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IUCN Brief for policy-makers

From Entry into Force to Early Implementation: Environmental Impact Assessments under the BBNJ Agreement

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Working with many partners and supporters, IUCN implements a large and diverse portfolio of conservation projects worldwide. Combining the latest science with the traditional knowledge of local communities, these projects work to reverse habitat loss, restore ecosystems and improve people's well-being.

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Introduction

With the entry into force of the BBNJ Agreement, attention has rapidly shifted from negotiation to the practical realities of implementation. This policy brief focuses on what is needed now to operationalize Part IV on Environmental Impact Assessments (EIAs) in the immediate term, as Parties prepare for the first Conference of the Parties (COP1).

The overall objective of the EIA section of the BBNJ Agreement is to operationalize the assessments' provisions under the United Nations Convention on the Law of the Sea (UNCLOS) by setting common processes and standards, and to achieve a modern, coherent, consistent EIA framework for activities taking place in or impacting areas beyond national jurisdiction (ABNJ).

Rather than providing a comprehensive or long-term analysis of the EIA framework, this brief is intended to inform current discussions at the final preparatory meetings. It highlights the key processes, institutional priorities, and decisions required to move from early implementation toward a fully functioning system. In doing so, it aims to support Parties and stakeholders in ensuring that the EIA provisions are not only in place, but capable of delivering effective, transparent, and timely environmental oversight from the outset.

Environmental impact assessments (EIAs) are already a common tool in national and international frameworks to evaluate and inform decision makers about the likely environmental impacts of a proposed project or development, as well as how the project development can be improved to avoid possible adverse effects.



Implications of the Entry into Force of the BBNJ Agreement for Part IV, Environmental Impact Assessment

With the entry into force of the Agreement on Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement) **on January 17, 2026, several EIA obligations have become effective.** The potential impacts of all planned activities must be assessed before authorization, Parties must provide notice of planned activities and other information, and the Interim Clearing-House Mechanism becomes the site where required information will be posted. Additionally, the interim provision for Scientific and Technical Body (STB) functions to review, provide input on, and monitor the implementation of EIA provisions must be further operationalised.

Activities in Areas beyond National Jurisdiction

The Agreement provides fairly detailed directions on the EIA process that applied when the Agreement entered into force on January 17, 2026. These include: requirements for public notification and consultation; preparing EIA reports; monitoring, reporting, and review of authorized activities and their impacts. Further standards and guidelines will be developed in the future.

When an activity is planned to take place in ABNJ, the Party with jurisdiction or control over that activity will need to have national legislation authorizing and putting in place the steps required to comply with the Agreement.

Information related to each step must be made public, including but not exclusively through the Clearing-House Mechanism.

Parties must ensure that planned activities in ABNJ under their jurisdiction or control are assessed before they are authorized. If the activity is not assessed under another legal instrument, framework or body, the Party must determine whether a Part IV EIA is required.

If the activity either might have more than a minor or transitory effect on the marine environment, or if its effects are unknown or poorly understood, the Party will conduct a screening to determine whether the activity might cause substantial pollution of or significant and harmful changes to the marine environment. If the answer is “yes, it might”, a Part IV EIA must be conducted.

If the Party with jurisdiction or control over the activity decides that it should proceed, the decision and conditions of approval will be posted to the Clearing-House Mechanism.

Activities in Areas Within National Jurisdiction

Regarding activities in Areas Within National Jurisdiction (Art 28 (2), (3)), States will need a national process to meet their BBNJ Agreement obligations or it may use the Part IV procedures. The Party will need to determine whether a

planned activity under its jurisdiction or control may have impacts on marine ABNJ that exceed the threshold of “substantial pollution of or significant and harmful changes to the marine environment”.

If the activity's effects exceed the threshold, the Party must conduct an EIA in accordance with either Part IV or its own national process.

Where the national process is used, it must provide for: the timely posting of relevant

information to the Clearing-House Mechanism; monitoring the activity in question; and posting the EIA reports and relevant monitoring reports to the Clearing-House Mechanism. However, it is important to note that the STB may comment on the national EIA.

