



**INC - Plastic Pollution Treaty
Intersessional Work
Legal aspects of Financing Mechanism Options Summary under the
Compilation Document (Expert Group 1)**

During INC-4, held in April 2024 in Ottawa, Canada, the INC mandated the INC Secretariat to prepare a new document reflecting the negotiation progress and textual proposals reflected during the week of discussions. This document, the [Compilation Text](#) of the international legally binding instrument on plastic pollution, including in the marine environment, was subsequently released in an advance English version in early July 2024. It is intended to function as a next step from the Revised Zero Draft used during INC-4 to the INC-5 meetings in Busan, South Korea, in November 2024. It has also been indicated that the [Compilation Text](#) will be used to inform the work of the two Intersessional Working Groups authorized at INC-4 to conduct targeted studies and discussions on financing (EG1) and associated measures and criteria and non-criteria approaches for polymers, chemicals and products and their design (EG2).

Subsequent to the INC-4 outcomes and especially in the phases of the on-line meetings of EG1 ([EG1 Agenda](#), [WorkProgrammeEG1](#), Co-Chairs' Synthesis Paper on Finance: [EG1 Synthesis Paper](#)) the financing mechanism has come to the forefront of INC discussions, this brief summarizes the proposals in the Compilation Document (*CompDoc*) and provides an overview of several examples of how such approaches have been and are being implemented under other MEAs, as well as how these approaches might be used to provide a scientific basis for regulation under the ILBI that protects the environment, biodiversity and human health¹.

It must be remembered that each form of financing mechanism proposed, whether a new entity under the authority of the Conference of the Parties (COP), an entity placed under the administration of an existing international financing institution, such as the Global Environment Facility (GEF), or a hybrid of both options, will have advantages and disadvantages. For example, the use of a COP-based, freestanding entity would allow the State Parties more direct control over the operation of the financing mechanism, however it could take a longer time to implement because each operational element would need to be created and adopted. Conversely, these measures are largely in existence for already existing entities such as the GEF, however there is more controversy about working with the GEF and ceding aspects of operational control. Additionally, it has been noted that the hybrid system could suffer from predictability and sustainability questions where the intent would be to facilitate the transition from an outside funding mechanism to a COP-based financing mechanism.

During the three pre-EG 1 meetings, several existing MEAs and existing international financing institutions were analyzed for potential use as framework guidance sources for the ILBI financing mechanisms. These included the Montreal Protocol Multilateral Fund, the operations of funding within the World Bank, the GEF and the Green Climate Fund. It was also noted that various forms of financing operations exist

For more information, please contact:

Karine Siegwart
Senior Policy Advisor
Centre for Policy and Law
karine.siegwart@iucn.org

Alexandra R. Harrington,
Lancaster University Law
School and Chair, IUCN
WCEL Agreement
on Plastic Pollution Task
Force,
a.harrington1@lancaster.ac.uk

IUCN World Headquarters
Rue Mauverney 28
1196 Gland
Switzerland
Tel: +41 22 999 0000
Fax: +41 22 999 0002
www.iucn.org

¹ Cf. also the discussion during the webinar on "Financing considerations to support an international legally binding instrument on plastic pollution: Financial mechanisms, supported obligations, and addressing potential funding gaps", 24 July 2024, and its report ([Financing Coordination Group Webinar#2 July 24 2024 - Summary Report](#)).

under the parameters of the BRS Conventions and the Minamata Convention on Mercury.

Additionally, it has been noted that there are financing mechanisms under the High Seas Treaty (BBNJ treaty) and the Kunming Montreal Global Biodiversity Framework (GBF) under the Convention on Biological Diversity (CBD), however the pre-interessional meetings did not address these measures in an in-depth manner. To facilitate understanding of these mechanisms, Annex A of this brief contains a short analysis of their key terms from the creation and governance perspective.

Financing Mechanism in the CompDoc

General provisions

There are a number of proposals for the financing mechanism aspects of the CompDoc. It should also be noted that there is an Option 0 in the CompDoc, under which there would not be text creating a financing mechanism in the ILBI. However, given the number of States at all levels of development that have endorsed the development of a financial mechanism as a critical element for implementing the terms of the ILBI, it is likely that a financial mechanism article will be included in the final ILBI text.

