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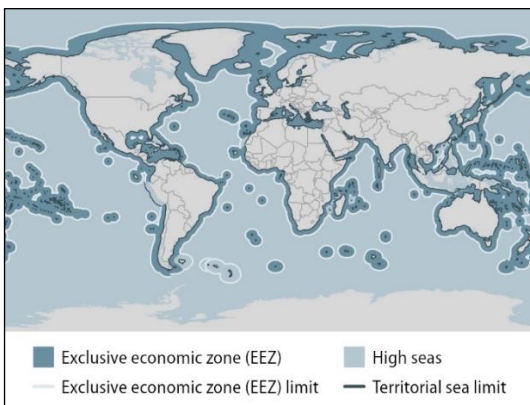
# The Biodiversity Beyond National Jurisdiction (BBNJ) Agreement (or High Seas Treaty)

On June 19, 2023, the United Nations (UN) adopted by consensus an international legally binding instrument to address the conservation and sustainable use of marine biodiversity on the *high seas* (international waters). The instrument is commonly referred to as the *Biodiversity Beyond National Jurisdiction (BBNJ) Agreement* or the *High Seas Treaty*. On September 19, 2025, the BBNJ Agreement reached the 60 ratification threshold, and on January 17, 2026, it entered into force.

Congress generally has expressed interest in various aspects of domestic and international marine biological conservation. Under the Constitution, the Senate provides advice and consent to ratify international agreements, including those aimed at the conservation and sustainable management of the global ocean. The United States signed the BBNJ Agreement on September 20, 2023, and on December 18, 2024, President Biden transmitted it to the Senate for advice and consent to ratification (Treaty Doc. 118-2). The Senate has not taken action on the agreement.

The high seas comprise about 95% of the global ocean by volume (**Figure 1**) and include unique ecosystems rich in biodiversity, such as hydrothermal vents and deep-sea coral gardens. Certain commercial activities on the high seas that may affect the marine biodiversity, such as fishing, shipping, seabed mining, and dumping, are covered by international agreements. The United States is a party to some but not all of these agreements. According to the U.S. Department of State, the high seas have limited governance and are often unmonitored.

**Figure 1. Illustration of the High Seas**



**Source:** Created by CRS in November 2025 using U.S. Department of State and Sovereign Limits Database sources.

**Notes:** The figure is an illustration only and not for official purposes. The darker blue areas represent EEZs, within which coastal nations have jurisdiction over both living and nonliving resources.

## Background

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) establishes a legal regime governing activities on, over, and under the global ocean. The Senate has not ratified UNCLOS (although some Members have called for its ratification in S.Res. 331). The BBNJ Agreement is an implementing agreement under UNCLOS and was proposed by the UN General Assembly in June 2015. The Senate has ratified other agreements developed under the UNCLOS rubric without being a party to UNCLOS. For example, the United States is a party to the 1995 UN Fish Stocks Agreement, which was adopted after UNCLOS entered into force. The United States also could become a party to the BBNJ Agreement through Senate ratification without ratifying UNCLOS. For more information, see CRS In Focus IF12578, *Implementing Agreements Under the United Nations Convention on the Law of the Sea (UNCLOS)*.

## Four Themes of the BBNJ Agreement

The BBNJ Agreement has four themes:

**Area-Based Management Tools.** Conservation efforts for marine biodiversity on the high seas under the agreement focus primarily on establishing new marine protected areas (MPAs). MPAs are to be identified based on the best available science and, where available, relevant traditional knowledge of Indigenous peoples, among other criteria. An MPA provides protection for all or part of the natural resources within it by prohibiting or limiting certain activities that could harm its biodiversity. To date, the largest international MPA is in Antarctica's Ross Sea. It was established by the Commission for the Conservation of Antarctic Marine Living Resources, of which the United States is a member. There are also MPAs within countries' exclusive economic zones (EEZs). According to the National Oceanic and Atmospheric Administration, as of 2021, the United States has established nearly 1,000 MPAs, covering 26% of U.S. marine waters (including the Great Lakes). The type of restrictions in these MPAs may be subject to change.

**Environmental Impact Assessment (EIA).** The BBNJ Agreement provides an EIA framework (i.e., global standard) for identifying and evaluating the potential impacts of an activity in areas beyond national jurisdiction. If a party to the agreement determines that an activity under its control may pollute or cause significant harm to the marine environment, the party is required to conduct an EIA. In December 2024, the Department of State stated that these EIA provisions "effectively [bring] the world in line with processes the United States already has in place." Further, the agreement directs parties to communicate EIA

reports to the clearing-house mechanism established by the agreement, thereby making reports publicly available.