Activities in ABNJ assessed under other International Frameworks and Bodies (IFBs)

Article 29 of the BBNJ Agreement concerns obligations beginning at entry into force regarding activities in ABNJ that are assessed under other IFBs.

These include the determination of whether the other IFB's assessment has been carried out, as well as the determination of whether it is an "equivalent" assessment or if IFB regulations or standards designed to keep potential impacts below the threshold were complied with. If that

is not the case, the provisions to be applied are those of Part IV of the BBNJ Agreement.

Moreover, the EIA report undertaken for another IFB must be published to the Clearing-House Mechanism. The Party with jurisdiction or control over the activity is tasked with monitoring and reviewing the activity, unless the other IFB requires monitoring and review. At a later date, the Conference of the Parties will develop collaboration mechanisms between the STB and other IFBs.

Publication of the following is required, depending on the type of EIA:

- Notification of a planned activity (Art 28, 32)
- Notification of planned and effective opportunities for participation (Art 32)
- A screening decision that no EIA is required (Article 31(1)(a)(i))
- Results of the call-in mechanism – Parties' views on a decision not to carry out an EIA can be registered with the proponent Party and the STB. The views and recommendations of the STB must be published (Article 31(a)(ii) and (vi))
- Response to substantive comments, including measures to address potential impacts (Art 32 (5))
- Draft and Final EIA reports (Article 28, 33(3) and (5))
- Decisions to allow a planned activity to proceed (Article 28, 34(3))
- Results of monitoring impacts of authorized activities (Articles 28, 36(2))
- Information about significant adverse impacts that either were not foreseen in the EIA, in nature or severity, or that arise from a breach of any of the conditions set out in the approval of the activity (Article 37(2))
- Concerns registered by Parties, notifications, and recommendations made by the STB regarding significant adverse impacts either unforeseen in the EIA or due to a breach of conditions of approval (Article 37(4)–(6)); and
- Monitoring, reporting, and review processes for activities authorized under this Agreement (Article 37(6)).

States Parties and other stakeholders that are not the State of the project proponent

BBNJ Agreement Parties and other stakeholders will need to have access to the relevant information in order to effectively engage with the EIA process. This includes the ability to receive notification that EIA-related

material relevant to them has been posted. There will need to be opportunities and means to participate in the EIA process, including evaluating and commenting on the documents posted to the Clearing-House Mechanism.



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Priorities for Part IV at COP1

The priorities for Parties to agree on at the First Conference of the Parties (COP1) include the establishment of the Clearing-House Mechanism (Art. 51 (2)), the modalities for engagement with other relevant IFBs that require environmental assessment, as well as the operationalization of the Scientific and Technical Body (STB).

Key elements for consideration include the election of members of the STB, the development of procedures for the establishment of STB sub-committees and/or working groups, including the participation of external experts (Art. 31(3)), and the establishment of a roster of experts.

While the above are clear priorities, other EIA Measures that must occur but that can be deferred to subsequent COPs include the ability of the STB to develop relevant recommendations for standards and guidelines for seven specific aspects of EIA (Art 38), clarity on the process through which Parties - or the COP – may conduct Strategic Environmental Assessment (Art 39), as well as guidance for conducting cumulative impact assessment, including impacts of climate change (Art 27, 30, 31, 33, 38).

A Critical Window for Credible and Effective Implementation

Part IV establishes, for the first time, a common and transparent framework to assess, manage, and monitor the environmental impacts of activities across the high seas, while strengthening accountability through information-sharing and inclusive participation.

However, the effectiveness of this framework will depend on how quickly and robustly key institutional and operational elements are put in place. The establishment of the Clearing-House Mechanism, the operationalization of the Scientific and Technical Body, and the development of standards, guidelines, and cooperation modalities with other international

bodies will be critical early tests of the Agreement's ambition.

At COP1, Parties face a narrow but vital window to ensure that the EIA system is not only functional, but credible, accessible, and responsive to emerging pressures on the ocean, including cumulative and climate-related impacts. This includes enabling meaningful participation by all States and stakeholders, particularly those with limited capacity, and ensuring that transparency provisions translate into real opportunities for engagement and oversight.

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