



# General Assembly

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## **Preparatory Commission for the Entry into Force of the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction and the Convening of the First Meeting of the Conference of the Parties to the Agreement**

**Organizational meeting**

New York, 24–26 June 2024

### **Matters to be addressed at the first meeting of the Conference of the Parties to 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**

**Note by the Secretariat**

#### **I. Introduction**

1. 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 was adopted by consensus on 19 June 2023 by the intergovernmental conference convened under the auspices of the United Nations pursuant to General Assembly resolution [72/249](#) of 24 December 2017.
2. On 1 August 2023, the General Assembly adopted resolution [77/321](#), in which it welcomed the adoption of the Agreement and approved the assumption by the Secretary-General of the functions assigned to him under the Agreement, including the depositary functions and the performance of the secretariat functions under the Agreement, until the secretariat to be established under article 50 of the Agreement commences its functions. In the resolution, the Assembly also called upon all States and regional economic integration organizations to consider signing and ratifying, approving or accepting the Agreement at the earliest possible date to allow its entry into force.
3. The Agreement will enter into force 120 days after the date of deposit of the sixtieth instrument of ratification, approval, acceptance or accession, as provided for in article 68, paragraph 1, of the Agreement. The Secretary-General is required, under



the Agreement, to convene the first meeting of the Conference of the Parties established under article 47 no later than one year after the entry into force of the Agreement.

4. In its resolution [78/272](#), the General Assembly decided to establish a preparatory commission to prepare for the entry into force of the Agreement and to prepare for the convening of the first meeting of the Conference of the Parties to the Agreement, at the conclusion of which the commission will cease to exist. It also decided that the commission should hold a three-day organizational meeting in the first half of 2024 to discuss organizational matters, including the election of the Co-Chairs and a Bureau, the dates of the meetings of the commission and its programme of work.

5. To assist the work of the organizational meeting, the Secretariat has prepared the present note. The purpose of the note is to provide an overview of the matters to be addressed by the Conference of the Parties at its first meeting as expressly set out in the Agreement (see sect. II). Attention is also drawn to matters that may be desirable or necessary to address early on, even if they are not identified in the Agreement as being for the first meeting of the Conference of the Parties, to enable the timely and effective implementation of the Agreement (see sect. III). Pending further guidance from the Preparatory Commission, the present note does not address the substantive matters that may need to be considered to prepare for the implementation of the Parts of the Agreement on marine genetic resources, including the sharing of benefits, measures such as area-based management tools, including marine protected areas, environmental impact assessments, and capacity-building and the transfer of marine technology. Furthermore, while the Secretary-General performs the secretariat functions under the Agreement until such time as the secretariat to be established under the Agreement commences its functions, any decisions that may be taken with respect to the financial and budgetary aspects will need to be considered in the context of United Nations regulations, rules and policies in the areas of administration and finance.

## **II. Matters to be addressed by the first meeting of the Conference of the Parties pursuant to the Agreement**

6. The general functions of the Conference of the Parties are set out in article 47, paragraph 6, of the Agreement, according to which the Conference shall keep under review and evaluation the implementation of the Agreement and, for this purpose, shall:

- (a) Adopt decisions and recommendations related to the implementation of the Agreement;
- (b) Review and facilitate the exchange of information among parties relevant to the implementation of the Agreement;
- (c) Promote, including by establishing appropriate processes, cooperation and coordination with and among relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies;
- (d) Establish such subsidiary bodies as deemed necessary to support the implementation of the Agreement;
- (e) Adopt a budget, at such frequency and for such a financial period as it may determine;
- (f) Undertake other functions identified in the Agreement or as may be required for its implementation.

7. In the context of these functions, the Agreement expressly identifies actions for the Conference of the Parties to perform at its first meeting in relation to a number of matters as set out below.