Many aspects of these proposals contain either binding or voluntary commitments by Parties to the Treaty in terms of providing funding to the mechanism and being able to access the financing mechanism. Within these proposals, much of the focus is on whether developing countries, least developed countries, Small Island Developing States, countries with economies in transition, archipelagic countries and other classifications of countries should be absolved from providing funds and/or be the only countries eligible for funding from the financing mechanism. The proposals for the financing mechanism also include options for using multiple sources of funding, potentially guided by the Addis Ababa Action Agenda and the polluter pays principle, with specific references to involving the World Bank, IMF and multilateral and regional development banks in the work of implementing the ILBI.

Additionally, under Part III.1(2) as proposed in the CompDoc, State Parties, especially developed countries that can be assessed as being “in a position to do so” would either be required or encouraged to provide finance and capacity and/or technical assistance and technology transfer to developing and other identified classifications of State Parties to assist in their implementation of the ILBI.

Creation and structure of a Financing Mechanism

In Part III.1 (4), there is a proposal that the financing mechanism would officially be created under the auspices of the Treaty and intended to support the implementation of the Treaty’s terms, including for technology transfer and/or development, capacity building and training related to the terms of the Treaty. Elements of the proposals for the Financing Mechanism contain various options for how public and private funding would be included and used.

In Part III.1 (5), it is proposed that the financing mechanism operate under the oversight and control of the governing body of the Treaty. This would potentially include the provision of guidance from the governing body regarding the strategies, policies, programs priorities and/or eligibility criteria to be used in providing access to

and funding for activities under the ILBI and financing mechanism operations. The provisions of OP5 *quater* would require the governing body to undertake period reviews of the financing mechanism in order to assess the operative practices related to capacity-building, technical assistance and technology transfer. In OP5 *sexies*, there is an additional proposal to create an Executive Committee within the Treaty governance system to implement policies and practices needed for the administration and oversight of funding disbursed under the financing mechanism.

In OP6, it is proposed that the financing mechanism be created as a dedicated entity within the Treaty governance system. This would be compatible with the proposed governance features in Part III.1 (5). However, in OP6 alt, it is proposed that the financing mechanism for the Treaty be placed under the auspices of the Global Environment Facility or a similar international organization that would serve as the administering entity. The provisions of OP6 alt 2 are bracketed and could be understood to either place the financing mechanism under the GEF at the beginning of its operational life and/or under the direct control of an ILBI controlled entity. Regardless which of these options is used, this option would then create a Plastics Implementation Fund “to support the implementation of national action plans and other activities to be defined by the Parties” and a Remediation Fund “to support remediation of legacy plastics in the marine environment, including areas beyond national jurisdiction.” Additionally, this option contains a bracketed provision that would adopt a “timebound financing programme to support enabling activities, capacity-building and technical assistance.”

Throughout the Part III.1 OP7 variants and into (8), there are several proposals that would allow for the financing mechanism to receive public and private funds, including those from international and regional banking and financing entities. The common provisions for OP7 include proposals to ensure that there is complementarity of funding and related assistance between actions of the ILBI’s financing mechanism and other measures taken under international, regional and domestic financing systems as well as from the private sector. OP7 *ter* would create platform for the transparent exchange of information on financial flows related to the ILBI. To address the potential environmental impacts of measures funded through the financing mechanism, OP7 *quater* would encourage the financing mechanism to assess these impacts in relation to their costs and benefits.

Finally, under Part III.1 (10), the ILBI would encourage State Parties, the private sector and bilateral, regional and international entities to create consistent financial flows that advance the pathway for ending plastic pollution across the full lifecycle. Some aspects of sub-options for this provision would also link financing measures with decreasing the rates of plastic and plastic product emissions and releases into the environment across their lifecycle.

Global Plastics Fee

In Part III.1 (9), there is a proposal for implementing a global plastics fee, which would require or recommend that plastic producing countries impose a fee on those within their jurisdiction who produce primary plastic polymers. These fees could then be used to generate funding for the financing mechanism. OP9 *bis* provides an extensive list of the types of funding that the plastic pollution fee could be used to support, including aspects of national infrastructure development for environmentally sound waste management, remediation of legacy plastic pollution, expansion of EPR systems at the national level and assistance for the implementation of just transition measures adopted pursuant to the ILBI.

