful integration of Indigenous participation funding within biodiversity conservation frameworks, providing tested procedures for Indigenous representatives to participate in technical discussions on Indigenous knowledge, genetic resources, and conservation strategies relevant to their territories and knowledge systems.

3. The Fund's operations show that Indigenous participation funding can enhance rather than complicate technical biodiversity processes, with Indigenous representatives contributing traditional ecological knowledge and community-based conservation approaches that strengthen scientific assessments and policy development.
4. CBD experience provides precedent for Indigenous participation in international biodiversity governance that directly parallels BBNJ requirements, demonstrating that Indigenous voluntary funds can operate effectively within complex multilateral environmental agreements while respecting Indigenous governance structures and decision-making processes.
5. Noting that the OHCHR model is preferred, the CBD model establishes that Indigenous participation funding is not only feasible but essential for effective biodiversity governance, providing tested frameworks that can be directly adapted for BBNJ implementation while building upon existing institutional knowledge and administrative procedures.

IV. Proposed BBNJ Indigenous Peoples' Voluntary Fund

A. Establishment and legal framework

1. The BBNJ Indigenous Peoples' Voluntary Fund should be established through a decision of the Conference of the Parties at its first meeting, complementing the voluntary trust fund established under Article 52, paragraph 4(a) for developing States Parties. The Fund would operate as a distinct component of the BBNJ financial mechanism while maintaining consistency with established UN practice for Indigenous participation funding.
2. The Fund's establishment should reference the BBNJ Agreement's commitments to Indigenous rights and knowledge, particularly Article 52, paragraph 6(c) recognition of Indigenous Peoples as "*holders of traditional knowledge*," and the Agreement's Preamble acknowledgment of Indigenous Peoples' role "*as stewards of biodiversity*."
3. Legal foundations should draw upon the United Nations Declaration on the Rights of Indigenous Peoples, particularly Articles 18 and 19 on Indigenous participation rights, and Article 41 on UN system obligations to support Indigenous rights realization through "*financial cooperation and technical assistance*."
4. The Fund should be administered in accordance with the Financial Regulations and Rules of the United Nations, following the precedent of the UN Voluntary Fund for Indigenous Peoples, with appropriate governance structures established to ensure Indigenous oversight and accountability.
5. Terms of reference should be developed with the full and effective participation of Indigenous Peoples, that specify the Fund's purpose, scope, eligibility criteria, application procedures,

governance arrangements, and reporting requirements, drawing upon proven models from existing UN Indigenous voluntary funds while adapting to BBNJ-specific requirements.

B. Purpose and scope of the Fund

1. The primary purpose of the BBNJ Indigenous Peoples' Voluntary Fund should be to facilitate meaningful participation of Indigenous Peoples' representatives in all BBNJ processes, including meetings of the Conference of the Parties, subsidiary bodies, scientific and technical committees, and other relevant forums established under the Agreement.
2. The Fund should support participation in BBNJ, including, but not limited to: Processes related to area-based management tools, environmental impact assessments, capacity-building and transfer of marine technology, and Indigenous knowledge integration. Recognizing that Indigenous Peoples have rights and interests across all BBNJ implementation areas rather than limitation to specific technical domains.
3. Eligibility should extend to representatives of Indigenous Peoples' communities, organizations, and institutions, including traditional governance bodies, Indigenous knowledge holders, and Indigenous marine practitioners, without requiring formal organizational registration or NGO consultative status, consistent with the principle of self-determination and self-identification.
4. The Fund should provide comprehensive participation support including travel costs, accommodation, daily subsistence allowances, interpretation services where needed, and capacity-building support to enable effective engagement with BBNJ technical and policy processes.
5. Geographic scope should ensure global representation of Indigenous Peoples, including the seven Indigenous socio-cultural regions are Africa; the Arctic; Asia; Central and South America and the Caribbean; Eastern Europe, Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific. Special attention to Indigenous Peoples situated in or near marine regions, including from small island developing States and/or whose territories may be directly affected by BBNJ implementation.

