

 <p>Agreement on the Conservation of Albatrosses and Petrels</p>	<p>Fifteenth Meeting of the Advisory Committee <i>Swakopmund, Namibia, 1 – 5 June 2026</i></p> <p>BBNJ Agreement</p> <p>Secretariat</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------

SUMMARY

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) entered into force on 17 January 2026. Elements of the BBNJ Agreement are relevant to the implementation of ACAP's objective and interests in cooperation and coordination with relevant global instruments. The First Session of the Conference of the Parties will occur by 17 January 2027.

1. INTRODUCTION

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 (done 19 June 2023, entered into force 17 January 2026) (BBNJ Agreement) is the third implementing agreement under the United Nations Convention on the Law of the Sea (UNCLOS). "The objective of this Agreement is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination," Art 2.

The First Session of the Conference of the Parties (COP) will be convened by 17 January 2027.

2. APPLICATION

Recognising the transboundary nature of marine biodiversity and the interconnectedness of ocean health, the BBNJ Agreement sets out to promote conservation, sustainable use, and equitable benefit-sharing on a global scale.

The scope of the BBNJ Agreement is limited to areas beyond national jurisdiction (ABNJ), Art 3. These regions represent over 60% of the global ocean and are among the most ecologically significant yet least protected areas globally. Accordingly, the Agreement does not prejudice the rights, jurisdiction and duties of States under UNCLOS, including in respect of the exclusive economic zone and the continental shelf within and beyond 200 nautical miles, Art 5(1). The

implementation of the BBNJ shall be without prejudice to and shall not be relied upon as a basis for asserting or denying any claims to, sovereignty, sovereign rights or jurisdiction, including in respect of any disputes relating thereto, Art 6.

The BBNJ will be interpreted and applied in a manner that does not undermine relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies and that promotes coherence and coordination with those instruments, frameworks and bodies (IFBs), Art 5.2.

3. TRANSPARENCY

The COP will promote transparency in the implementation of this Agreement, including through the public dissemination of information and the facilitation of the participation of, and consultation with, relevant global, regional, subregional and sectoral bodies, Art 48. IFBs include ACAP and Regional Fisheries Management and Conservation Organisations (RFMCOs).

4. KEY ASPECTS OF THE BBNJ AGREEMENT

The BBNJ furthers international cooperation and coordination in areas beyond national jurisdiction (the high seas) on the following matters.

4.1. Marine Genetic Resources

The BBNJ Agreement aims to achieve the “fair and equitable sharing of benefits arising from activities with respect to marine genetic resources and digital sequence information on marine genetic resources,” Art 9(a).

The BBNJ Agreement defines marine genetic resources as biological materials of marine origin with actual or potential value, including genetic material from plants, animals, and microorganisms. These resources have diverse applications such as in medicine or environmental remediation, but access to and capacity for research on them varies widely among States.

To address these disparities, the BBNJ Agreement requires Parties to ensure the fair and equitable sharing of both monetary and non-monetary benefits arising from activities related to marine genetic resources and associated digital sequence information in ABNJ. It also mandates the use of a Clearing-House Mechanism to share information at all stages: before and after collection, during research and development, and at the commercialisation stage. As well, the Agreement includes provisions for access to traditional knowledge of Indigenous Peoples and local communities and establishes an Access and Benefit-Sharing Committee to oversee implementation.

4.2. Area-based Management

The BBNJ Agreement aims to “conserve and sustainably use areas requiring protection, including through the establishment of a comprehensive system of area-based management tools, with ecologically representative and well-connected networks of marine protected areas” (ABMTs), Art 17(a).

