

2. High Sea Treaty – Environment

The High Seas Treaty (BBNJ Agreement), adopted in June 2023 and entering force in January 2026, creates the first legally-binding framework under UNCLOS to conserve and sustainably use marine biodiversity in international waters. It establishes mechanisms for Marine Protected Areas (MPAs), benefit-sharing from Marine Genetic Resources (MGRs), Environmental Impact Assessments (EIAs), and capacity building, though its success is challenged by the non-ratification of key maritime powers like the US, China, and Russia.

The High Seas Treaty (BBNJ Agreement)

Formal Name – The High Seas Treaty is formally known as the Biodiversity Beyond National Jurisdiction (BBNJ) Agreement.

Entry into Force – The treaty is set to come into force in January 2026.

Background of the BBNJ Agreement

Initial Legislative Gap – The UN Convention on the Law of the Sea (UNCLOS), 1982, did not sufficiently address the protection of biodiversity in marine areas beyond national boundaries.

Initial UN Action – To bridge this gap, the UN General Assembly established an ad hoc working group in 2004.

Negotiation Process – Four rounds of Intergovernmental Conferences were held between 2018 and 2023 to negotiate the terms of the treaty.

Adoption – The final text of the treaty was formally adopted in June 2023.

About the High Seas Treaty (BBNJ Agreement)

Core Purpose – To establish a comprehensive legal framework dedicated to the conservation and sustainable use of marine biodiversity in the "high seas"—the areas beyond national jurisdiction (ABNJ).

Legal Basis – It is an international treaty operating under the umbrella of the United Nations Convention on the Law of the Sea (UNCLOS). It holds the distinction of being the first legally-binding international agreement specifically designed to safeguard marine life in the High Seas.

Signing & Ratification Status (as of 1 November 2025)

Implementation Trigger – The treaty is structured to become international law 120 days after a minimum of 60 countries submit their formal ratification documents.

Global Status –

Signatories – 145 countries have signed the treaty.

Ratifications – 75 countries have ratified it, meaning the threshold for implementation has been met.

India's Position – India signed the treaty in 2024. As of this date, India has not yet ratified the agreement.

High Seas

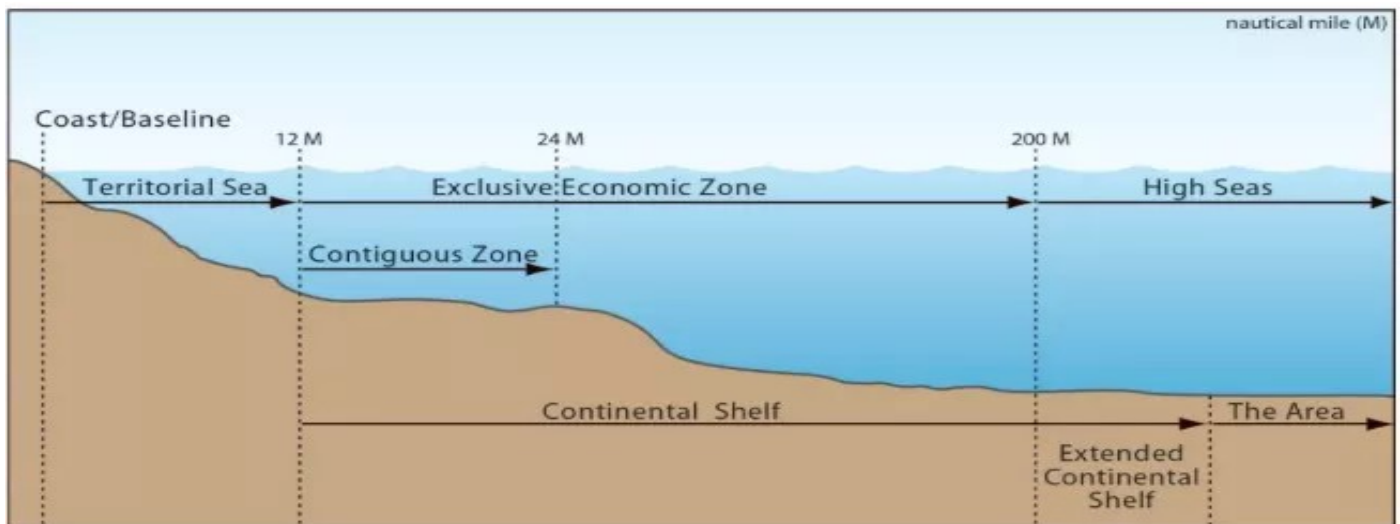
Formal Definition – According to the 1958 Geneva Convention, high seas are defined as ocean areas lying beyond the jurisdiction of any state.