C. Governance and administration

1. A Board of Trustees should be established to provide oversight and guidance for the Fund, following the precedent of the UN Voluntary Fund for Indigenous Peoples. The Board should include Indigenous representatives from different geographic regions, ensuring that Indigenous Peoples maintain control over funding decisions affecting their participation.
2. The Board should be composed of seven Indigenous representatives selected through Indigenous regional processes, with support provided by the BBNJ Secretariat, ensuring Indigenous control

while maintaining appropriate linkages to BBNJ institutional structures.

3. Administrative arrangements should designate the BBNJ Secretariat as the Fund administrator, with appropriate support from UN entities with experience in Indigenous voluntary fund management, such as the Office of the High Commissioner for Human Rights or the Department of Economic and Social Affairs.
4. The Board should meet annually in conjunction with Conference of the Parties sessions, with additional meetings as needed to review applications and make funding decisions. Decision-making should operate by consensus, with Indigenous representatives maintaining effective control over funding priorities and criteria.
5. Reporting arrangements should require annual reports to the Conference of the Parties on Fund operations, including contributions received, grants awarded, participation supported, and outcomes achieved, with disaggregated data by region, gender, and type of BBNJ process to ensure transparency and accountability, excluding personal information of grantees.

V. Direct access mechanisms for Indigenous Peoples

A. Legal foundations for direct access

1. Article 52, paragraph 6(c) of the BBNJ Agreement provides that the special fund shall be utilized to "*support conservation and sustainable use programmes by Indigenous Peoples and local communities as holders of traditional knowledge,*" establishing legal foundations for Indigenous Peoples to access BBNJ funding directly rather than through intermediary implementing entities.
2. Document A/AC.296/2025/18 acknowledges that implementing entities may include "*institutions or government authorities identified by Indigenous Peoples and local communities to receive such funds,*" providing procedural foundations for Indigenous Peoples to qualify as implementing entities under BBNJ financial mechanisms.
3. The United Nations Declaration on the Rights of Indigenous Peoples, Article 23, establishes that "*Indigenous Peoples have the right to determine and develop priorities and strategies for exercising their right to development,*" supporting direct access arrangements that allow Indigenous Peoples to control their own development processes without external intermediaries.
4. The right to free, prior, and informed consent, as reflected in the United Nations Declaration on the Rights of Indigenous Peoples, recognized throughout the BBNJ Agreement and international law, requires that Indigenous Peoples maintain control over decisions affecting their territories, resources, and knowledge systems, supporting direct access arrangements that respect Indigenous Peoples and their governance structures and decision-making processes.

B. Institutional eligibility criteria

1. Indigenous Peoples eligible for direct access should include Indigenous Peoples organizations, traditional governance bodies, Indigenous knowledge institutions, Indigenous marine management organizations, and Indigenous research and education institutions that demonstrate clear connections to marine territories or marine Indigenous knowledge systems.
2. Eligibility criteria should accommodate diverse Indigenous governance structures, including traditional councils, hereditary leadership systems, clan-based organizations, and other Indigenous institutional forms that may not conform to Western organizational models but maintain legitimacy within Indigenous Peoples.
3. Institutions should demonstrate capacity to manage grant funding in accordance with UN financial regulations while maintaining their Indigenous governance structures and decision-making processes. This may include partnerships with technical support organizations that respect, promote and protect the rights of Indigenous Peoples.
4. Self-identification should remain the governing principle for Indigenous institutional eligibility, consistent with UN practice and international Indigenous rights standards, with verification processes that respect Indigenous governance structures and avoid external determination of Indigenous identity or legitimacy.

C. Application and approval procedures

1. Application procedures should be streamlined to accommodate Indigenous Peoples, their characteristics, including acceptance of oral presentations, traditional documentation formats, and Indigenous language submissions with appropriate translation support provided by the BBNJ Secretariat.
2. Technical assistance should be provided to Indigenous Peoples to support proposal development, including capacity-building workshops, and partnerships with technical support organizations that understand and respect Indigenous governance structures and knowledge systems.
3. Review processes should include Indigenous expertise at all levels, with Indigenous reviewers evaluating proposals for cultural appropriateness, community accountability, and consistency with Indigenous governance principles, in addition to technical and financial criteria.
4. Approval timelines should accommodate Indigenous decision-making processes, which may require community consultations and traditional governance procedures that operate on different timescales than Western organizational processes.
5. Monitoring and evaluation frameworks should be developed in partnership with Indigenous Peoples, potentially incorporating Indigenous indicators of success and accountability

mechanisms that respect traditional governance structures while meeting UN financial management requirements.

