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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

Third session

New York, 23 March–2 April 2026

Operationalization of other provisions on financial resources and mechanism under 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 Co-Chairs concerning a draft decision of the Conference of the Parties for the purpose of operationalizing the special fund

1. The 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, established pursuant to General Assembly resolution [78/272](#), considered, at its second session, held from 18 to 29 August 2025, the operationalization of provisions on financial resources and mechanism other than the arrangements with the Global Environment Facility to give effect to the relevant provisions on funding, on the basis of a note by the Secretariat ([A/AC.296/2025/18](#)), including in relation to the special fund established under article 52 of the Agreement. Following discussions on the basis of a Co-Chairs' document, entitled "Possible elements of a process for the operationalization of the special fund", circulated during the second session, on 23 August 2025, it was agreed that the Co-Chairs would prepare a draft decision of the Conference of the Parties for the purpose of operationalizing the special fund for consideration by the Commission at its third session.

2. The annex to the present document contains a draft decision of the Conference of the Parties, prepared by the Co-Chairs, for the purpose of operationalizing the



special fund. In preparing the draft decision, the Co-Chairs have taken into account the views expressed and written input provided by delegations during the second session and have drawn upon the experiences from relevant processes to operationalize existing funds under other instruments, frameworks and bodies. In particular, the Co-Chairs considered the processes undertaken for the operationalization of the Green Climate Fund¹ and the Fund for Responding to Loss and Damage,² established under the United Nations Framework Convention on Climate Change, as well as the Cali Fund for the Fair and Equitable Sharing of Benefits from the Use of Digital Sequence Information on Genetic Resources (Cali Fund), established under the Convention on Biological Diversity.³

3. The draft decision, which is provided to assist text-based negotiations at the third session, contains alternative formulations, the order of appearance of which should not be taken as indicating any suggested order of priority. Alternative formulations within a paragraph are indicated using square brackets, which have also been used to indicate “no text” options, while alternative formulations for entire paragraphs are presented according to the following structure:

Option I

[...]

Option II

[...]

4. The content of the annex to the present document is without prejudice to the position of any delegation on any of the matters referred to therein. Furthermore, the elements and options contained in the annex are not exhaustive and do not preclude the consideration of matters that have not been addressed therein. Delegations are encouraged to study the draft decision, consult with one another and exercise flexibility, with a view to reaching consensus on outstanding issues in a timely manner.

¹ Decision 1/CP.16.

² Decision 2/CP.27; decision 2/CMA.4.

³ Decision 15/9.

Annex

Operationalization of the special fund established under the Agreement

Draft decision for consideration by 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

The Conference of the Parties,

Recalling the principles, provisions and obligations set forth in 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, in particular its articles 2, 7, 14 and 52,

Building on lessons learned from existing funds under relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies,

Desiring to give effect to the principle of full recognition of the special circumstances of small island developing States and of least developed countries, and acknowledging the special interests and needs of landlocked developing countries,

Recalling article 52, paragraph 12, of the Agreement, which provides that funding under the special fund referred to in article 52, paragraph 4 (b), thereof shall be distributed according to equitable sharing criteria, taking into account the needs for assistance of Parties with special requirements, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States and coastal African States, archipelagic States and developing middle-income countries, and taking into account the special circumstances of small island developing States and of least developed countries,

[...]

Explanatory note: *Paragraph 1 sets out the decision of the Conference of the Parties to operationalize the special fund referred to in article 52, paragraph 4 (b), of the Agreement, as part of the financial mechanism of the Agreement.*

1. *Decides* to operationalize the special fund referred to in paragraph 4 (b) of article 52 of the Agreement, which establishes a financial mechanism for the provision of adequate, accessible, new and additional and predictable financial resources under the Agreement, in accordance with the modalities set out below;

Explanatory note: *Paragraph 2 establishes a process for the operationalization of the special fund. The term “[process]” serves as a placeholder to designate the modality for the operationalization of the special fund, subject to further discussion on the appropriate form. This modality can take the form of an open-ended working group, an ad hoc or transitional committee of limited membership, or any other format as may be agreed.*

2. *Also decides* to establish a transparent, timebound and cost-effective [process] to assist in the early operationalization of the special fund;

Explanatory note: *Paragraph 3 outlines the mandate, key features, duration and expected output of the [process] to operationalize the special fund.*

