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The WCPFC and the New BBNJ Agreement

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Introduction

On June 19, 2023, a new legally binding agreement was adopted by consensus under the United Nations Convention on the Law of the Sea (UNCLOS, 1982). The new treaty aims to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (also called the BBNJ Agreement). Areas beyond national jurisdiction are *international* areas (outside of jurisdictions of any State) and include the water column and the seafloor. These areas make up the majority of the ocean (approximately 62% of the water surface, 54% of the seabed – and 95 % of the volume of the entire ocean¹, Figure 1).

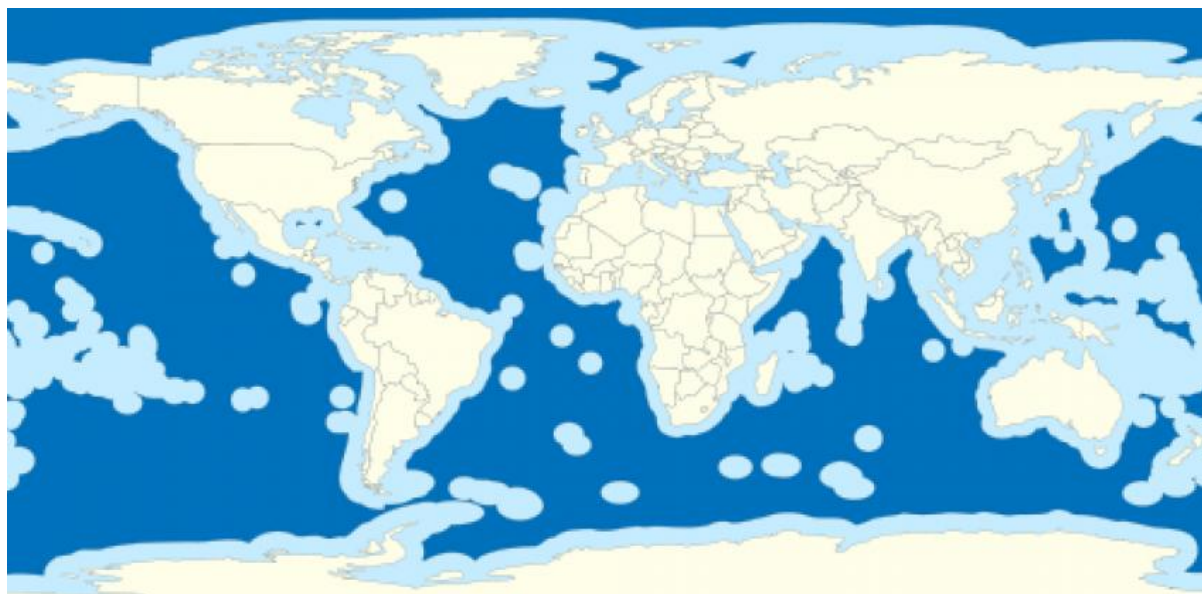


Figure 1: Geographic coverage for BBNJ: Areas Beyond National Jurisdiction (ABNJ) (dark blue) (IUCN, 2022)

The BBNJ Agreement aims to balance conservation of the marine environment and sustainable use, through four main pillars: the access to and the fair and equitable benefit sharing of marine genetic resources (MGRs); the establishment of area-based management tools (ABMTs), including marine protected areas (MPAs); the conduct of environmental impact assessments (EIAs); and capacity building and the transfer of marine technology (CBTMT). A key task is facilitating cooperation and coordination with and among other instruments, frameworks and bodies (IFBs) (BBNJ, Art.2; Art.8.1), such as the WCPFC. The different components of the BBNJ Agreement are therefore of direct relevance to RFMOs. This information paper provides an overview of the four main pillars of the BBNJ Agreement (i.e., MGRs, ABMTs, including MPAs, EIAs, CBTMT; Figure 2) and crosscutting issues and specifically identifies areas relevant to RFMOs, including the WCPFC.

¹ FAO (2018): <https://openknowledge.fao.org/server/api/core/bitstreams/dc22ccfe-c0d9-4909-aad5-fa9f05eadcb9/content>; ISA (2025): <https://isa.org.jm/about-isa/>

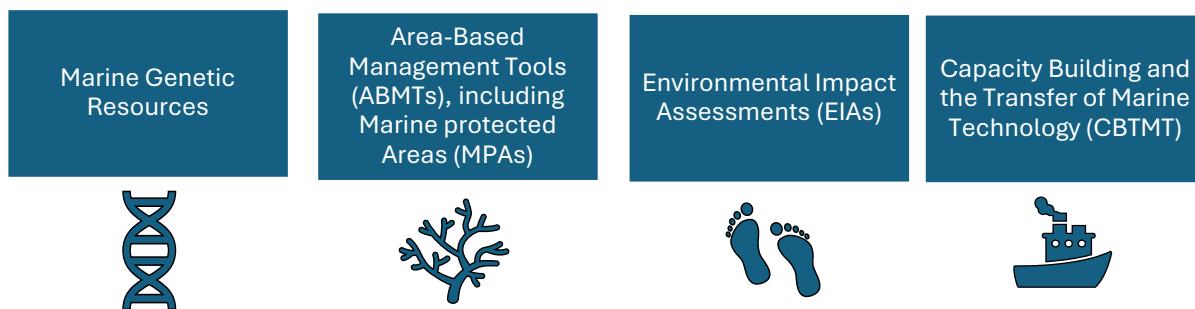


Figure 2: *The four main pillars of the BBNJ Agreement*

Why was this new treaty needed?