VI. Recommendations and next steps

A. Immediate actions for the Preparatory Commission

1. The Preparatory Commission should include provisions for the BBNJ Indigenous Peoples' Voluntary Fund in the draft financial rules governing the BBNJ financial mechanism, establishing legal foundations for the Fund's operation.
2. Initial consultations should be conducted with Indigenous Peoples to refine the Fund's design, ensure cultural appropriateness, and build Indigenous support for the proposal, utilizing existing Indigenous participation mechanisms and Indigenous partners.
3. Resource mobilization should begin immediately, with the Preparatory Commission encouraging States Parties to make voluntary contributions to support Indigenous participation in BBNJ processes, building upon existing commitments to Indigenous rights and knowledge integration.
4. Technical partnerships should be established with UN entities experienced in Indigenous voluntary fund management, including the Office of the High Commissioner for Human Rights and the Department of Economic and Social Affairs, to support fund design and implementation planning.
5. Draft terms of reference should be developed for both the Indigenous Peoples' Voluntary Fund and direct access mechanisms, with the full and effective participation of Indigenous Peoples, drawing upon proven models from existing UN Indigenous funds while adapting to BBNJ-specific requirements and Indigenous Peoples' needs.

B. Actions for the first Conference of the Parties

1. The Conference of the Parties should formally establish the BBNJ Indigenous Peoples' Voluntary Fund through a dedicated decision that specifies the Fund's purpose, scope, governance arrangements, and operational procedures, ensuring consistency with international Indigenous rights standards.
2. A Board of Trustees should be appointed through Indigenous regional processes, with appropriate support provided for Indigenous representatives to participate in Board meetings and fund governance activities, ensuring meaningful Indigenous control over fund operations.

3. Direct access procedures should be operationalized through amendments to special fund operational guidelines, establishing clear pathways for Indigenous Peoples to qualify as implementing entities and access grant-based funding directly.
4. Initial funding commitments should be secured from States Parties and other donors, with a target in initial capitalization to demonstrate political commitment and enable immediate fund operations.

VII. Conclusion

1. The establishment of a BBNJ Indigenous Peoples' Voluntary Fund and direct access mechanisms represents a critical opportunity to operationalize the Agreement's commitments to Indigenous rights and knowledge while building upon proven UN precedents for Indigenous participation funding.
2. The proposed Fund would address systematic gaps in the current BBNJ financial mechanism that may exclude Indigenous Peoples' voices from decision-making processes affecting their rights, territories, and knowledge systems, ensuring meaningful Indigenous participation across all BBNJ implementation areas.
3. Direct access mechanisms would enable Indigenous Peoples to receive grant-based funding directly from BBNJ financial mechanisms, respecting Indigenous governance structures and decision-making processes while contributing to effective marine biodiversity conservation and sustainable use.
4. Implementation would require political commitment from States Parties, technical support from UN entities with Indigenous fund management experience, and meaningful partnership with Indigenous Peoples' organizations and networks to ensure cultural appropriateness and community accountability.
5. Success would contribute not only to effective BBNJ implementation but also to broader recognition of Indigenous Peoples' rights and contributions within the international environmental governance system, providing precedent for Indigenous participation funding in other multilateral environmental agreements and UN processes.

ANNEX IV: Modalities for the participation of Indigenous Peoples in BBNJ reporting

Executive Summary

1. Among the critical governance issues under consideration is the establishment of reporting requirements for Parties and institutional arrangements under the Agreement. The note by the Secretariat, A/AC.296/2025/17, provides a comprehensive overview of the procedural architecture for reporting, drawing upon practices from a wide range of multilateral instruments.
2. The purpose of this note is to propose a set of modalities for consideration by the Preparatory Commission and for adoption by the COP that would ensure the proactive, structured, and meaningful participation of Indigenous Peoples in the Agreement's reporting and review framework.
3. The effective, equitable, and coherent implementation of the BBNJ Agreement hinges on the full integration of all its principles and obligations into its monitoring and review mechanisms. The Agreement is groundbreaking in its consistent recognition of the rights of Indigenous Peoples and the value of their knowledge.
4. Consequently, a decision by the COP to establish a formal modality for the participation of Indigenous Peoples in Party reporting is not merely a matter of good practice but is a legal and practical imperative. Such a modality is essential to give effect to the explicit provisions of the Agreement, to ensure the legitimacy and durability of its outcomes, and to provide the Agreement's institutional bodies with the comprehensive information necessary to fulfill their mandates.
5. This note focuses specifically on integrating the voices, knowledge, and perspectives of Indigenous Peoples directly into the substantive processes of information-gathering, reporting,