Two alternative options are presented. Under Option I, the [process] is mandated to prepare operational documents, including a governing instrument, for the special fund, for consideration and adoption by the Conference of the Parties. Under Option II, the [process] is mandated to make recommendations for consideration and adoption by the Conference of the Parties, without prescribing the form that the final output might take. Both options provide that the [process] will conduct its work in accordance with the draft terms of reference contained in the appendix to the draft decision. Option I reflects the approach taken in the operationalization of the Green Climate Fund.¹ Option II follows the approach taken in the operationalization of the Fund for Responding to Loss and Damage.² A similar approach was also taken in relation to the Cali Fund.³

Option I

3. *Further decides* that the [process] established in paragraph 2 above shall develop and recommend operational documents, including a governing instrument, for the special fund in accordance with the terms of reference contained in the appendix to the present decision, for consideration and adoption by the Conference of the Parties at its second ordinary meeting;

Option II

3. *Decides* that the [process] established in paragraph 2 above shall make recommendations, in accordance with the terms of reference contained in the appendix to the present decision, for consideration and adoption by the Conference of the Parties at its second ordinary meeting, with a view to operationalizing the special fund.

Explanatory note: *The paragraphs below outline two alternative options for the operational modalities for the [process], including its composition and selection process. Option I presents an open-ended ad hoc working group model, drawing upon the approach taken in operationalizing the Cali Fund.⁴ Option II presents the model of an ad hoc committee with limited membership, drawing upon the approaches taken in operationalizing the Green Climate Fund⁵ and the Fund for Responding to Loss and Damage.⁶*

These modalities are presented in the main body of the draft decision. However, drawing upon the approach taken in operationalizing the Fund for Responding to Loss and Damage,⁷ some or all of these paragraphs could be included in the terms of reference for the [process] contained in the appendix, which forms an integral part of the decision.

Option I (Open-ended ad hoc working group)

4. *Decides* that the open-ended ad hoc working group shall be open to participation by all States Parties and comprise Government representatives having the necessary experience, expertise and seniority, notably in the areas of finance, conservation and sustainable use of marine biological diversity, and/or the law of the sea;

¹ Decision 1/CP.16, paras. 102–112 and appendix III.

² Decision 2/CP.27, paras. 3 and 4, and annex; decision 2/CMA.4, paras. 3 and 4, and annex.

³ Decision 15/9, paras. 16–18, and annex.

⁴ Decision 15/9, para. 18.

⁵ Decision 1/CP.16, para. 109.

⁶ Decision 2/CMA.4, annex, para. 4.

⁷ Decision 2/CMA.4, annex.

5. *Also decides* to have at least [x] in-person meetings of the open-ended ad hoc working group, and also decides that the Co-Chairs of the working group may convene informal virtual consultations, taking into account different time zones and the challenges and resource constraints faced by developing States Parties, in particular the least developed countries, landlocked developing countries and small island developing States;

6. *Further decides* that the meetings of the working group will be open to observers;

7. *Requests* the head of the secretariat, in consultation with the President of the Conference of the Parties, to convene the initial in-person meeting no later than [XXXXX 202X];

Explanatory note: Paragraphs 8 and 9 address the financial assistance for the participation of representatives of developing States Parties in the meetings of the open-ended ad hoc working group, through funding under the voluntary trust fund to be established by the Conference of the Parties to the Agreement.

8. *Decides* that assistance for representatives of developing States Parties, in particular the least developed countries, landlocked developing countries and small island developing States, to attend the meetings of the open-ended ad hoc working group shall be provided through the voluntary trust fund referred to in article 52, paragraph 4 (a), of the Agreement, in accordance with the financial rules [and applicable terms of reference for the voluntary trust fund];

9. *Also decides* that adequate financial resources shall be made available for the work of the open-ended ad hoc working group;

Option II (Ad hoc committee with limited membership)

4. *Decides* that the ad hoc committee shall be composed of [XX] members, possessing the necessary experience, expertise and seniority, notably in the areas of finance, conservation and sustainable use of marine biological diversity, and/or the law of the sea, with:

- (a) [XX] members from States Parties as follows:
 - (i) [X] members from Africa;
 - (ii) [X] members from Asia-Pacific;
 - (iii) [X] members from Eastern Europe;
 - (iv) [X] members from Latin America and the Caribbean;
 - (v) [X] members from Western Europe and other States;
 - (vi) [X] members from small island developing States;
 - (vii) [X] members from the least developed countries;