## **A. Rules of procedure for the Conference of the Parties and its subsidiary bodies**

8. In accordance with article 47, paragraph 4, of the Agreement, the Conference of the Parties shall by consensus adopt rules of procedure for itself and its subsidiary bodies. Standard provisions incorporated into the rules of procedure of similar bodies include those concerning the frequency and location of the meetings, representation and credentials, agendas of meetings, participation of observers, elections, conduct of business and decision-making, the secretariat, and languages and records.

9. Article 47, paragraph 2, of the Agreement provides that the Conference of the Parties shall hold ordinary meetings at regular intervals to be determined by the Conference itself and may also hold extraordinary meetings at other times, in accordance with its rules of procedure. A provision determining the intervals at which the ordinary meetings will be held may be included in the rules of procedure of the Conference of the Parties.

10. Attention is also drawn to the following provisions of the Agreement:

- Article 47, paragraph 5, which sets out the general rule in relation to decision-making, as well as other provisions of the Agreement related to decision-making<sup>1</sup>
- Article 48, paragraph 1, on transparency in decision-making processes
- Article 48, paragraph 2, providing for the establishment and maintenance by the Conference of the Parties of a public record of its decisions
- Article 48, paragraphs 2 and 4, in relation to the participation of observers in the meetings of the Conference of the Parties and its subsidiary bodies

11. With regard to the subsidiary bodies, the following are to be established under the Agreement:

- Access and Benefit-Sharing Committee
- Capacity-Building and Transfer of Marine Technology Committee
- Scientific and Technical Body
- Finance Committee
- Implementation and Compliance Committee

12. It is noted that the practice of similar bodies under other instruments<sup>2</sup> is for the rules of procedure of the governing body to also apply to the subsidiary bodies, unless otherwise decided by the governing body.

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<sup>1</sup> See article 14, paragraph 7, in relation to decisions on the modalities for the sharing of monetary benefits from the utilization of marine genetic resources and digital sequence information of marine genetic resources of areas beyond national jurisdiction; article 23 in relation to decisions under Part III of the Agreement; and article 47, paragraph 6 (e), in relation to the adoption of the budget of the Conference of the Parties.

<sup>2</sup> See, among others, rule 69 of the rules of procedure for Meetings of States Parties to the United Nations Convention on the Law of the Sea ([SPLOS/2/Rev.5](#)); and rule 79 of the rules of procedure of the Assembly of the International Seabed Authority ([ISBA/A/6](#)).

**B. Financial rules governing the funding of the Conference of the Parties and the funding of the secretariat and any subsidiary bodies**

13. Pursuant to article 47, paragraph 4, of the Agreement, the Conference of the Parties shall by consensus adopt at its first meeting financial rules governing its funding and the funding of the secretariat and any subsidiary bodies.

14. The financial rules usually address issues related to the financial administration of the governing body, its subsidiary bodies and the secretariat, laying down, among other things, provisions for the financial period, including its start and end dates, the development of the budget, the parties' contributions and the management of accounts and audits.<sup>3</sup>

**C. Arrangements with the Global Environment Facility to give effect to the relevant provisions on funding**

15. In accordance with article 52, paragraph 10, of the Agreement, the Conference of the Parties and the Global Environment Facility (GEF) shall agree upon arrangements to give effect to the relevant paragraphs of the Agreement on funding at the first meeting of the Conference of the Parties.

16. The GEF trust fund is identified in the Agreement as part of the financial mechanism established under article 52, along with a special fund and a voluntary trust fund. Pursuant to article 52, paragraph 6, the special fund and the GEF trust fund shall be utilized to:

- (a) Fund capacity-building projects under the Agreement;
- (b) Assist developing States parties in implementing the Agreement;
- (c) Support conservation and sustainable use programmes by Indigenous Peoples and local communities as holders of traditional knowledge;
- (d) Support public consultations at the national, subregional and regional levels;
- (e) Fund the undertaking of any other activities as decided by the Conference of the Parties.