Recommendations

- Ensure the ILBI text provide that Financing Mechanism means not only a funding entity but also mobilizing finance from all sources, including bilateral cooperation, and the inclusion of the private sector.
- Establish a clear mandate, purpose and objective for the financing mechanism in the ILBI to facilitate funding structure and operationalization in a transparent and sustainable manner.
- Ensure that there are clear and sufficient terms in the ILBI entrenching Privileges and Immunities for any ILBI-based financing mechanism, preferably based on existing United Nations rules for Privileges and Immunities.
- Provide support for rapid, effective and early action on funding for measures to ratify and implement the ILBI.
- Utilize a system of flexibility, time and cost for evaluation and decision-making, including predictability of financing and coherence with relevant frameworks.
- Ensure a compliance driven financing mechanism, with activities designed to achieve compliance targets and involvement of all countries through the governing body and using science-based approach.
- Encourage funding and other measures that promote capacity-building, technology transfer and public awareness and education on the ILBI, the risks of plastic pollution, the use of alternatives and other matters connected to the implementation of the ILBI in law, policy, science and practice.

Beyond this, it will be essential that, regardless whether the financing mechanism approach thereof is recommended for use in the ILBI, the contents of the financing criteria include not only science-based elements and socio-economic elements but also directly include evaluative elements connecting to short, medium and long-term impacts on biodiversity, ecosystems and the environment at the international, regional and local levels and respective circular economy solutions. The inclusion of these elements within the approach(es) selected would bridge the interlinkages between pollution, biodiversity and climate change and would ensure that there is greater convergence and coherence between treaties regulating pollution and international treaty regimes more broadly. This would advance transparency and information-sharing as well as providing States and stakeholders with an option to connect knowledge from other, related sectors, helping to ensure that financing and reporting requirements are less onerous for States and that stakeholders can have their perspectives included across a wide range of related international treaty regimes.

Annex A

Financing Mechanisms for BBNJ and the GBF

BBNJ Financing Mechanisms

In 2023, the BBNJ treaty was formally agreed to by the intergovernmental negotiating committee tasked with creating it and is now open for signature and ratification. As of the time of writing, there are 91 signatory States to the BBNJ and 8 States that have officially ratified it and become State Parties.

Under the terms of the BBNJ treaty itself, a hybrid financing system has been established in addition to the general obligation placed on all State Parties to “provide, within [their] capabilities, resources in respect of those activities that are intended to achieve the objectives of this Agreement, taking into account its national policies, priorities, plans and programmes.” (52(1)). It is clear within the treaty text that the State Parties which are capable of providing funding are intended to be the primary sources of funding for all BBNJ-related funding activities envisioned as part of the treaty. (52). Article 52 of the BBNJ treaty creates the financing mechanism to assist in the implementation of the treaty, and is specifically tasked with assisting developing State Parties through measures that include capacity building and applicable technology transfer. The financing mechanism is primarily comprised of two separate, free-standing entities – the voluntary trust fund that exists under the COP’s governance and a special fund – and another trust fund that is expressly placed under the administration of the GEF. It should be noted that, as discussed in greater detail below, the GEF Trust Fund for the BBNJ has already been operationalized and will soon begin making financial disbursements by the end of 2024. Further, the text of Article 52 leaves open the possibility of future COPs expanding financing options and generating additional forms of financing systems as deemed appropriate to carry out the treaty’s terms.

In Article 52(6), both the special fund to be directed by the COP and the GEF Trust Fund are entrusted with utilization to:

- (1) Fund capacity-building projects under this Agreement, including effective projects in the conservation and sustainable use of marine biological diversity and activities and programmes, including training related to the transfer of marine technology; (b) Assist developing State Parties in implementing this 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.

It should be noted that each of these terms was also specifically adopted by the GEF in its guiding policies and decisions regarding accepting and operationalizing the BBNJ Trust Fund.

Recognizing the potential for overlapping funding sources based on the broad scope of BBNJ, the treaty stresses that the financial mechanism should seek to advance complementarity and coherence with other funders working in the same topics. (Art 52(7)). It also allows for the incorporation of public and private sources of funding, including governmental and non-governmental funders. (Art 52(8)).

Overall, the BBNJ treaty places the entirety of the financial mechanism under the authority and guidance of the COP and also requires the COP and the GEF to “agree upon arrangement to give effect to the [BBNJ terms] at the first meeting of the Conference of the Parties.” (Art 52(10)). The option of concluding a formal Memorandum of Understanding between the BBNJ COP and the GEF is being discussed, although this would not be possible until the treaty enters into force and can convene a COP for this purpose. It also requires the COP to establish “an initial resource mobilization goal through 2030 for the special fund” under its jurisdiction. (Art 52(11)). Funding from the special fund “shall be distributed according to equitable sharing criteria, taking into account the needs for assistance of Parties with special requirements.” (Art 52(12)). To facilitate oversight of all aspects of the financing mechanism, the BBNJ treaty requires the COP to establish a dedicated finance committee on financial resources and decide on its core functions, based on the understanding that these will include reporting and recommendations to the COP as a whole. Further, the COP itself is tasked with periodic reviews of the financing mechanism.

