

Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ Agreement or Treaty)



Key provisions of the agreement

The BBNJ Agreement is comprised of 64 Articles separated into 12 parts, which can be summarised as follows:

Part I: General provisions (Articles 1–8), including its general objective in Article 2:

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.

Part II: Marine Genetic Resources, including the fair and equitable sharing of benefits (Articles 9–16)

The BBNJ Agreement aims to control the exploitation of marine genetic resources. It states that activities relating to marine genetic resources “are in the interest of all States and for the benefit of all humanity.” Accordingly, under the BBNJ Agreement, benefits arising from activities involving marine genetic resources and their associated “digital sequence information” (for example, DNA data)—which could be significant—must be shared fairly and equitably among States. This includes not only the sharing of scientific data, but also the sharing of financial gains through a financial mechanism established under the Agreement.

The BBNJ Agreement also imposes robust notification requirements prior to the collection, use, and commercialisation of marine genetic resources. For example, States must adopt measures to ensure that detailed information about a planned activity involving marine genetic resources is provided to a “clearing-house mechanism” (a centralized information platform) at least six months prior to collection.

Part III: Measures such as area-based management tools, including marine protected areas (Articles 17–26)

The BBNJ Agreement gives States the means to establish “area-based management tools” in the high seas and deep seabed. These are measures to manage human activities in areas specifically delimited for conservation purposes. They prominently include “marine protected areas,” where certain types of human activities, such as mining and shipping, are restricted.

To account for existing activities on the high seas, the BBNJ Agreement requires States to collaborate and consult with “relevant stakeholders,” including the “scientific community,” “Indigenous Peoples and local communities,” and the “private sector,” when formulating and assessing plans for area-based management tools. Area-based management tools established under the BBNJ Agreement will also have to respect existing measures of other international bodies. These include regulations of fishing, shipping, and deep-sea mining by regional fishery management organisations, the International Maritime Organization, and the International Seabed Authority.

Part IV: Environmental impact assessments (Articles 27–39)

The environmental impact assessment (EIA) provisions under the BBNJ Agreement require pre-authorisation assessments of the potential impacts on the high seas or deep seabed activities planned in those areas, which could include the exploitation of marine genetic resources, laying of submarine cables, and oil and gas exploration.

The Agreement details a four-stage process for conducting EIAs: (1) screening; (2) scoping; (3) impact assessment and evaluation; and (4) prevention, mitigation, and management of potential adverse effects. A screening must be conducted when a planned activity may have “more than a minor or transitory effect on the marine environment” or “the effects of the activity are unknown or poorly understood.” A full EIA is required if the screening shows that the planned activity “may cause substantial pollution of or significant and harmful changes to the marine environment.” The EIA must include a public notification and consultation process.

Part IV: Environmental impact assessments (Articles 27–39) *cont.*

The BBNJ Agreement requires the preparation of a detailed EIA report, which must be made publicly available and which States must consider when deciding whether to authorise a planned activity. It further imposes a continuous obligation on States to monitor and periodically report on the environmental and associated effects of an authorised activity. In certain circumstances EIAs can be conducted in accordance with national laws or other applicable international instruments.

Part V: Capacity-building and the transfer of marine technology (Articles 40–46)

Under the BBNJ Agreement marine technology includes the equipment and expertise relevant to the conservation and sustainable use of marine biodiversity, including marine scientific research. The Agreement provides that States “shall cooperate” to assist each other, in particular developing States, in achieving the BBNJ Agreement’s objectives through capacity-building and the transfer of marine technology, including through partnerships with the private sector.

The Agreement establishes a special fund providing financial assistance to developing country Parties in implementing the treaty. The fund will be financed through annual contributions and financial gains made from the exploitation of marine genetic resources. Private entities may also make voluntary contributions to the fund.

Part VI: Institutional arrangements (Articles 47–51)

The BBNJ Agreement establishes a governing body called the Conference of the Parties (COP) with the obligation of keeping the implementation of Agreement under review and evaluation. A secretariat is established to provide administrative support to the COP and Parties.

A Scientific and Technical Body is established under the authority and guidance of the COP, to provide scientific and technical advice and report to the COP, perform the functions assigned to it under this Agreement and any other functions that may be decided by the COP.

The Agreement establishes a Clearing-house Mechanism (CHM) to serve as a centralised platform to enable Parties to access, provide and disseminate information with respect to activities taking place pursuant to the provisions of this Agreement. The secretariat has been assigned management responsibilities for the CHM.

Part VII: Financial resources and mechanism (Article 52)

The BBNJ Agreement establishes a financial mechanism for the provision of adequate, accessible, new and additional and predictable financial resources to assist developing country Parties to implement the Agreement, including through funding in support of capacity-building and the transfer of marine technology, as well as to perform other functions for the conservation and sustainable use of marine biological diversity.

The financial mechanism consists of: 1) a voluntary trust fund to facilitate the participation of vulnerable developing countries, including SIDS; 2) a special fund; and 3) the GEF trust fund. The special fund and the GEF trust fund have the purpose of supporting developing country Parties implement the Agreement.

Part VIII: Implementation and compliance (Articles 53–55)

The BBNJ Agreement establishes an Implementation and Compliance Committee to facilitate and consider the implementation of and promote compliance with the provisions of the Agreement.

The Implementation and Compliance Committee will be comprised of members possessing appropriate qualifications and experience nominated by Parties and elected by the COP.

Part IX: Settlement of disputes (Articles 56–61)

Part X: Non-Parties to this Agreement (Article 62)

Part XI: Good faith and abuse of rights (Article 63)

Part XII: Final provisions (Article 64)

This factsheet on [Use of Marine Biological Diversity of Areas beyond National Jurisdiction \(BBNJ Agreement or Treaty\)](#) is included in the comprehensive report: *Multilateral Environmental Agreements (MEAs)*, pp. 44–47