ABMTs, including marine protected areas (MPAs), are used to regulate manage within a geographically defined area to achieve conservation and sustainable use objectives. These tools help protect vulnerable habitats and species, restore ecological resilience, and enhance

productivity. While some ABMTs are sector specific such as fisheries closures, MPAs typically pursue broader long term biodiversity conservation goals and offer comprehensive protection from impacts across several sectors or activities. In ABNJ, certain ABMTs already exist, implemented by organisations like RFMCOs and the International Seabed Authority. The BBNJ Agreement establishes a framework for proposing, adopting, and implementing new ABMTs, including MPAs, in ABNJ, which include specific requirements on consultation, cooperation and coordination with existing instruments and bodies. It outlines procedures involving proposal submission, scientific input, consultation, decision-making by the COP, and oversight by the Scientific and Technical Body; and enables adoption of emergency measures. The Agreement also emphasises the need for cooperation and coordination with existing instruments and bodies operating under their own mandates, ensuring complementarity rather than duplication in ocean governance, Art 8

4.3. Environmental Impact Assessment

The BBNJ Agreement aims to “Operationalize the provisions of the Convention on environmental impact assessment [EIA] for areas beyond national jurisdiction,” Art 27(a).

EIAs are processes designed to evaluate the potential environmental effects of planned activities, aiming to inform decision-making and minimise harm. The BBNJ Agreement builds upon UNCLOS by introducing more detailed procedures, thresholds, and reporting requirements for EIAs conducted in ABNJ. Under the BBNJ Agreement, Parties must screen planned activities under their jurisdiction or control in ABNJ to determine whether the activity may have more than a minor or transitory impact on the marine environment, or where potential impacts are uncertain or poorly understood. If there are reasonable grounds to believe the activity could cause significant harm or pollution, a full EIA must be carried out following the procedures outlined in the Agreement. This includes requirements for public notification and consultation. Decisions on whether such activities may proceed remain under the authority of the State responsible for the activity. However, other Parties can raise concerns both with the authorising State and with the Agreement’s Scientific and Technical Body. The Agreement also includes provisions for the monitoring, reporting, and periodic review of approved activities. Additionally, Parties are encouraged to undertake strategic environmental assessments (SEAs), which take a broader, programmatic view of the potential environmental impacts of policies, plans, or programs to be implemented in ABNJ.

4.4. Capacity Building

The BBNJ Agreement aims to “Assist Parties, in particular developing States Parties, in implementing the provisions of this Agreement, to achieve its objectives,” Art 40(a).

To ensure that all States, especially developing States, can effectively implement the BBNJ Agreement and participate in its activities, the Agreement places strong emphasis on capacity-building and the development and transfer of marine technology. These efforts are intended to reduce disparities and promote inclusive participation in the governance of ABNJ. The Agreement requires Parties to cooperate in supporting capacity-building efforts tailored to the specific needs and priorities of developing States. These efforts are to be country-driven, needs-based, and implemented in a practical and responsive manner. The Agreement also outlines specific modalities for the transfer of marine technology and mandates that Parties provide support and resources within their means. A dedicated funding mechanism is established to support these initiatives, and the Agreement includes provisions for monitoring and reviewing capacity-building and technology transfer activities. This includes evaluating

needs, identifying gaps, measuring progress, and formulating recommendations for improvement. To oversee these processes, a Capacity-Building and Technology Transfer Committee is established under the Agreement.

4.4. Cross-cutting Issues

The BBNJ Agreement addresses relevant cross-cutting issues essential to its coherent implementation and institutional functioning. These include general provisions that lay the foundation for the Agreement, such as the definitions of key terms, the overall objectives and scope of the instrument, and its relationship with UNCLOS as well as with other relevant legal instruments and global, regional, subregional, and sectoral bodies, Art 1-8. The Agreement also sets out general principles and approaches to guide its implementation and promotes international cooperation as a means of achieving its objectives.

In terms of institutional arrangements, the Agreement establishes the Conference of the Parties (COP) as its main governing body. It also creates a Scientific and Technical Body, subsidiary bodies as necessary, a secretariat to support the functioning of the Agreement, and a Clearing-House Mechanism, which serves as the primary platform for the exchange of information among Parties and stakeholders, Art 47-51.