(b) [[X] members representing Indigenous Peoples, taking into account the need for equitable distribution across the seven Indigenous sociocultural regions recognized by the United Nations, to the greatest extent possible;

- (c) [X] members representing local communities;]

Explanatory note: Paragraph 5 outlines the procedure for the selection of the members of the ad hoc committee. This is a process whereby the regional groups or constituencies would directly designate their respective representatives to serve as members of the ad hoc committee without the need for additional selection steps involving any other entity.

5. *Invites* the regional groups or constituencies to select their respective representatives to serve as members of the ad hoc committee, taking into account the need for gender balance, and communicate their selection to the secretariat no later than [XX XXXXX 202X];

6. *Decides* to have at least [x] in-person meetings of the ad hoc committee, and also decides that the Co-Chairs of the ad hoc committee may convene informal virtual consultations, taking into account different time zones and the challenges and resource constraints faced by developing States Parties, in particular the least developed countries, landlocked developing countries and small island developing States;

7. *Also decides* that the meetings of the ad hoc committee will be open to observers[and designated advisers of the members];

8. *Requests* the head of the secretariat, in consultation with the President of the Conference of the Parties, to convene the initial in-person meeting no later than [XXXXX 202X];

Explanatory note: Paragraph 9 addresses the provision of financial assistance for the participation of representatives of States Parties in the meetings of the ad hoc committee through funding under the voluntary trust fund to be established by the Conference of the Parties to the Agreement. Furthermore, paragraph 10 addresses the participation of members of the committee who are representatives of Indigenous Peoples and local communities through funding to be provided under either the voluntary trust fund or a separate fund that the Conference of the Parties may decide to establish with a view to assisting representatives of Indigenous Peoples and local communities in attending meetings under the Agreement. It is noted that funding for Indigenous Peoples and local communities to participate in meetings is currently being considered in discussions on the further revised aid to discussions and negotiations prepared by the Co-Chairs concerning financial rules governing the funding of the Conference of the Parties to the Agreement and the funding of the secretariat and any subsidiary bodies (A/AC.296/2026/2).

9. *Decides* that assistance for members of the ad hoc committee [and one designated adviser per member] from developing States Parties, in particular the least developed countries, landlocked developing countries and small island developing States, to attend the meetings of the committee shall be provided through the voluntary trust fund referred to in article 52, paragraph 4 (a), of the Agreement, in accordance with the financial rules [and applicable terms of reference of the voluntary trust fund];

[10. *Also decides* that assistance for members of the ad hoc committee [and one designated adviser per member] representing Indigenous Peoples and local communities shall be provided through [the voluntary trust fund referred to in article 52, paragraph 4 (a), of the Agreement] [applicable trust fund for attendance by Indigenous Peoples and local communities] in accordance with the financial rules [and applicable terms of reference of the voluntary trust fund];]

11. [Also][Further] *decides* that adequate financial resources shall be made available for the work of the ad hoc committee;

Explanatory note: Paragraph [10][12] draws upon similar language in the decision establishing the Green Climate Fund.⁸

[10][12]. *Requests* the head of the secretariat, in consultation with the President of the Conference of the Parties, to make arrangements to allow the

⁸ Decision 1/CP.16, para. 111.

possibility for relevant United Nations agencies, international financial institutions and multilateral development banks, along with the Global Environment Facility, to second suitably qualified staff with pertinent expertise, [notably in the areas of finance, conservation and sustainable use of marine biological diversity, and/or the law of the sea,] to support the work of the [process];

Explanatory note: *Paragraph [11][13] provides a placeholder for other possible issues related to the institutional arrangements for the special fund, which delegations may wish to address in the decision regarding the operationalization of the special fund. These elements could include issues such as Board, secretariat, trustee and other institutional arrangements for the special fund, similar to the approach taken in the decision to establish the Green Climate Fund.*⁹

[11][13]. [...] (placeholder for any paragraphs on possible institutional arrangements for the Fund)