and review that will form the backbone of the Agreement's implementation cycle. By focusing on the content and process of reporting under Articles 12, 16, 26, 45, and 54, this note seeks to embed Indigenous participation within the reporting work of the Agreement.

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I. Introduction

1. As the Preparatory Commission works to establish the institutional framework necessary for the Agreement's effective implementation, it confronts a unique opportunity to pioneer new standards for inclusive governance in multilateral environmental agreements. The BBNJ Agreement is distinguished not only by its comprehensive approach to high seas conservation but also by its groundbreaking recognition of Indigenous Peoples' rights and the critical value of their knowledge in marine biodiversity conservation and sustainable use.
2. This recognition is not merely aspirational but is embedded throughout the Agreement's substantive provisions, creating legal obligations that extend from the Preamble's affirmation of the United Nations Declaration on the Rights of Indigenous Peoples to specific operational requirements for free, prior, and informed consent in accessing Indigenous knowledge associated with marine genetic resources. The Agreement acknowledges Indigenous Peoples as both rights-holders and knowledge-holders whose participation is essential for achieving the treaty's conservation objectives.
3. However, the Agreement's progressive commitments to Indigenous rights and knowledge create both unprecedented opportunities and significant implementation challenges. While the text establishes clear legal obligations regarding Indigenous participation, the institutional mechanisms necessary to operationalize these commitments in the Agreement's day-to-day functioning remain to be developed. The gap between legal commitment and operational reality represents one of the most critical challenges facing the Preparatory Commission as it works to translate the Agreement's vision into functional governance structures.
4. This concept note addresses this implementation gap by focusing on one of the most fundamental aspects of the Agreement's institutional architecture: The reporting and review mechanisms that will monitor compliance, assess effectiveness, and guide adaptive management decisions. Reporting processes serve as the primary interface between national implementation efforts and international oversight, making them crucial venues for ensuring that the Agreement's Indigenous rights commitments are not merely acknowledged but actively monitored and enforced.

5. The proposal outlined in this concept note emerges from extensive consultation with Indigenous Peoples and builds upon decades of experience with Indigenous participation in other UN mechanisms. It recognizes that meaningful Indigenous Peoples' participation in BBNJ governance cannot be achieved through ad hoc consultation or voluntary inclusion but requires systematic, institutionalized mechanisms that respect Indigenous governance structures while ensuring their voices inform critical decision-making processes.
6. The modalities proposed herein are designed to complement and enhance the procedural architecture for reporting outlined in the Secretariat's note *A/AC.296/2025/17*, while addressing the specific requirements for Indigenous participation mandated by the Agreement's substantive provisions.
7. The three-component framework presented in this concept note—proactive national engagement, format integration, and parallel reporting—represents a practical approach to operationalizing the Agreement's Indigenous rights commitments while building upon proven precedents from other international mechanisms. These modalities are grounded in the recognition that Indigenous Peoples' knowledge and governance systems offer essential contributions to marine biodiversity conservation that complement and enhance scientific approaches, making their participation not just a matter of rights but a practical necessity for effective ocean governance.
8. As the international community prepares for the BBNJ Agreement's entry into force, the decisions made during this preparatory phase will determine whether the Agreement's pioneering recognition of Indigenous rights translates into meaningful participation and effective conservation outcomes. The modalities proposed in this concept note provide a roadmap for achieving this transformation, establishing BBNJ as a model for Indigenous participation in multilateral environmental governance that can inspire similar innovations across the international system.
9. The proposal to formalize the participation of Indigenous Peoples in the BBNJ reporting framework is anchored directly in the text of the Agreement and is reinforced by the broader evolution of international law and policy. This foundation demonstrates that such participation is not an ancillary or political consideration, but a core component required for the Agreement's successful implementation. The Agreement provides substantive commitments to Indigenous

Peoples; a failure to establish corresponding procedural mechanisms to monitor and review these commitments would create a significant implementation gap, rendering key provisions of the treaty inoperative.