17. The arrangements between the Conference of the Parties and GEF, based on the practice of the latter, could take the form of a memorandum of understanding between the GEF Council and the Conference of the Parties, defining the relationship between those two bodies and the terms of cooperation between their secretariats.<sup>4</sup>

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<sup>3</sup> See, for example, the Financial Regulations of the International Seabed Authority, approved by the Assembly of the Authority at its sixth session ([ISBA/6/A/3](#)); and the Financial Regulations of the International Tribunal for the Law of the Sea, adopted by the thirteenth Meeting of States Parties to the United Nations Convention on the Law of the Sea ([SPLOS/2003/WP.3](#) as amended by [SPLOS/30/16](#)).

<sup>4</sup> See, for example, the memorandum of understanding signed between the Conference of the Parties to the Convention on Biological Diversity and the Council of the Global Environmental Facility (annex to decision III/8 of the third Conference of the Parties); and the memorandum of understanding between the Conference of the Parties to the Minamata Convention on Mercury and the Council of the Global Environment Facility (annex II to document [UNEP/MC/COP.2/8](#)).

## **D. Arrangements for the functioning of the secretariat**

18. In accordance with article 50, paragraph 1, the Conference of the Parties, at its first meeting, shall make arrangements for the functioning of the secretariat, including deciding on its seat.

19. Pursuant to article 50, paragraph 4, of the Agreement, the functions of the secretariat are to:

(a) Provide administrative and logistical support to the Conference of the Parties and its subsidiary bodies for the purposes of the implementation of the Agreement;

(b) Arrange and service the meetings of the Conference of the Parties and its subsidiary bodies;

(c) Circulate information relating to the implementation of the Agreement;

(d) Facilitate cooperation and coordination, as appropriate, with the secretariats of other relevant international bodies and, in particular, enter into such administrative and contractual arrangements as may be required for that purpose and for the effective discharge of its functions;

(e) Report to the Conference of the Parties on the execution of its functions;

(f) Provide assistance with the implementation of the Agreement and perform such other functions as may be determined by the Conference of the Parties or assigned to it under the Agreement.

20. Such arrangements under article 50, paragraph 1, may need to address any legal and administrative aspects of relevance for the functioning of the secretariat, such as whether it will possess international legal personality and its relationship with the United Nations.<sup>5</sup>

21. The decision on the seat of the secretariat is specifically identified in article 50, paragraph 1, of the Agreement as part of the arrangements to be made for its functioning. Whether to establish modalities and criteria for the selection of the seat, including any relevant information to be provided in offers to host the secretariat, could be considered in that context.<sup>6</sup>

## **E. Terms of reference and modalities for the operation of the subsidiary bodies**

22. The Agreement provides that the Conference of the Parties at its first meeting shall:

- Decide the terms of reference and modalities for the operation of the Capacity-Building and Transfer of Marine Technology Committee (article 46, paragraph 2)

<sup>5</sup> In the period between the entry into force of the United Nations Convention on the Law of the Sea and until such time as the Secretary-General of the International Seabed Authority was elected and able to assume full administrative responsibility for the Authority pursuant to article 167 of the Convention, the Authority continued to use the facilities and staff of the Kingston Office of the Law of the Sea as its interim secretariat (see introductory note to the draft Staff Regulations of the International Seabed Authority, as recommended by the Council of the Authority (ISBA/6/C/L.2)).

<sup>6</sup> For example, the Conference of the Parties to the Convention on Biological Diversity, at its first meeting, adopted decision I/10, by which it invited Parties interested in hosting the secretariat to include in their offers details relating, inter alia, to facilities to be made available, the availability of institutional support, direct support, including financial and technical support, privileges and immunities to be extended to the secretariat and its staff and the state of civic amenities.