Geographical Boundary – They are the areas of the ocean that extend past a nation's Exclusive Economic Zone (EEZ). An EEZ typically reaches 200 nautical miles from a country's coast.

Governing Principles – Traditionally, the high seas are governed by established principles, including –

1. Freedom of navigation
2. Freedom of overflight
3. Freedom of fishing

4. Freedom of scientific research



Significance of High Seas

Vast Coverage – They cover more than 64% of the world's oceans. They account for 43% of the Earth's total surface. They host a vast array of life, including nearly 2.2 million marine species and trillions of microorganisms.

Environmental Regulator – They act as a vital carbon sink, absorbing 25% of global CO₂. They are responsible for producing half of the world's oxygen. They play a critical role in balancing the climate by distributing heat across the planet.

Resource Reservoir – They are a crucial source of –

1. Seafood for global populations.
2. Minerals.
3. Marine Genetic Resources (MGRs) and medicinal compounds vital for human use.

Biodiversity Hub – They support rich marine ecosystems, including many species still unknown to science.

Key Challenges – The lack of clear ownership and governance has led to severe threats, including –

1. Overfishing
2. Biodiversity loss
3. Plastic dumping (an estimated 17 million tonnes in 2021)
4. Ocean acidification
5. Widespread pollution

Pillars of the High Seas Treaty

The treaty is built upon four main pillars to address the challenges facing the high seas –

1. Marine Protected Areas (MPAs)

New Legal Framework – The treaty establishes the first legal mechanism for creating and managing MPAs in international waters.

Previous Status – Prior to this agreement, only 1.45% of the high seas were protected.

Strategic Goal – This is the primary tool for achieving the global “30×30” goal, which aims to protect 30% of the world's oceans by 2030.

2. Marine Genetic Resources (MGRs), including Fair & Equitable Sharing of Benefits

Scope of Governance – The treaty governs the access to and use of MGRs found in international waters.

Digital Sequence Information (DSI) – This governance explicitly includes Digital Sequence Information derived from these genetic resources.

Benefit-Sharing Mechanism – It mandates the fair and equitable sharing of benefits arising from MGRs, which includes –

Monetary contributions (based on a nation's income).

Non-monetary transfers, such as technology sharing, capacity building for developing nations, and joint research initiatives.

3. Environmental Impact Assessments (EIAs)

Mandatory Requirement – The treaty requires comprehensive EIAs to be conducted for planned activities that have the potential to cause a significant impact on the marine environment in international waters.

Process – The EIA process is thorough, covering screening, scoping, assessment, public notification, and monitoring.

Scope of Application – This requirement applies to both national and international activities that could affect the high seas.

Knowledge Integration – It promotes the integration of Indigenous and traditional knowledge alongside scientific methods in the assessment process.

4. Capacity Building & Technology Transfer

Core Objective – To ensure that developing nations can participate meaningfully in high-seas governance, research, and conservation.

Implementation – This is achieved through –

1. Establishing training programs, research fellowships, and institutional partnerships.
2. Developing regional hubs for marine technology.
3. Fostering collaboration and building local capacity in marine science and management.