Subsequently, in June 2023 through Decision 14/2023, the GEF Council officially accepted the invitation from the Intergovernmental Conference on BBNJ to join the BBNJ treaty financial mechanism and authorized the use of \$34 million from the International Water Focal Area to be transferred and used for the purposes of “funding of ratification support and early action activities for the BBNJ Agreement to be programmed during GEF-8.” It is expected that these priorities will shift to implementation and become full-fledged measures once the BBNJ treaty receives the 60 State Party ratifications necessary for it to become operational. In order to have the ability to carry out these functions, the GEF Assembly adopted a new amendment to its Instrument that allow the GEF to administer the BBNJ trust fund and to be accountable to and under the guidance of the BBNJ COP “on overall strategies, policies, programme priorities and eligibility for access to and utilization of financial resources.

To facilitate its work, the GEF has established a variety of national programme support options relating to the ratification and early implementation process for the BBNJ treaty, including gap analysis measures and capacity assessments, as well as legislative assistance and support for awareness, education and public engagement on the process. The established maximum grant amount for countries at this stage is up to \$175,000 per country. To complement this, there are programme measures available to support coordinated efforts for ratification and early implementation at the regional and international levels. The established maximum grant amount is \$5 million for these efforts overall. A loose process has been established to allow the GEF to assess the proposals received at this early stage and it is expected that the first meeting of the BBNJ COP, once the BBNJ treaty enters into force, will provide additional guidance for future GEF decisions.

As of August 2024, the GEF has announced initial funding for ratification activities in Vanuatu, Palau, the Marshall Islands and the Solomon Islands, collectively totalling approximately \$700,000. It is also working with UNEP, the FAO and UNDP as entities that are assisting in the planning and future direction decision-making for funding activities relating to the BBNJ treaty.

GBF Financing

In 2022, at COP15, State Parties to the Convention on Biological Diversity (CBD) adopted the Kunming Montreal Global Biodiversity Framework (GBF) as a non-binding set of commitments that were the successor to the 2010 Aichi Targets. While

the bulk of the GBF and its targets relate to establishing provisions relating to biodiversity conservation, protection and promotion, there are also significant provisions relating to trade and financing aspects of biodiversity. Critically, Target 19 calls for States and the international community to “Substantially and progressively increase the level of financial resources from all sources, in an effective, timely and easily accessible manner, including domestic, international, public and private resources, in accordance with Article 20 of the Convention, to implement national biodiversity strategies and action plans, mobilizing at least \$200 billion by 2030.” To achieve this, there is a commitment to increasing international biodiversity-related financing to developing States, least developed countries and SIDS in the amount of at least \$20 billion annually by 2025 and at least \$30 billion annually by 2030.

Following the adoption of the GBF, in CBD COP 15 Decision 15/15, it was decided that the GEF would become a core actor in implementing its financing prongs, especially those relating to Target 19. Subsequently, the Global Biodiversity Framework Fund (GBFF) was established within the GEF structure in GEF Council Decisions 09/2023 and 10/2023. The GBFF created in the GEF system “to support the human rights-based and gender-responsive implementation [of the GBF], complementing existing support and scaling up financing to ensure its timely implementation.” It will only work to implement the provisions of the GBF and, to date, as only been authorized to provide funding to qualifying activities until the end of 2030. While contributions from the private sector are included in the potential sources of funding for the GBFF, a number of concerns regarding the provenance of such funding have been raised and are currently under review by the GEF.

Governance of the GBFF will be carried out by a GBFF Council, to be comprised of representatives from donor and recipient States as well as invited representatives from selected other international organization, MEA secretariats, and observers from the private sector, Indigenous Peoples and local communities, youth groups and conservation or other related organizations. It is intended to create advisory groups or other sub-entities as deemed appropriate for the provision of guidance and advice on matters relating to the scope of funding authorized under the GBF and associated decisions. As of February 2024, the GBFF adopted a Country Maximum Dollar Value of Funding Requests for the First Programming Tranche of the GBFF to guide programming and decision-making.