II. The Imperative for Including Indigenous Peoples in BBNJ Implementation and Reporting

This concept note demonstrates that Indigenous participation is not an ancillary or political consideration, but a core component required for the Agreement's successful implementation. The Agreement provides substantive commitments to Indigenous Peoples; a failure to establish corresponding procedural mechanisms to monitor and review these commitments would create a significant implementation gap, rendering key provisions of the treaty inoperative.

A. Mandates within the BBNJ Agreement

1. The BBNJ Agreement contains a robust and consistent set of provisions that, taken together, create a clear mandate for the inclusion of Indigenous Peoples and their knowledge. This is not a case of isolated references but a thematic thread woven throughout the instrument, from its preamble to its operational articles.
2. The preamble serves as a crucial guide to the object and purpose of the treaty. It explicitly recalls the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and, critically, affirms "*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*". This provision establishes UNDRIP as a primary interpretive framework for the entire Agreement, meaning that all articles must be read and implemented in a manner consistent with the rights articulated therein.
3. Article 7, "*General principles and approaches*," establishes the fundamental norms that must guide all actions taken by Parties to achieve the Agreement's objectives. Its provisions are not optional. Article 7(j) mandates the "*use of relevant traditional knowledge of Indigenous Peoples*

and local communities, where available," while Article 7(k) obligates Parties to ensure the "respect, promotion and consideration of their respective obligations, as applicable, relating to the rights of Indigenous Peoples". These are not passive acknowledgements but active duties. A reporting system that does not allow the COP and subsidiary bodies to assess how Parties are fulfilling these guiding principles would be fundamentally incomplete.

4. Article 13 stipulates that traditional knowledge associated with marine genetic resources in areas beyond national jurisdiction shall "*only be accessed with the free, prior and informed consent or approval and involvement of these Indigenous Peoples and local communities*". This incorporation of the FPIC standard demonstrates an intent to apply a rigorous human rights-based approach to benefit-sharing. Monitoring compliance with such a specific and process-oriented obligation is impossible without direct input from the knowledge holders themselves.
5. The Agreement's commitment to transparency is explicitly linked to stakeholder inclusion. Article 48(3) requires the COP to "*promote transparency in the implementation of this Agreement, including through the... facilitation of the participation of, and consultation with... Indigenous Peoples*". This creates a direct responsibility for the Agreement's central governing body to establish mechanisms that facilitate such participation. A structured role in the reporting process is a primary and effective means of fulfilling this mandate.
6. The BBNJ Agreement distinguishes itself from many prior environmental treaties by integrating Indigenous Peoples and TK into the core of its operational mechanics. This pattern of active inclusion signals an intent for a more profound and integrated role that must be reflected in the reporting system. Key examples include:
 - a. Area-Based Management Tools (ABMTs): Proposals for ABMTs must be formulated on the basis of the best available science and, where available, relevant TK (Article 19).
 - b. Environmental Impact Assessments (EIAs): The EIA process, from screening and scoping to the assessment itself, repeatedly requires the use of TK where available (Article 31). The definition of stakeholders for the mandatory public consultation process explicitly includes "Indigenous Peoples and local communities with relevant traditional

knowledge" (Article 32).

- c. Scientific and Technical Body (STB): The composition of the STB must take into account the need for multidisciplinary expertise, including "expertise in relevant traditional knowledge of Indigenous Peoples and local communities" (Article 49).
- d. The consistent and operational nature of these references underscores that Indigenous Peoples are not merely stakeholders to be consulted, but are recognized as rights holders and knowledge holders whose contributions are integral to the Agreement's functioning.

B. Alignment with International Human Rights Law and Policy

1. The modalities proposed in this note are fully aligned with, and indeed mandated by, the broader corpus of international human rights law and the established practices of the United Nations system.
2. As established by the BBNJ preamble, UNDRIP is the key normative framework. The Declaration affirms the right of Indigenous Peoples "*to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves*" (Article 18) and states that organs and specialized agencies of the UN system "*shall establish ways and means of ensuring the participation of Indigenous Peoples on issues affecting them*" (Article 41). The BBNJ Agreement, as a UN-negotiated instrument, and its institutional bodies fall squarely within the scope of this obligation.