- Determine the terms of reference and modalities for the operation of the Scientific and Technical Body, including its selection process and the terms of its members' mandates (article 49, paragraph 2)
- Adopt the modalities and rules of procedure for the operation of the Implementation and Compliance Committee (article 55, paragraph 3)

23. In general, the terms of reference of a treaty body serve as a tool to further elaborate and clarify the functions assigned to the body under the treaty.<sup>7</sup>

24. In that context, in addition to matters pertaining to the selection process and terms of the members' mandates, consideration could be given to:

(a) Clarifying issues pertaining to the composition of those bodies. Attention is drawn in this respect to the above-mentioned provisions of the Agreement, which are drafted in similar terms and which provide that those bodies shall consist of members "nominated by parties and elected by the Conference of the Parties", with suitable "qualifications", taking into account "gender balance and equitable geographical representation". However, these provisions do not specify the process for the nomination and election of the members, the number of members to be elected, the duration of their terms and how to ensure the balance between required qualifications, gender and equitable geographic representation;<sup>8</sup>

(b) Determining any additional functions other than the functions already assigned to those bodies under the Agreement;<sup>9</sup>

(c) Deciding the terms of cooperation with other relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies;<sup>10</sup>

<sup>7</sup> For example, the Conference of the Parties to the Convention on Biological Diversity adopted a consolidated modus operandi of the Subsidiary Body on Scientific, Technical and Technological Advice established under article 25 of the Convention, setting out detailed provisions on the functions of the Subsidiary Body, its terms of reference, organization and operation (see annex III to decision VIII/10).

<sup>8</sup> In accordance with articles 163 and 165, paragraph 1, of the United Nations Convention on the Law of the Sea, the members of the Legal and Technical Commission of the International Seabed Authority are elected by the Council of the Authority from among the candidates nominated by the States parties, taking due account of the need for equitable geographical distribution and the representation of special interests. The Council has considered questions pertaining to the composition of the Commission and the establishment of a mechanism for the election of its members at several meetings.

<sup>9</sup> Article 49, paragraph 4, of the Agreement provides in that regard that the Scientific and Technical Body shall, inter alia, perform the functions assigned to it under the Agreement and such other functions as may be determined by the Conference of the Parties.

<sup>10</sup> Article 49, paragraph 3, of the Agreement provides that the Scientific and Technical Body may draw on appropriate advice emanating from relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, as well as from other scientists and experts, as may be required. Likewise, article 55, paragraph 4, provides that, in the course of its work, the Implementation and Compliance Committee may draw on appropriate information from bodies established under the Agreement, as well as relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, as may be required.

(d) Determining the modalities of discharge of the reporting functions assigned to those bodies under the Agreement,<sup>11</sup> including the format, content and frequency of the reports to be submitted to the Conference of the Parties;

(e) Deciding on the creation and maintenance of a roster of experts under the Scientific and Technical Body to provide advice and assistance to parties with capacity constraints in the conduct and evaluation of screening and environmental impact assessments for a planned activity under their jurisdiction or control;<sup>12</sup>

(f) Deciding on the modalities for consideration by the Implementation and Compliance Committee of implementation and compliance issues at the individual and systemic levels. In this connection, consideration may be given to the following:

(i) The conditions triggering consideration by the Committee of implementation and compliance issues at the individual and systemic levels, including whether it may consider such issues *proprio motu* and/or upon request. Based on the practice in other similar bodies,<sup>13</sup> the Committee could consider issues of implementation and compliance on the basis of a written submission of a party with respect to its own compliance, and/or upon a request. In the latter case, the request may be made either by a party with respect to issues of implementation or compliance by another party, or by the Conference of the Parties, other organs established under the Agreement in relation to issues pertaining to their mandate, as well as by relevant legal instruments and frameworks and relevant global, regional, subregional or sectoral bodies;

(ii) The scope of the Committee's mandate and the applicable process, including whether the party whose implementation or compliance is under consideration may be entitled to participate in the process, whether the process may be open to third parties, and the extent to which the Committee may receive additional information or expertise from bodies established under the Agreement, as well as from relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies;

<sup>11</sup> Pursuant to article 49, paragraph 4, the Scientific and Technical Body shall provide reports to the Conference of the Parties on its work. Article 46, paragraph 3, provides that the Capacity-Building and Transfer of Marine Technology Committee shall submit reports and recommendations that the Conference of the Parties shall consider and take action on as appropriate. Likewise, article 55, paragraph 3, provides that the Implementation and Compliance Committee shall report periodically and make recommendations, as appropriate, while cognizant of respective national circumstances, to the Conference of the Parties.