A key cross-cutting component of the BBNJ Agreement is its funding mechanism, Art 52. This includes a voluntary trust fund designed to support the participation of representatives from developing States Parties in meetings of the bodies established under the Agreement, as well as a special fund and the Global Environment Facility (GEF) trust fund. These financial mechanisms are intended to support a wide range of activities, including capacity-building projects, implementation efforts by developing States, programmes led by Indigenous Peoples and local communities, and public consultation initiatives. Furthermore, the COP is tasked with determining an initial resource mobilisation goal for the special fund through 2030.

The BBNJ Agreement also addresses implementation and compliance, Art 53-56. Parties are required to adopt appropriate measures to give effect to the Agreement's provisions. To support this, an Implementation and Compliance Committee is established. This body is mandated to facilitate implementation and promote compliance in a manner that is transparent, non-adversarial, and non-punitive.

The BBNJ the Agreement also includes provisions on dispute settlement, Art 56-61. It establishes procedures for the peaceful resolution of disputes concerning the interpretation or application of the Agreement. It also gives the COP the possibility to request advisory opinions from the International Tribunal for the Law of the Sea (ITLOS) under certain circumstances.

5. OPPORTUNITIES FOR ACAP COOPERATION

5.1. Benefit to the BBNJ from ACAP engagement

The BBNJ Agreement will benefit from engagement with ACAP, which can provide, among other things:

- best available information about albatrosses and petrels, their habitats and threats in ABNJ
- internationally recognised best practice advice and guidelines for addressing threats to albatrosses and petrels in ABNJ
- access to a diverse pool of experts on seabird issues.

ACAP's engagement as an observer at the BBNJ Agreement's COP and in relevant subsidiary bodies would hold real potential to integrate seabird conservation considerations into the heart of BBNJ processes.

Through strategic engagement with the BBNJ Agreement, ACAP could both reinforce the need for the BBNJ Agreement to focus on conservation issues, complementing ACAP existing conservation work, thus contributing to the shared global objective of safeguarding marine biodiversity for present and future generations.

5.2. Benefit to ACAP from BBNJ engagement

ACAP will benefit from engagement with BBNJ Agreement, which can provide, among other things:

- increased protection of albatrosses and petrels through ABMTs and MPAs
- improved mitigation of impacts on albatrosses and petrels through conditions under EIAs
- emergency measures
- potential closer links to other international bodies through BBNJ coordination mechanisms

By sharing scientific expertise, data and best practice guidance, and by actively participating in discussions on key tools like ABMTs, EIAs and capacity-building initiatives, ACAP could help ensure that the implementation of the BBNJ Agreement meaningfully addresses the threats faced by albatrosses and petrels in ABNJ.

ACAP may monitor developments under the BBNJ Agreement and engage in its consultative processes in the development of ABMTs, EIAs and risk-based approaches.

ACAP may seek observer participation as an IFB in relevant bodies of the BBNJ Agreement, particularly the COP to influence the development of approaches and decisions within ABNJ that ensure seabird science and conservation approaches inform relevant standards, methodologies and decisions, including for ABMT and EIA. Such participation would help highlight the importance of ABMT as a key ecosystem for wide-ranging albatrosses and petrels.

ACAP may leverage the engagement of its Parties which are also Parties to the BBNJ Agreement to advance ACAP's objective and interests in the conservation of albatrosses and petrels, as occurs during meetings of RFMCOs.

The status of ratification/accession by ACAP Parties to the BBNJ Agreement is provided in Table 1 (as of 15 April 2026).

TABLE 1. STATUS OF RATIFICATION/ACCESSION* TO THE BBNJ AGREEMENT BY ACAP PARTIES

ACAP Party	Signatory to BBNJ Agreement	Party to BBNJ Agreement
Argentina	Yes	
Australia	Yes	
Brazil	Yes	Yes
Chile	Yes	Yes
Ecuador	Yes	Yes
France (as EU Member State)	Yes	Yes
New Zealand	Yes	
Norway	Yes	Yes
Peru	Yes	
South Africa	Yes	
Spain (as EU Member State)	Yes	Yes
United Kingdom	Yes	
Uruguay	Yes	Yes
ACAP Parties	13	7

* As of 15 April 2026.