III. A Proposal for Proactive and Structured Participation in Party Reporting

To translate the legal and normative imperatives outlined above into a functional reality, this note proposes a three-component modality to be adopted by the Conference of the Parties as part of its decisions on reporting procedures. These components are designed to be complementary, creating a robust and multi-faceted system for ensuring that the perspectives and knowledge of Indigenous Peoples inform the Agreement's implementation and review cycle.

A. Component 1: A COP Decision on Proactive National Engagement

1. The foundation of the proposal is to embed the principle of engagement at the national level, where the primary responsibility for implementation lies. The Conference of the Parties should adopt a decision that explicitly requires Parties, in the course of preparing their periodic national reports under Articles 12, 16, 26, 45, and 54, to establish or utilize national processes to proactively seek, receive, and consider the views, knowledge, and information of Indigenous Peoples, where available, and relevant to activities under the Agreement.
2. This approach invites the reporting Party to create a domestic consultative space. It respects the arrangements required under the Agreement while establishing a clear expectation for proactive outreach, moving beyond a passive "open door" policy to one of active engagement. This ensures that the information compiled in the national report is, from the outset, informed by a broader range of perspectives than those of government agencies alone.
3. Building upon the reporting framework outlined in document A/AC.296/2025/17, which notes that "*input from a wide range of stakeholders, both governmental and non-governmental, is sometimes invited*" (para. 22), the COP decision should establish systematic requirements for Indigenous Peoples engagement that go beyond optional consultation. The decision should specify that Parties must:
 - a. Create or designate focal points to facilitate Indigenous participation in BBNJ reporting processes, ensuring representation from Indigenous Peoples with relevant knowledge of marine biodiversity.
 - b. Actively identify and engage Indigenous Peoples, in particular on issues relevant to marine genetic resources, area-based management tools, environmental impact assessments, and capacity-building activities in areas beyond national jurisdiction.
 - c. Ensure Indigenous Peoples have sufficient time and resources to participate meaningfully in national reporting processes, including translation services and capacity-building support where needed.

- d. Report on the specific engagement processes conducted, including which Indigenous Peoples were consulted, how their input was incorporated, and any challenges encountered in the consultation process.

B. Component 2: Integrating Indigenous Peoples' Rights into the Reporting Format

1. To ensure that the national engagement process is not ad hoc but is implemented consistently and transparently across all Parties, the standardized reporting formats (e.g., questionnaires, templates) to be adopted by the COP must include dedicated, mandatory sections related to Indigenous Peoples. This transforms a general principle of engagement into a specific, measurable, and comparable reporting obligation.
2. The present note proposes that these formats include a distinct section, for example under the title "*Implementation of Principles and Obligations related to Indigenous Peoples, Rights and Knowledge (Articles 7(j), 7(k), 13)*". This section is an example that could contain a set of clear, guiding questions compelling Parties to report on the specific actions they have taken. This structural integration ensures that the rights and knowledge of Indigenous Peoples are not relegated to an optional annex or a passing mention, but are treated as a core component of compliance and implementation, subject to the same level of scrutiny as other obligations under the Agreement.
3. Drawing from the comprehensive reporting framework outlined in document A/AC.296/2025/17, the Indigenous rights sections should be integrated into each of the five reporting categories:
 - a. Marine Genetic Resources Notifications and Reporting (Article 12 and 16(2)):
 - b. Documentation of Indigenous knowledge consultations conducted prior to marine genetic resources collection
 - c. Description of free, prior, and informed consent processes implemented
 - d. Information on benefit-sharing arrangements established with Indigenous knowledge holders
 - e. Measures taken to protect Indigenous intellectual property rights
4. Environmental Impact Assessment Reporting (Articles 28-38):
 - a. Integration of Indigenous knowledge in EIA screening, scoping, and assessment processes