<sup>12</sup> See article 31, paragraph 3, of the Agreement.

<sup>13</sup> Similarly to the Implementation and Compliance Committee to be established under the Agreement, the Implementation and Compliance Committee established under the Minamata Convention on Mercury is facilitative in nature, examines both individual and systemic issues of implementation and compliance and makes recommendations to the Conference of the Parties. By decision MC-3/9 on the terms of reference of the Implementation and Compliance Committee, the third Conference of the Parties to the Minamata Convention clarified the functions of the Committee by setting out the procedure for the consideration of issues of implementation and compliance, including a template for written submissions by the parties, and providing for the information that it may receive from other bodies of the Convention and the types of recommendations that it may make to the Conference of the Parties. Likewise, the Conference of the Parties to the United Nations Framework Convention on Climate Change, serving as the Meeting of the Parties to the Paris Agreement, adopted at its first meeting the modalities and procedures for the effective operation of the committee referred to in article 15, paragraph 2, of the Paris Agreement (decision 20/CMA.1), laying out, among other things, the process for initiation and consideration by the Committee of issues of implementation and compliance, including the consideration of systematic issues, as well as the types of measures and outputs that it may decide.

- (iii) The outcome of its consideration, including the types of recommendations that the Committee may make to the Conference of the Parties;
- (iv) Any potential follow-up to such recommendations.

### **III. Other matters that could be addressed at an early stage**

25. Consideration could also be given to addressing, at the first meeting of the Conference of the Parties or at an early stage, a number of other matters that are not specifically identified in the Agreement as being for the first meeting, as set out below.

#### **A. Operationalization of the provisions on funding**

26. Article 52, paragraph 3, of the Agreement provides for the establishment of a financial mechanism for the provision of adequate, accessible, new and additional and predictable financial resources, with the aim of assisting developing States parties in the implementation of the Agreement. In accordance with article 52, paragraphs 7 and 9, the mechanism shall function under the authority, where appropriate, and guidance of the Conference of the Parties and shall be accountable thereto. The mechanism should seek to ensure that duplication is avoided, and complementarity and coherence promoted, among the utilization of the funds within the mechanism.

27. Several aspects relating to funding and the financial mechanism may be important for the Conference of the Parties to address at its first meeting, as set out below.

28. Pursuant to article 47, paragraph 6 (e), the Conference of the Parties shall adopt a budget, at such frequency and for such a financial period as it may determine. It may be necessary for the Conference, at its first meeting, to adopt a budget for the first financial period in order to support the functioning of the bodies established under the Agreement and the initial implementation of the Agreement.<sup>14</sup>

29. Consideration may also need to be given to the desirability of determining the scale of assessed contributions of the parties, to give effect to the provision of article 52, paragraph 2, according to which the institutions established under the Agreement shall be funded through assessed contributions of the parties. This would also enable the operationalization of the provisions on the sharing of monetary benefits from the utilization of marine genetic resources and digital sequence information of marine genetic resources of areas beyond national jurisdiction pursuant to article 14, paragraph 6, of the Agreement.

30. In accordance with article 52, paragraph 4 (a), a voluntary trust fund to be established by the Conference of the Parties is identified as part of the financial mechanism established under the Agreement, with the aim of facilitating the participation of developing States parties, in particular the least developed countries, landlocked developing countries and small island developing States, in the meetings of the bodies established under the Agreement. The establishment of the trust fund is deferred to the Conference of the Parties, without indication in the Agreement of the timing of such establishment. This issue could be addressed by the Conference of the Parties at its first meeting.

