

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



Milestones in the negotiation of the agreement

Working Group: Established by General Assembly in 2004, the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of BBNJ exchanged views on institutional coordination, the need for short-term measures to address illegal, unregulated, and unreported (IUU) fishing and destructive fishing practices, marine genetic resources (MGRs), marine scientific research on marine biodiversity, marine protected areas (MPAs), and environmental impact assessments (EIAs). It met three times between 2006 and 2010.

The “Package”: The fourth meeting of the Working Group (31 May–3 June 2011) adopted, by consensus, a set of recommendations to initiate a process on the legal framework for the conservation and sustainable use of BBNJ, by identifying gaps and ways forward, including through the implementation of existing instruments and the possible development of a multilateral agreement under UNCLOS. The recommendations included a “package” of issues to be addressed in this process, namely:

- MGRs, including questions on benefit-sharing;
- area-based management tools (ABMTs), including MPAs;
- EIAs; and
- CB&TT.

A Legally Binding Instrument: Between 2014 and 2015, the Working Group engaged in interactive substantive debates on the scope, parameters, and feasibility of an international instrument under UNCLOS. At its ninth meeting, the Working Group reached consensus on recommendations for a decision to be taken at the 69th session of the UN General Assembly to develop a new legally binding instrument on BBNJ under UNCLOS, and to start a negotiating process to that end.

IGC-1: At the first meeting of the IGC, held 4–17 September 2018, delegates clarified positions on the package.

IGC-2: Delegates convened 25 March–5 April 2019 for the second session of the IGC. They deliberated based on the IGC President’s Aid to Negotiations, which contained options structured along the lines of the 2011 package.

IGC-3: Delegates at the third session of the IGC convened 19–30 August 2019 and delved, for the first time, into textual negotiations based on a zero draft containing treaty text, developed by IGC President Lee. The document’s structure addressed general provisions and cross-cutting issues, as well as the four elements of the 2011 package.

IGC-4: Delegates reconvened 7–18 March 2022 in an in-person informal-informal setting governed by Chatham-house rules. With COVID-19 restrictions only permitting two representatives per delegation in the room at one time and extremely limited observer participation, delegates addressed a revised draft text of the agreement. For the first time, delegations prepared and submitted textual proposals, many times jointly, to make progress.

IGC-5.1: The first part of IGC-5, which convened 15–26 August 2022, made notable progress in reaching agreement on some key issues. However, consensus could not be reached, and the session was suspended. Outstanding issues included: the establishment of an ABS mechanism; monetary benefit-sharing; intellectual property rights; decision-making; thresholds related to EIAs; and area- versus impact-based approaches.

IGC-5.2: The second part of IGC-5 convened 20 February–4 March 2023. After more than 36 hours in closed-door consultations to hammer out the final articles, lasting well into the weekend, IGC President Lee emerged with the text of an agreement. Delegates agreed to establish an open-ended informal working group to undertake technical edits to ensure uniformity of the text and harmonize the wording in all six UN official languages, requesting the working group to report to a further resumed session of IGC-5.

Parties to the agreement

The BBNJ will enter into force 120 days after its 60th ratification. Currently, two countries have ratified the BBNJ – Chile and Palau.

Nevertheless, the BBNJ has 88 signatories, which indicates the intent of countries to ratify it. Of these signatories, 22 of them are SIDS with 11 of them PSIDS (Cook Islands, Fiji, FSM, Nauru, Palau, RMI, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu).

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