- b. Documentation of Indigenous stakeholder consultation in EIA procedures
 - c. Assessment of potential impacts on Indigenous rights and traditional territories
 - d. Mitigation measures developed in consultation with Indigenous Peoples
5. Area-Based Management Tools Reporting (Articles 17-23, 26(1)):
- a. Use of Indigenous knowledge in ABMT design and implementation
 - b. Indigenous participation in ABMT proposal development and review
 - c. Traditional management systems considered in ABMT establishment
 - d. Effectiveness assessment incorporating Indigenous perspectives
6. Capacity-Building and Technology Transfer Reporting (Article 45(3)):
- a. Recognition of Indigenous knowledge as marine technology and capacity-building resource
 - b. Indigenous participation in capacity-building program design and implementation
 - c. Technology transfer arrangements respecting Indigenous intellectual property rights
 - d. Capacity-building support provided to Indigenous Peoples
7. General Implementation Reporting (Article 54):
- a. Overall assessment of Indigenous rights implementation under the Agreement
 - b. National legislative, administrative, and policy measures affecting Indigenous Peoples
 - c. Challenges and successes in Indigenous Peoples participation and Indigenous knowledge integration
 - d. Future plans for enhancing Indigenous participation in BBNJ implementation

C. Component 3: A Parallel Reporting Mechanism for Indigenous Peoples

1. Recognizing that national consultation processes may vary in their effectiveness or may not fully capture the perspectives of Indigenous Peoples and stakeholders, a complementary and parallel pathway for information is essential. This modality would allow Indigenous Peoples to submit their own reports directly to the BBNJ Secretariat.
2. This mechanism serves several critical functions:

- a. It provides a direct voice for Indigenous Peoples to the Agreement's institutional bodies, ensuring their perspectives are not lost or diluted through the national reporting process.
 - b. It allows for the submission of information and Indigenous knowledge that may not be available or accessible to the State Party.
 - c. It serves as a crucial tool for cross-verification, enabling review bodies to compare the information provided by a Party with that provided by Indigenous Peoples on the ground, leading to a more holistic and accurate assessment of implementation.
3. This parallel track empowers Indigenous Peoples as active participants in the monitoring and review process, consistent with their status as rights holders and knowledge holders.
4. Building upon the precedent established by other UN mechanisms, the parallel reporting system should include:
 - a. Indigenous Peoples should be able to submit reports without requiring ECOSOC consultative status.
 - b. Indigenous Peoples' reports should be submitted according to the same timeline as national reports to enable comparative analysis by relevant BBNJ bodies. The Secretariat should coordinate with Indigenous Peoples to ensure awareness of reporting cycles and deadlines.
 - c. The Secretariat should develop guidelines for Indigenous reports that allow for flexible formats while ensuring relevant information is captured, including:
 - i. Assessment of national implementation of Indigenous rights provisions
 - ii. Indigenous knowledge contributions to marine biodiversity conservation
 - iii. Challenges and barriers to meaningful participation
 - iv. Recommendations for improved implementation
5. Indigenous Peoples' reports should be formally considered by relevant BBNJ bodies alongside national reports, with opportunities for Indigenous representatives to present their findings during review processes.

IV. Application Across BBNJ Reporting Streams

1. The three-component proposal is designed to be applied cohesively across all five distinct periodic reporting streams established by the BBNJ Agreement, as outlined in document A/AC.296/2025/17. Its application will ensure that the specific information needs of each subsidiary body are met and that the principles of participation and respect for Indigenous knowledge are consistently upheld throughout the Agreement's architecture.
2. The synergy between State reporting informed by national consultation (Components 1 and 2) and parallel reports from Indigenous Peoples (Component 3) creates a dynamic information ecosystem. Discrepancies or gaps identified by comparing these information streams can be noted by the relevant review body, such as the Implementation and Compliance Committee. This can trigger a facilitative dialogue as envisioned in Article 55, leading to recommendations for targeted capacity-building under Article 45 or enhanced consultation processes under Article 48.

A. Access and Benefit-Sharing Committee Reporting

1. For reporting under Article 16(2) to the Access and Benefit-Sharing Committee, the three-component framework ensures comprehensive documentation of Indigenous knowledge integration and benefit-sharing arrangements. National reports would document government efforts to implement FPIC requirements and establish benefit-sharing mechanisms, while parallel Indigenous reports would provide direct assessment of the effectiveness and adequacy of these arrangements from the perspective of knowledge holders.

