Commission for the Conservation of
Southern Bluefin Tuna

みなみまぐろ保存委員会

CCSBT-ESC/2608/09

Current status of the BBNJ Agreement and possible elements related to ESC

(ESC Agenda Item 18.1)

Purpose

This paper provides information on the current status of the BBNJ Agreement and on possible elements and their relationship to future work and activities of the Extended Scientific Committee (ESC).

Background

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 (the BBNJ Agreement) entered into force on 17 January 2026.

The first meeting of the Conference of the Parties will be convened no later than one year after the entry into force of the Agreement, and preparatory work on various aspects is ongoing among the Parties. At the time of writing this paper, four Extended Commission (EC) Members[1] have ratified, and three Members[2] have signed the BBNJ Agreement.

The BBNJ Agreement aims to address four areas of high seas management:

- Marine Genetic Resources;
- Area-Based Management Measures;
- Environmental Impact Assessment; and
- Capacity Building and the Transfer of Marine Technology.

The BBNJ Agreement and the CCSBT Convention share a common commitment to the conservation and sustainable use of marine biological resources in areas beyond national jurisdiction, and it is evident that the future implementation of the BBNJ Agreement will have some implications for the CCSBT. The CCSBT has established scientific expertise and has developed an effective ecosystem-based management approach over many years, both of which are indispensable for the management of high seas biodiversity.

Based on this understanding, the CCSBT has included BBNJ matters as a standing agenda item for the Extended Commission (EC) meetings since 2025, and CCSBT 32 supported the Secretariat taking a more active role in BBNJ meetings (particularly upcoming Preparatory Committee). The tuna-RFMOs have used a coordinated approach to their engagement in the BBNJ process by developing joint statements and sharing the engagement burden across the five organisations.

[1] European Union, Indonesia, Japan, Korea
[2] Australia, New Zealand, South Africa

As discussions progress toward implementation, the implications of the Agreement for the CCSBT are also becoming increasingly evident (if undefined). Accordingly, an agenda item related to the BBNJ Agreement has been added to the agenda for ESC 31.

In light of the above, this paper introduces a summary of the general relationship between BBNJ and CCSBT, as well as the elements of the BBNJ Agreement considered particularly relevant to the ESC.

General relationship between BBNJ and CCSBT based on the Agreement text

- In the context of the BBNJ Agreement, the CCSBT is considered one of the "relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies" (hereinafter "relevant bodies" in this paper).
- BBNJ Parties shall cooperate and promote the objectives of the Agreement when participating in decision-making processes within relevant bodies. (BBNJ Article 8(1) and (2))
- The general objective of the BBNJ Agreement[3] includes not only the conservation but also the sustainable use of marine biological diversity, which is aligned with the objective of the CCSBT[4]. (BBNJ Article 2)
- The BBNJ Agreement shall be interpreted and applied in a manner that does not undermine relevant bodies and that promotes coherence and coordination with those bodies. (BBNJ Article 5(2))
- The BBNJ Agreement establishes mechanisms for consultation, cooperation and coordination and/or collaboration with relevant bodies in various aspects, including the assessment of ABMT proposals and processes related to EIA. (BBNJ Article 22(3), Article 31, etc.)
- The provisions of the BBNJ Agreement relating to Maring Genetic Resources (Part II) shall not apply to fishing regulated under relevant international law and fishing-related activities.
- The BBNJ Agreement establishes a Clearing-House Mechanism, and relevant bodies are expected to cooperate with this mechanism. (BBNJ Article 51)

BBNJ Elements that may be particularly relevant to ESC's future work

The Secretariat considers that, among the elements set out in the BBNJ Agreement, the following three areas, in particular, are most likely to be of relevance to the work of the ESC.

1. Area-Based Management Tool (ABMT), including Marine Protected Areas (MPA)

(1) Definition

"Area-based management tool" (ABMT) means a tool, including a marine protected area, for a geographically defined area through which one or several sectors or activities are managed with the aim of achieving particular conservation and sustainable use objectives in accordance with this Agreement. (Article 1(1))

"Marine protected area" (MPA) means a geographically defined marine area that is designated and managed to achieve specific long-term biological diversity

[3] 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.
[4] The objective of the CCSBT Convention is to ensure, through appropriate management, the conservation and optimum utilisation of southern bluefin tuna.

conservation objectives and may allow, where appropriate, sustainable use provided it is consistent with the conservation objectives. (Article 1(9))

(2) *Basic mechanism*

Based on the Agreement text, any proposals on ABMT shall be submitted by Parties. The Agreement provides that:

- Parties shall collaborate and consult, as appropriate, with relevant stakeholders, including RFMOs, when developing proposals for the establishment of ABMT. (Article 19(2))
- Proposals shall be formulated on the basis of the best available science and scientific information, and shall include specific key elements, including measures adopted under relevant RFMOs. (Article 19(3) and (4))
- A preliminary review of proposals shall be conducted by the Scientific and Technical Body (STB). (Article 20)
- Inclusive, transparent and open consultations on proposals shall be conducted with all relevant stakeholders, including RFMOs. Notified and invited RFMOs may provide their views on the merits of the proposals and any other relevant scientific input. (Article 21(1) and (2))
- The Conference of the Parties (CoP) shall make decisions, while respecting the competences of, and not undermining, relevant RFMOs. (Article 22(2))
- The CoP shall establish regular consultations to enhance cooperation and coordination with and among relevant bodies with regard to ABMTs, including coordination with respect to related measures adopted under such bodies. (Article 22(3))
- Relevant bodies shall be invited to provide information to the CoP on the implementation of measures as part of the monitoring and review process. (Article 26(2))

(3) *Possible relationship with ESC*

As described above, when BBNJ Parties consider proposals involving areas that potentially overlap with SBT fisheries, it is likely that the CCSBT will be approached for advice and/or input. Such approaches may occur at several stages, including:

- by Parties during the proposal development phase,
- by the STB during the preliminary review phase, and
- by the CoP during the open consultation phase.

Although the BBNJ Agreement does not impose a legal obligation on RFMOs to provide input to such consultations, there will be a strong expectation that RFMOs offer appropriate advice or input in the spirit of cooperation.

Within the CCSBT framework, responsibilities related to scientific advice and the consideration of scientific data are highly likely to fall to the ESC (or alternatively a subsidiary body thereof). However, at this stage, it remains unclear:

- how CCSBT's lack of a convention area will affect the determination of relevant bodies;
- what types of advice and/or input may be requested;
- how much time will be available to respond; and
- how and by whom responses should be prepared.

In addition, the CCSBT may need to consider an appropriate system or process to address such consultations, including the level of authorisation required to provide scientific advice or input (i.e. will the ESC be authorised to respond directly or will the advice require the approval of the EC).

2. Environmental Impact Assessment (EIA)

(1) Definition

Under the BBNJ Agreement, an Environmental Impact Assessment (EIA) is required for planned activities in areas beyond national jurisdiction (ABNJ) that may cause substantial pollution or significant and harmful changes to the marine environment.

(2) Basic mechanism

The BBNJ Agreement places an obligation on Parties to ensure that potential impacts on the marine environment of planned activities under their jurisdiction or control in the ABNJ are assessed through an EIA.

The EIA process includes the following key elements:

- Screening: Parties shall determine whether a planned activity in ABNJ requires an EIA, based on thresholds and criteria set out in the Agreement. (Article 30 and 31)
- Preparation of an EIA report: If required, the proponent Party shall prepare an EIA report based on the best available science. (Article 33(1) and (2))
- Notification and consultation: Parties shall notify and consult relevant stakeholders, including RFMOs. These bodies may provide comments, scientific input, or other relevant information. (Article 32)
- Review by the Scientific and Technical Body (STB): The EIA report shall be submitted to the STB for review. (Article 33(3) and (4))
- Decision-making: The proponent Party shall decide whether the activity may proceed, taking into account the EIA report, comments from relevant bodies, STB recommendations, and the obligation not to undermine relevant bodies. (Article 34)
- Monitoring, reporting and review: Parties shall monitor the environment and any associated impacts, and periodically report to the Clearing-House Mechanism (CHM). Relevant bodies may be invited to provide information on observed impacts or relevant management measures. (Article 35, 36 and 37)
- Standards and/or guidelines related to EIA: STB shall develop standards or guidelines, including on the determination of the thresholds, for adoption by CoP. (Article 38)

(3) Possible relationship with ESC/CCSBT

As noted above, the BBNJ Agreement establishes a process in which Parties are required to notify and consult relevant bodies, including RFMOs, when conducting EIAs for planned activities in areas beyond national jurisdiction.

CCSBT may be approached for scientific advice and/or relevant information in relation to activities that could interact with SBT or SBT fisheries.

Such engagement could occur at several stages of the EIA process, including:

- during the consideration within BBNJ on “threshold” for screening;
- during the Notification and Consultation phase;

- during the Review by the Scientific and Technical Body (STB), where relevant; and
- during Monitoring and Review, when relevant bodies may be invited to provide information.