Despite a myriad of existing organisations with mandates in areas beyond national jurisdiction, governance gaps were identified that the BBNJ Agreement seeks to fill. These gaps include ensuring comprehensive marine conservation in the light of biodiversity loss and addressing the imbalance between countries of the global North and South in regards to accessing and using marine genetic resources, as well as strengthening marine scientific research and advancing capacity building and the transfer of marine technology (Gjerde et al., 2016; Harden-Davies, 2017; Humphries et al., 2025; Warner et al., 2014).



1 Marine Genetic Resources (MGRs)

Prior to the adoption of the BBNJ Agreement, marine genetic resources governance was regulated in areas within national jurisdiction under the Nagoya Protocol of the Convention on Biological Diversity (CBD), yet such regulations did not exist in areas beyond national jurisdiction (ABNJ). Such a lack of regulation resulted in a situation where marine research and the exploitation of marine genetic resources – and the development of products from those resources (such as vaccines) – concentrated on a handful of developed and industrialised countries from the Global North, leaving the majority of States excluded from the use of marine genetic resources from these international areas (Blasiak et al., 2018). The BBNJ Agreement aims to ensure a fair and equitable benefit-sharing scheme, preventing an uneven use and profit from MGRs from ABNJ.

Implications for WCPFC

The part on MGRs excludes fishing and fishing-related activities (BBNJ, Art. 10 2a). However, with one exception - it does apply to fish or other living marine resources known to have been taken in fishing and fishing-related activities from areas beyond national jurisdiction, where such fish or other living marine resources are regulated as “utilization” (BBNJ, Art 10 2b). This means, when fish is taken as a means to conduct research and development on the genetic or biochemical composition it becomes relevant to the BBNJ Agreement and will need to be registered, and information will need to be shared. In this case, it will be helpful to engage with the BBNJ Clearinghouse mechanism (i.e., the centralised data sharing platform, which is currently being developed) where such

information, including information on the research project, purpose and location of collection will be shared (BBNJ, Art.12).



2 Area-based Management Tools (ABMTs), including Marine Protected Areas (MPAs)

The second pillar of the BBNJ Agreement regards ABMTs, including MPAs. Different existing organisations already have a mandate to put in place area-based management tools for specific regions or species; yet no overarching body had so far been mandated with the comprehensive conservation and sustainable use of marine biodiversity in the entire coverage of ABNJ. While some organisations may be able to put in place management measures or close certain areas to activities, they do so at the regional level or are only mandated to manage specific species or industrial sectors, such as fishing or shipping. The BBNJ Agreement seeks to fill that gap and take a comprehensive biodiversity and ecosystem approach in *all* international areas, including the water column and the deep seabed.

Implications for WCPFC

The part on ABMTs, including MPAs, is relevant for the WCPFC because the mandate to manage fishing activities overlaps with BBNJ's mandate to ensure the conservation and sustainable use of marine biodiversity. In the process of establishing ABMTs, including MPAs, the WCPFC will play an important role due to its vast knowledge about the Pacific Ocean and marine species. The WCPFC can also play an important role in the development of proposals for new ABMTs, including MPAs, and their implementation. Potential areas of cooperation can be envisioned in sharing experiences of already established ABMTs in ABNJ and in the joint development of new management tools and protected areas, including measures with a focus on conserve or sustainably use marine biological diversity. Proposals for new measures, submitted to the BBNJ Conference of the Parties (COP), will be open to consultations with other bodies, including RFMOs. Such proposals are envisioned to be developed in close collaboration with existing bodies (BBNJ, Art. 19-20). The WCPFC, among other RFMOs, is invited to submit views on the proposal in the development stage, and share any relevant information, including scientific information, information about their existing measures and potential management competence in the region (BBNJ, Art. 21.2).



3 Environmental Impact Assessments (EIAs)

Under UNCLOS, States have the obligation to protect and preserve the marine environment (Art. 192) and are already obliged to assess the potential effects of planned activities under their jurisdiction or control that may cause substantial pollution of or significant and harmful changes to the marine environment (Art. 206) (UNCLOS, 1982). The BBNJ Agreement builds on this obligation and lays out a detailed process for the conduct of environmental impact assessments in ABNJ. While throughout the negotiations, many States argued for a global decision-making mechanism, by which the COP would have to approve proposed activities in ABNJ, the final agreement rests on a state-led approach. This state-led approach requires the BBNJ Party that proposes a new activity in ABNJ to go through a process of screening, scoping and potentially an EIA and evaluation, yet ultimately grants the decision-making power to the proponent State to

approve their own activity in ABNJ. While no global decision-making will be required, the BBNJ Agreement sets out a rigid and transparent framework by which the proponent State needs to notify of new activities and demonstrate that their activities will not result in substantial pollution of or significant and harmful changes to the marine environment. This includes a detailed process for monitoring, reporting and reviewing impacts of authorised activities.