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<sup>14</sup> For example, see annex II to decision I/6 of the first Conference of the Parties to the Convention on Biological Diversity, as well as decision MC-1/15 adopted by the first Conference of the Parties to the Minamata Convention on Mercury.



31. Article 52, paragraph 14, further provides that the Conference of the Parties shall establish a finance committee on financial resources, which, among other things, shall periodically report and make recommendations on the identification and mobilization of funds under the financial mechanism. In accordance with the same provision, the finance committee shall also collect information and report on funding under other mechanisms and instruments contributing directly or indirectly to the achievement of the objectives of the Agreement.

32. The Conference of the Parties could therefore consider at its first meeting the establishment of the finance committee and the adoption of its terms of reference and modalities of operation. In this context, the following aspects could be considered:

- The composition of the finance committee, including the selection process and the term of its members' mandate<sup>15</sup>
- The modalities for the discharge of its reporting functions under the Agreement, including the means to collect information on funding under other mechanisms and instruments<sup>16</sup>

33. Lastly, attention is drawn to article 52, paragraph 9, of the Agreement, pursuant to which the Conference of the Parties shall provide guidance on overall strategies, policies, programme priorities and eligibility for access to and utilization of financial resources. To give effect to this provision and inform relevant future decisions on funding under the Agreement, the Conference could consider providing such guidance at an early stage.

## **B. Operation of the Clearing-House Mechanism**

34. A Clearing-House Mechanism is established under article 51 of the Agreement, consisting primarily of an open-access platform that will serve as a centralized platform to enable States parties to access, provide and disseminate information with respect to activities taking place pursuant to the provisions of the Agreement. The secretariat to be established under the Agreement is assigned with the management of the Clearing-House Mechanism.

35. In accordance with article 51, paragraph 2, the specific modalities for the operation of the Clearing-House Mechanism shall be determined by the Conference of the Parties.

36. While certain functions of the Clearing-House Mechanism are outlined in article 51, other provisions on its functions under the Agreement are found in other parts of the Agreement.<sup>17</sup> To enable parties to implement their respective obligations under the various Parts of the Agreement, which provide for a role for the Clearing-House Mechanism, consideration could be given to determining the specific

<sup>15</sup> Article 52, paragraph 14, of the Agreement provides in this respect that the finance committee shall be composed of members possessing appropriate qualifications and expertise, taking into account gender balance and equitable geographical distribution.

<sup>16</sup> Pursuant to article 52, paragraph 14, the finance committee shall periodically report and make recommendations on the identification and mobilization of funds under the mechanism. It shall also collect information and report on funding under other mechanisms and instruments contributing directly or indirectly to the achievement of the objectives of the Agreement.

<sup>17</sup> These include the notification of information on activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction, as well as the generation of a "BBNJ" standardized batch identifier, the notification of planned activities for the purposes of environmental impact assessments, and the facilitation of needs assessments for the purposes of Part V.

modalities for its operation at the first meeting of the Conference of the Parties. The following could be addressed in that regard:

- Defining the type, architecture and functionalities of the platform
- Considering the means to ensure respect for the confidentiality of the information provided and rights thereto<sup>18</sup>
- Determining the process for the generation of a “BBNJ” standardized batch identifier, pursuant to article 12, paragraph 3, of the Agreement
- Developing modalities to facilitate the matching of capacity-building needs with the support available and with providers for the transfer of marine technology, and facilitating access to related know-how and expertise, in accordance with article 51, paragraph 3 (b)
- Defining the terms of cooperation with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, including the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization, the International Seabed Authority, the International Maritime Organization and the Food and Agriculture Organization of the United Nations<sup>19</sup>
- Developing means to facilitate access of developing States parties to the financial mechanism to enable those States to utilize it without undue obstacles or administrative burdens<sup>20</sup>