B. Scientific and Technical Body Review

1. For area-based management tools reporting under Article 26(1), the framework enables the Scientific and Technical Body to access both government assessments of conservation effectiveness and Indigenous perspectives on traditional management systems and territorial impacts. This dual information stream enhances the Body's capacity to conduct comprehensive effectiveness reviews that incorporate diverse knowledge systems.

C. Capacity-Building and Transfer of Marine Technology Committee

1. For capacity-building reporting under Article 45(3), the framework recognizes Indigenous knowledge as both a capacity-building resource and a technology transfer consideration. National reports would document how Indigenous knowledge is integrated into capacity-building

programs, while Indigenous reports would assess the adequacy of support provided and identify additional capacity-building needs.

D. Conference of the Parties General Implementation Review

1. For general implementation reporting under Article 54, the framework provides the COP with comprehensive information on Indigenous rights implementation across all Agreement provisions. This enables the COP to fulfill its mandate under Article 48(3) to promote transparency and facilitate Indigenous participation through evidence-based assessment of implementation effectiveness.

V. Implementation Considerations and Next Steps

A. Institutional Support Requirements

1. Successful implementation of the three-component framework requires adequate institutional support from the BBNJ Secretariat and relevant subsidiary bodies. Document A/AC.296/2025/17 notes that secretariats often "*facilitate an analysis of the information from national reports*" and "*use such information in the preparation of documents, to aid the governing body in its review of implementation*" (para. 27). The BBNJ Secretariat should be mandated to provide similar analytical support for Indigenous participation, including:
 - a. Technical assistance for Indigenous organizations participating in reporting processes, including training on BBNJ provisions and reporting requirements.
 - b. Establishment of Indigenous focal points within the Secretariat to facilitate communication and coordination with Indigenous organizations.
 - c. Preparation of synthesis documents that integrate information from both national and Indigenous reports to support subsidiary body review processes.
 - d. Development of procedures to protect sensitive Indigenous knowledge while enabling appropriate sharing for BBNJ implementation purposes.

B. Financial Mechanism Support

1. Article 52(3) establishes a financial mechanism to support developing States Parties in implementing the Agreement. The COP should ensure that this mechanism includes dedicated

funding for Indigenous participation in reporting processes, recognizing that meaningful participation requires adequate resources for travel, translation, capacity-building, and technical support.

C. Preparatory Commission Recommendations

1. The Preparatory Commission should include specific recommendations on Indigenous participation modalities in its final report to the first COP, building upon the procedural framework outlined in document A/AC.296/2025/17. These recommendations should address:
 - a. Specific decision language for adoption by the first COP establishing the three-component framework.
 - b. Initial templates for Indigenous rights sections in standardized reporting formats.
 - c. Operational procedures for Indigenous parallel reporting and Secretariat support functions.
2. Assessment of financial and technical resources needed to support Indigenous participation.

VI. Conclusion

1. The BBNJ Agreement represents a landmark achievement in international environmental law, not only for its comprehensive approach to marine biodiversity conservation but also for its groundbreaking recognition of Indigenous rights and knowledge. The Agreement's explicit commitments to Indigenous Peoples create both opportunities and obligations that must be operationalized through the Agreement's institutional framework.
2. The three-component modality proposed in this concept note—proactive national engagement, format integration, and parallel reporting—provides a practical and legally grounded approach to ensuring meaningful Indigenous participation in BBNJ reporting processes. This framework builds upon the procedural architecture outlined in document A/AC.296/2025/17 while addressing the specific requirements for Indigenous participation mandated by the Agreement's substantive provisions.

3. Implementation of this framework will enhance the legitimacy, effectiveness, and durability of BBNJ outcomes while fulfilling the Agreement's commitments to Indigenous rights and knowledge. It will provide the Agreement's institutional bodies with the comprehensive information necessary to assess implementation effectiveness and guide future decision-making.

4. The Preparatory Commission has the opportunity to establish BBNJ as a model for Indigenous participation in multilateral environmental governance. By adopting the modalities proposed in this concept note, the Commission can ensure that the Agreement's pioneering recognition of Indigenous rights is matched by equally pioneering institutional mechanisms for meaningful participation and engagement.