Implications for WCPFC

BBNJ Parties are required to promote the use of EIAs and the adoption and implementation of standards/guidelines of BBNJ in other fora, e.g. RFMOs (BBNJ, 2023, Art. 29.1). The part on EIAs is relevant for WCPFC in the cases of planned fishing activity in new ocean regions/depths or for new target species. It could also include the ways in which future EIAs are conducted, regarding the process of scoping, screening and assessments, the level of transparency and reporting requirements. Moreover, the BBNJ Agreement requires the monitoring of impacts of already authorised activities (BBNJ, Art.35). For assessing cumulative impacts in ABNJ, data sharing between WCPFC and BBNJ, as well as among other organisations, will be crucial. Strategic environmental assessments (SEAs), which offer a more comprehensive, proactive impact assessment than EIAs (UNEP, 2004), are encouraged (BBNJ, Art.39) and data collected by RFMOs could be an important contribution.



4 Capacity building and the transfer of marine technology (CBTMT)

The fourth pillar of the BBNJ Agreement deals with capacity building and the transfer of marine technology (CBTMT). This part is often referred to as the most important one to make BBNJ a success, as it will enable effective implementation by developing States and enable inclusive, equitable and effective cooperation and participation in BBNJ activities (BBNJ, Art.40). CBTMT includes marine scientific research and technological capacity, as well as knowledge exchange across all thematic areas of the agreement with the aim to enhance the human, financial management, scientific, technological, organisational, institutional and other resource capabilities of Parties (BBNJ, Art.40; 44).

Implication for WCPFC

The CBTMT part of the BBNJ Agreement is relevant for WCPFC, as it seeks to enhance the sharing and use of data in ABNJ, the development and strengthening of relevant infrastructure, institutional capacity and technological tools for effective monitoring, control and surveillance of activities (BBNJ, Art.44 a; c; d; h). In a scenario where a new ABMT is established, and WCPFC management competence is foreseen, CBTMT provisions could support implementation. Developing States under the BBNJ Agreement are enabled to receive CBTMT. Other organisations, such as RFMOs, can facilitate international cooperation on CBTMT (BBNJ, Art.41). CBTMT under the BBNJ Agreement is meant to build upon capacity building initiatives from other bodies, including RFMOs (BBNJ, 42.3).

5 Cross-cutting Issues

Apart from the four thematic pillars, the BBNJ Agreement also covers various cross-cutting issues which include the set-up of institutions responsible for the implementation of the four pillars. The BBNJ Agreement establishes a Scientific and Technical Body (STB), an Access and Benefit Sharing (ABS) Committee, a CBTMT Committee, an Implementation and Compliance Committee, and a Finance Committee. Moreover, a Clearinghouse Mechanism will serve as a centralised data sharing platform. An important provision of the BBNJ agreement for RFMOs is to ensure the new agreement does not interfere with existing organisations which have mandates in ABNJ (BBNJ, Art. 5.2). The agreement is based on the principle of cooperation and coordination (BBNJ, Art. 8.1), and member States of the BBNJ treaty need to promote BBNJ objectives in other fora (e.g. RFMO meetings and decisions) (BBNJ, Art. 8.2).

Implications for WCPFC

The BBNJ Agreement has the mandate to ensure conservation and sustainable use of marine biodiversity of ABNJ, but also to strengthen cooperation and coordination with and among other IFBs. WCPFC falls under such IFBs, therefore the new BBNJ Secretariat will interact with WCPFC and engage in facilitating interaction. Interaction between BBNJ and WCPFC is envisioned not only between the Secretariats but also between their scientific advisory bodies, their other subsidiary bodies, and especially through the member States. An important provision of the BBNJ agreement for RFMOs is to ensure the new agreement does not interfere with existing organisations which have mandates in ABNJ (BBNJ, Art. 5.2). The agreement is based on the principle of cooperation and coordination (BBNJ, Art. 8.1), and member States of the BBNJ treaty need to promote BBNJ objectives in other fora (e.g. RFMO meetings and decisions) (BBNJ, Art. 8.2).

Looking ahead

After the adoption of the treaty in 2023, three Preparatory Commission (PrepCom) meetings were scheduled to prepare for its entry into force. The third and final PrepCom is planned from March 23 to April 2, 2026, in New York. The BBNJ Agreement has now been ratified by over 60 States and will enter into force on January 17, 2026. The first Conference of the Parties (COP) meeting will be held within the first year of entry into force. The WCPFC has been actively involved in the BBNJ negotiations prior to entry into force. Early interactions between BBNJ and WCPFC will enable shaping BBNJ implementation in the Pacific region and its relationship in the long-term.

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