Explanatory note: *Pursuant to article 14, paragraph 6, of the Agreement, after the entry into force of the Agreement and until the Conference of the Parties takes a decision on the modalities for the sharing of monetary benefits from the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction, developed Parties are required to make annual contributions to the special fund. Paragraph [12][14] establishes an interim arrangement to ensure the collection and management of such contributions for the period between the entry into force of the Agreement and until such time as the special fund has been fully operationalized.*

*To this end, two options are proposed as an interim arrangement for the special fund. Option I provides that during that initial period, the annual contributions of developed Parties in accordance with article 14, paragraph 6, of the Agreement are to be made to the general trust fund established under the financial rules governing the funding of the Conference of the Parties to the Agreement, and the funding of the secretariat and any subsidiary bodies, to receive the assessed contributions of the Parties to the Agreement, pursuant to article 52, paragraph 2, thereof. Under option II, the Conference of the Parties invites an existing entity, to be determined by the Conference of the Parties, to act as the interim trustee for the special fund, to manage, inter alia, the contributions by developed Parties during the initial period. A similar approach was taken with respect to the Green Climate Fund.*¹⁰

Option I

12. *Decides* that developed Parties shall make their annual contributions in accordance with article 14, paragraph 6, of the Agreement to the general trust fund until a trustee is appointed for the special fund, and requests the administrator of the general trust fund to hold these assets separately from other assets under its management, and to not use these assets or commingle said assets with other assets, and further requests the administrator to transfer these assets to the trustee of the special fund once it has been appointed and in a manner that ensures that there is no discontinuity in trustee services.

Option II

14. *Invites* the [...] to serve as the interim trustee for the special fund[, subject to a review [x] years after operationalization of the fund].

⁹ Decision 1/CP.16, paras. 103–108.

¹⁰ Decision 1/CP.16, para. 107.

Appendix

Terms of reference for the [process] to assist in the operationalization of the special fund

Explanatory note: *In line with paragraph 3 of the draft decision, paragraphs 1 and 2 of the terms of reference outline the purpose and mandate of the [process], including the intended output.*

1. The [process] shall assist in the operationalization of the special fund, [through the development and recommendation of operational documents, including a governing instrument, for the special fund,] [by making recommendations] for the consideration and adoption of the Conference of the Parties at its second meeting.

2. The [process] shall develop [recommendations for the operationalization] [and recommend operational documents, including a governing instrument,] of the special fund in accordance with articles 2, 7, 14 and 52 of the Agreement, the present decision and the present terms of reference.

Explanatory note: *Paragraph 3 outlines key elements for the [process] to consider. This approach is similar to the approach taken for the Green Climate Fund.¹ A similar approach was taken by the Conference of the Parties to the Convention on Biological Diversity with regard to the Cali Fund.²*

3. The [operational documents, including a governing instrument, for] [recommendations for the operationalization of] special fund shall address, inter alia:

- (a) Scope and guiding principles;
- (b) Governance, institutional arrangements and structure;
- (c) Administration, including secretariat and trustee functions;
- (d) Legal status;
- (e) Operational modalities, consistent with article 52, paragraph 12, of the Agreement;
- (f) Financial resources in the light of article 52, paragraph 8, of the Agreement;
- (g) Methods to promote complementarity and coherence and avoid duplication, with the other funds forming part of the financial mechanism of the Agreement, in particular the Global Environment Facility trust fund, other institutional arrangements established under the Agreement, and existing funds under other relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies;
- (h) Reporting;
- (i) Accountability, periodic review, monitoring and evaluation;
- (j) Independent evaluation and redress mechanisms.

4. The [process] shall be chaired by two Co-Chairs, one from a developed State Party and one from a developing State Party, taking into account the need for gender balance.

¹ Decision 1/CP.16, appendix III.

² Decision 15/9, annex.

Explanatory note: *Paragraph 5 is based off the terms of reference for the Transitional Committee for the Fund for Responding to Loss and Damage.*³

[5. The [process] will be guided by the use of the best available science and scientific information in conducting its work.]

Explanatory note: *Paragraph 6 is a placeholder for any additional modalities for the [process] that delegations may wish to include in the terms of reference. Such modalities may include any elements set out in paragraphs 4–9 (option I) or paragraphs 4–11 (option II) of the draft decision of the Conference of the Parties, which delegations may wish to include in the terms of reference instead.*

6. [...] (Placeholder for any additional terms of reference)

³ Decision 2/CMA.4, annex, para. 9.