As already noted above, there may be an expectation that RFMOs contribute appropriate scientific information in the interest of cooperation and coherence.

Again, within the CCSBT framework, responsibilities related to scientific advice and the consideration of scientific data are likely to fall to the ESC (or a designated subsidiary body thereof). However, at this stage, several aspects remain uncertain, including:

- what types of scientific advice or information may be requested;
- the timeframe available for responding; and
- the process for preparing and submitting responses.

In light of these uncertainties, the CCSBT may need to consider whether existing processes are sufficient or whether additional procedures, such as mechanisms for intersessional responses, may be required to address potential future consultations under the BBNJ EIA framework.

3. Clearing-House Mechanism (CHM)

(1) *Definition*

The Clearing-House Mechanism (CHM) is established as an open-access centralised platform to enable Parties to access, provide and disseminate information with respect to activities taking place pursuant to the provisions of the BBNJ Agreement.

The specific modalities for the operation of the Clearing-House Mechanism shall be determined by the Conference of the Parties.

(2) *Basic mechanism*

Based on the Agreement text, the CHM would perform the following functions:

- Provide Parties access to information relevant to the implementation of the Agreement, including information related to ABMT and EIA. (Article 51(3))
- Serve as a repository of information, such as on existing ABMT including those adopted by relevant bodies, EIA reports and scientific information/data. (Article 51(3)(a))
- Facilitate cooperation and coordination with relevant bodies, including RFMOs, by providing a platform for information exchange. (Article 51(1)-(2))
- Support monitoring and review by receiving information submitted by Parties and relevant bodies. (Article 51(3))

(3) *Possible relationship with ESC/CCSBT*

The BBNJ Agreement explicitly anticipates cooperation between the CHM and relevant bodies.

While the BBNJ Agreement specifies that Parties shall have access to the CHM, it does not explicitly define the extent to which relevant bodies may access or directly interact with CHM. The operational details will be determined by the CoP.

Depending on how these modalities are developed by BBNJ-CoP, it is possible that the CCSBT may be invited to:

- provide information on SBT-related management measures for inclusion in the CHM;
- share scientific or technical information relevant to ABMT, EIA or other processes under the Agreement;
- contribute information as part of monitoring and review processes.

Within the CCSBT framework, responsibilities related to scientific information and data are likely to fall to the ESC (or a designated subsidiary body thereof). However, several aspects remain uncertain at this stage, including:

- what types of information the CCSBT may be asked to provide;
- whether CCSBT, as relevant bodies, will have direct access to the CHM or will interact through Parties;
- the process for preparing and authorising submissions to the CHM; and
- the frequency and timing of potential requests.

Given these uncertainties, the CCSBT may need to consider whether existing processes are sufficient or whether additional procedures (such as mechanisms for intersessional coordination or internal authorisation) may be required to respond to potential future interactions with the CHM.

Other Elements from the BBNJ Agreement

At this stage, the Secretariat does not envision an active role for the CCSBT in the area of Marine Genetic Resources and Benefit Sharing. In fact, the text specifically excludes fishing regulated under relevant international law and fishing-related activities from the application of this section.

There is some potential for RFMOs to be requested to engage or support capacity building under the BBNJ based on the expertise available however this has yet to be truly explored or defined as part of the implementation process.

Next Steps

As outlined above, the BBNJ Agreement contains several elements that envisage potential engagement with the CCSBT.

However, although the BBNJ Agreement has entered into force, it has not been operationalised. It is expected that the first meeting of the Conference of the Parties (CoP1) will establish fundamental arrangements across a range of areas, thereby clarifying issues that will be important for determining the CCSBT's approach going forward.

The Secretariat, in line with the direction of the Extended Commission, will continue to monitor developments under the BBNJ process and provide appropriate updates to the ESC.

At the same time, four Members of the Extended Commission have already ratified the BBNJ Agreement and are therefore in a position to participate in the BBNJ process with voting rights. The Secretariat encourages these Members to take a proactive role, including supplementing the information provided by the Secretariat as necessary, leading discussions within the ESC for necessary actions, and conveying the CCSBT's perspectives in the BBNJ forum.

Disclaimer

All information provided in this paper is based solely on the CCSBT Secretariat's understanding and interpretation of the BBNJ Agreement.

Accordingly, this paper should be used solely for informational purposes and should not be cited or relied upon as the basis for any research, analysis, policy development or official documentation.

Prepared by the Secretariat