**Marine Genetic Resources (MGRs).** The BBNJ Agreement promotes accessibility to MGRs collected in areas beyond national jurisdiction. MGRs are “any material of marine plant, animal, microbial or other origin containing functional units of heredity of actual or potential value.” For example, MGRs may be of value in developing pharmaceuticals and cosmetics. The agreement prohibits any nation from claiming or exercising sovereignty over MGRs. The agreement states that activities with MGRs and digital sequence information on MGRs are for the benefit of all humanity, with particular consideration for developing nations. Nonmonetary and monetary benefits derived from such activities are to be shared in a fair and equitable manner and contribute to the conservation and sustainable use of marine biodiversity. The agreement outlines that nonmonetary benefits include access to samples and digital sequence information, transfer of technology, and data sharing.

#### **Capacity Building and Transfer of Marine Technology.**

The BBNJ Agreement requires parties to develop and implement mechanisms for capacity building, including financing research programs and dedicated initiatives, to help developing nations fulfill the obligations of the agreement. Under the agreement, capacity-building and transfer of marine technology initiatives may include sharing data and information; information dissemination, such as marine scientific research and EIAs; and developing and strengthening institutional capacity and national regulatory frameworks.

### **Considerations for Congress**

Demand for certain marine resources, such as seafood, seabed minerals, and MGRs, is expected to grow over the next few decades. Various current and emerging maritime activities intended to meet these demands may contribute to marine biodiversity loss. Although there are international and U.S. federal protections for threatened and endangered marine species, the protections afforded from instruments may be limited in scope or challenging to enforce. In its potential deliberations over ratification of the BBNJ Agreement, the Senate may consider how the agreement could influence the regulation of certain high seas activities, management of marine resources, and conservation efforts.

Policymakers reported that the most contentious aspect of the BBNJ Agreement negotiations was whether the *common heritage principle* (CHP) should apply to MGRs. The BBNJ Agreement adopted the CHP. In UNCLOS, the CHP establishes that all activities occurring on the international seabed (e.g., seabed mining) must be carried out for the benefit of all humanity. In BBNJ Agreement negotiations, developing nations (i.e., G77) contended that MGRs should be considered common heritage, whereas developed nations countered that, under UNCLOS, the CHP applies only to seabed minerals. The mechanism for benefit sharing has not been determined, but it may redistribute income from wealthier member countries to poorer ones. The inclusion of the CHP may be an issue of congressional interest, as it was in UNCLOS negotiations.

A goal of the BBNJ Agreement is to expand the coverage of protections for living resources. Blanket protections for the high seas could help cover geographic areas that lack conservation-focused bodies (e.g., regional fisheries management organizations) or agreements. The BBNJ Agreement allows existing international bodies to continue regulating high seas fisheries, shipping, and seabed mining without applying the agreement’s EIA framework. Some experts have expressed concerns about exempting certain activities from this EIA framework. The Senate may consider whether the BBNJ Agreement and existing international agreements to which the United States is a party—including the 1995 UN Fish Stocks Agreement—would be redundant or complementary.

The BBNJ Agreement may further support protections for threatened and endangered marine species by allowing for the establishment of MPAs on the high seas; less than 1% of the high seas currently are in MPAs. Additional MPAs could contribute toward reaching the target to protect 30% of the global ocean by 2030, for which over 100 countries have announced their support. Some stakeholders and countries (e.g., Russia, China) have not supported establishing certain international MPAs because some activities may be prohibited or limited within MPA boundaries (e.g., fishing). Countries may establish MPAs within their EEZs. On January 27, 2021, President Biden issued Executive Order (E.O.) 14008, “Tackling the Climate Crisis at Home,” which included the goal of conserving at least 30% of U.S. lands and waters by 2030. The policy was considered controversial by some Members of Congress, and on January 20, 2025, President Trump revoked it through E.O. 14148, “Initial Rescission of Harmful Executive Orders and Actions.” In the 119<sup>th</sup> Congress, H.Res. 346 would call on the United States to conserve at least 50% of U.S. land, freshwater, and oceans. The United States can establish new MPAs within its EEZ without the Senate ratifying the BBNJ Agreement.

Previous Congresses have supported domestic marine biological conservation efforts and directed the federal government to regulate certain marine commercial activities occurring within the U.S. EEZ that have the potential to affect marine biodiversity. Congress could continue, or may consider increasing, support for domestic marine biodiversity conservation efforts in addition to or in lieu of ratifying the BBNJ Agreement. For example, at least two Senators in the 119<sup>th</sup> Congress expressed a need for a national strategy for protecting biodiversity (S.Res. 248). Congress also has directed federal agencies to monitor marine commercial activities conducted by foreign nations to help safeguard marine biodiversity (e.g., High Seas Driftnet Moratorium Protection Act; Title VI of the Fisheries Act of 1995, P.L. 104-43) and may consider whether to continue to support these initiatives or implement new ones regardless of the United States becoming a party to the BBNJ Agreement.

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