### **C. Terms of reference and modalities for the operation of the Access and Benefit-Sharing Committee**

37. The Agreement provides in article 15 for the establishment of an Access and Benefit-Sharing Committee to serve as a means for establishing guidelines for benefit-sharing, providing transparency and ensuring a fair and equitable sharing of both monetary and non-monetary benefits. The Committee shall be composed of 15 members nominated by parties and elected by the Conference of the Parties. In accordance with article 15, paragraph 2, its terms of reference and modalities for operation shall be determined by the Conference of the Parties. However, there is no indication of the timing of such determinations.

38. In the light of article 47, paragraph 4, which assigns to the Conference of the Parties the function to adopt, at its first meeting, rules of procedure and financial rules governing the funding of its subsidiary bodies, the adoption of such rules for the Access and Benefit-Sharing Committee could be usefully addressed by the Conference at that meeting in the exercise of the function assigned to it under article 47, paragraph 4. In that regard, it may be desirable to also address the terms of reference of the Committee, including the selection process and term of its members' mandate.

<sup>18</sup> It is noted in that regard that, pursuant to article 32, paragraph 7, notwithstanding the obligation to ensure access to information related to the environmental impact assessment process under the Agreement, parties shall not be required to disclose confidential or proprietary information. In addition, the Scientific and Technical Body is tasked under article 38, paragraph 1, with developing standards or guidelines for consideration and adoption by the Conference of the Parties regarding, among other things, the public notification and consultation process, including the determination of what constitutes confidential or proprietary information.

<sup>19</sup> Article 51, paragraph 4, of the Agreement.

<sup>20</sup> Article 51, paragraph 5, of the Agreement.

#### **D. Selection of the members of the subsidiary bodies established under the Agreement**

39. Taking into account the fact that several actions by the Conference of the Parties under the Agreement will need to be preceded by action by one of its subsidiary bodies, early consideration of matters pertaining to the selection of the members of the Scientific and Technical Body and other subsidiary bodies may be important for the effective implementation of the Agreement. In this connection, the Conference may consider deciding on the timing for the first selection of the members of these bodies.

#### **E. Modalities for reporting by parties on the implementation of the Agreement**

40. In its Parts II to V, the Agreement establishes several reporting obligations incumbent upon parties in relation to the implementation of their obligations under the respective Parts.<sup>21</sup> In addition, article 54 places upon parties an obligation to report to the Conference of the Parties on measures that they have taken to implement the Agreement, in a format and at intervals to be determined by the Conference itself.

41. Whereas the modalities for the discharge of the reporting obligations of the bodies established under the Agreement may be addressed in the context of their terms of reference, a number of issues with regard to the reporting obligations of the parties could be considered at an early stage. These include the content, format and frequency of the reports, any potential follow-up to such reports, as well as the relationship between the reporting obligation under article 54 and the specific reporting requirements under the relevant Parts of the Agreement. This may help to avoid the duplication of reports and streamline the reporting requirements, in particular for developing States parties, including in terms of costs and time requirements, as outlined in articles 41 and 45 of the Agreement.

#### **F. Modalities for reporting by the secretariat to the Conference of the Parties**

42. Pursuant to article 50, paragraph 4 (e), the secretariat is required to prepare reports on the execution of its functions under the Agreement and submit them to the Conference of the Parties. Similarly to the reporting requirements incumbent upon the parties, it may be desirable to consider at an early stage the modalities for the discharge of the reporting obligations of the secretariat, including deciding the content and frequency of the reports to be submitted to the Conference of the Parties.

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<sup>21</sup> See, in particular, Part II, article 16, paragraph 2; Part III, article 26, paragraph 1; Part IV, 33, paragraph 1, article 36, paragraph 1, and article 37, paragraph 2; and Part V, article 45, paragraph 3.