Key Challenges

Despite its adoption, the treaty faces several significant hurdles –

1. Ambiguity Between “Common Heritage” and “Freedom of the High Seas”

Contradictory Principles – The treaty attempts to balance two fundamentally contradictory legal concepts –

1. **Common Heritage of Humankind** – The principle that all nations should have equitable access to resources and share in the benefits.
2. **Freedom of the High Seas** – The traditional right of states to enjoy unrestricted rights for navigation, research, and resource use.

Incomplete Resolution – The partial application of the common heritage principle (applying it only to MGRs) is viewed as a compromise rather than a clear resolution.

Resulting Uncertainty – This ambiguity creates ongoing uncertainty regarding research rights and the practical details of profit-sharing.

2. Governance and Benefit-Sharing of Marine Genetic Resources (MGRs)

Previous Void – Prior to the BBNJ, the governance of MGRs was undefined, leading to fears of biopiracy and monopolisation by technologically advanced developed nations.

Lack of Clarity – While the treaty proposes a framework for benefit-sharing, it currently lacks clear, specific details on –

1. How benefits will be precisely calculated and distributed.
2. The mechanism for monitoring compliance to ensure benefits are shared.

Global Inequities – Developing countries remain concerned that they will be excluded from the scientific and commercial gains, thus perpetuating existing global inequities.

3. Limited Participation of Major Powers

Significant Risk – The non-ratification of the treaty by key maritime powers—specifically the United States, China, and Russia—poses a major risk to its long-term success.

Consequences of Absence – Without their participation, the treaty's enforcement, funding, and monitoring mechanisms may remain weak and ineffective.

Legitimacy Deficit – Their absence also reduces the treaty's geopolitical legitimacy, undermining the effort to create a collective governance system for global commons.

4. Overlap with Existing Multilateral Institutions

Crowded Governance Space – The BBNJ framework must coexist and coordinate with several other international organisations, including –

1. **International Seabed Authority (ISA)** – Regulates mineral resources on the deep seabed.

2. **Regional Fisheries Management Organisations (RFMOs)** – Oversee fisheries in specific ocean basins.

Core Challenge – The primary difficulty lies in avoiding jurisdictional overlap and ensuring policy coherence between these different bodies.

Risk of Fragmentation – A failure to coordinate could lead to the fragmentation of ocean governance and an increase in legal disputes.

5. Implementation and Monitoring Difficulties

Logistical Complexity – Establishing, monitoring, and enforcing MPAs in the vast, remote high seas is logistically complex and extremely costly.

Data Dependency – The effectiveness of EIAs is highly dependent on scientific data-sharing, which many countries may lack the capacity or the political willingness to provide.

Dynamic Management – Marine ecosystems are not static and are rapidly evolving due to climate change. This requires dynamic ocean management and continuous review mechanisms, rather than fixed, static rules.

Way Forward

To ensure the treaty's success, the following steps are crucial –

Clarify Legal Ambiguities – Implementing bodies must work to clearly define benefit-sharing mechanisms, resolve jurisdictional overlaps with other institutions, and establish clear liability provisions.

Encourage Universal Ratification – Diplomatic efforts must be focused on bringing major maritime powers (US, China, Russia) into the framework to ensure its global effectiveness and legitimacy.

Build Institutional Synergy – Strengthen coordination with UNCLOS, the ISA, RFMOs, and other UN agencies to create a unified and coherent approach to ocean governance.

Enhance Scientific Capacity – Actively support developing nations through practical technology transfer, open data-sharing platforms, and increased funding for marine research.

Adopt Adaptive Management – Implement real-time monitoring systems and design dynamic MPAs that can be scientifically reviewed and adjusted to respond effectively to changing oceanic conditions and climate change impacts.

Source – <https://www.thehindu.com/news/international/what-are-the-challenges-with-the-high-seas-treaty-explained/article70237531.ece>

