

Envisioning the High Seas Treaty through Indian Lens

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Thirunavakarasu S¹, Shwetha SV¹

¹University of Madras, India

 TS [0009-0005-0615-6529](#) , SS [0009-0004-4658-8644](#)

Correspondence: Thirunavakarasu S, meetthiru49@gmail.com

Abstract

High Seas, the new Pandora box of both opportunities and contentions, are waters beyond 200 nautical miles of any sovereign states. They cover around 61% of total marine size and 43% of the entire global map, housing unique and unparalleled natural resources. With increasing global population and emerging technologies, leveraging high sea fishing is now more vital and feasible. Industrialisation multiplied fishing effort and fleet sizes 30 times from 1950- 2010. Though currently only 4-6% of global marine fishing occurs in high seas, it is on trajectory to grow further high in volume alarmingly. A 2020 report by the Food and Agriculture Organization of the UN (FAO) pointed out that 34% of all fishing species were considered overfished. High seas in this regard remain more vulnerable as they lack stature protection unlike Exclusive Economic Zone (EEZ) or territorial water. Demand aided with technological advancement pushes countries to shift their focus on high seas where resources are abundant and legal restrictions are absent, allowing anyone to exploit. Ever since the United Nations Convention on Law of the Sea (UNCLOS) came into play, it largely settled disputes and arranged monitoring and functioning mechanisms for territorial water and EEZ, but left the high seas as common for all, vulnerable to exploitation. Such circumstances require a revisit of global governance on international waters. With this stressing background India chose to be part of Biodiversity Beyond the National Jurisdiction (BBNJ), which intends to fill the gap in existing global marine governance with the aim to conserve and preserve the natural resources. India, the country which hosts the largest population on earth and the third biggest economy, depends on the marine industry for 1.1% of its GDP and 7.7% for its agricultural GDP. So, it is understandable to know that the nation is keen to take a side on sustainable marine governance. With its emerging technological capacity and demand to meet her people's fisheries needs, close to 20 million livelihoods, India chose to accept a legally binding treaty for marine governance which will strive to balance between inter and intra generational equity. At a global level, the count of parties has increased the

required number of 60 member states to make all the countries legally bound by this agreement, marked by its enforcement on 17th January, 2026. However, the High Seas Treaty is yet to be ratified for legislative approval in India. In this paper, we hope to cover the defining clauses of the agreement, the need for urgency to accelerate the due process, the challenges posed against the same and the unfurling of benefits that would follow as a consequence of effective implementation, all along with specificity to India as a stakeholder.

Keywords: BBNJ, UNCLOS, India, Marine Governance, High Seas, Sustainability

INTRODUCTION

India chose to be a part of Biodiversity Beyond the National Jurisdiction (BBNJ), a treaty that intends to fill the gap in existing global marine governance, with the aim to converse and preserve the natural resources. India, the country which hosts the largest population on earth and the third biggest economy, depends on the marine industry for 1.1% of its overall GDP and 7.7% for its agricultural GDP. With its emerging technological capacity and demand to meet her people's fishery needs, covering close to 20 million livelihoods, India chose to accept a legally binding treaty for marine governance which will strive to balance between inter and intra generational equity. At a global level, the count of parties has increased the required number of 60 member states to make all the countries legally bound by this agreement. However, the High Seas Treaty is yet to be ratified for legislative approval in India. In this paper, we hope to cover the defining clauses of the agreement, the need for urgency to accelerate the due process, the challenges posed against the same and the unfurling of benefits that would follow as a consequence of effective implementation, all along with specificity to India as a stakeholder.

The High seas refers to the oceanic world that is technically beyond 200 nautical miles from coasts, economically abundant with unexplored natural resources, legally open to all, practically unregulated and ecologically the largest reservoir of biodiversity. Governing policies were implemented for serving the purpose of regulating the international sea beds for mineral resources and straddling fish stocks respectively. But due to shortcomings in enforcement there have been incremental illegal, unreported and unregulated (IUU) fishing particularly in the global commons with no legal frameworks to cope up with.¹ In 2022 only 65.8% of global fish stocks were found to be in sustainable levels as compared to 90% in the 1970s.² The high seas are home to millions of unexplored species that may lead to new pharmaceuticals. But 80% of the marine-related patents are being filed only by 30 institutions over the past 30 years.³ Similarly, only around 10 economically developed countries, including Japan, Korea and Spain, consume the gains of 70% of catches from fishing.⁴

BBNJ (Biodiversity Beyond National Jurisdiction) comes as the first historic landmark to legally regulate the utilization of the high seas, promoting sustainable use of resources. This is proposed at a time of aforementioned critical ocean threats to close the ecological and political gaps. It paves a way for equity and collaboration allowing developing countries to access leading technologies and fully participate in the blue economy. Shared governance and global partnership will now be inescapable regardless of any

¹Wang, C., Zhao, Q., & Chang, Y. (2023). On the legal status of marine fishery resources: From the perspectives of international fishery law. *Heliyon*, 9(4), e15354. <https://doi.org/10.1016/j.heliyon.2023.e15354>

² 14.4.1 Fish stocks sustainability | SDG Indicators Data Portal | Food and Agriculture Organization of the United Nations. (n.d.). SDGIndicators. <https://www.fao.org/sustainable-development-goals-data-portal/data/indicators/1441-fish-stocks-sustainability/en>

³ Blasiak, R., Jouffray, J., Wabnitz, C. C. C., Sundström, E., & Österblom, H. (2018). Corporate control and global governance of marine genetic resources. *Science Advances*, 4(6). <https://doi.org/10.1126/sciadv.aar5237>

⁴ Tickler, D., Meeuwig, J. J., Palomares, M., Pauly, D., & Zeller, D. (2018). Far from home: Distance patterns of global fishing fleets. *Science Advances*, 4(8). <https://doi.org/10.1126/sciadv.aar3279>

sovereignty disputes. This article attempts to study the BBNJ from the lens of India. The implications of the High Seas Treaty is profound as it is a vast maritime nation with strategic and environmental dependencies on the Indian Ocean and beyond.

UNCLOS, BBNJ And the Historical Evolution of Blue Governance

The evolution of marine governance and the origins of the United Nations Convention on the Law of the Sea (UNCLOS) are intertwined. Historically, the concept of the seas as 'Mare Liberum' ('free seas' or 'sea is free to all men'), introduced by Hugo Grotius in 1609, emphasized free access to the oceans beyond narrow territorial waters, supporting the idea that seas could not be owned by any single state.⁵ However, with industrialization in seafaring, navigation, communication, and resource exploitation, unrestricted access increasingly coincided with national economic and security interests. Advancements in technology enabled nations to exploit seabed minerals and fisheries far beyond their coastlines.⁶ The world's major maritime trade routes, controlling about 80-90% of global trade by volume, transformed oceans into key strategic corridors. Consequently, these routes and adjacent maritime zones have become arenas of competition among superpowers for dominance, intensifying the need for regulatory laws.⁷

The Third United Nations Conference on the Law of the Sea (UNCLOS III) held from 1973 to 1982, involving over 160 countries, negotiated a comprehensive convention establishing a legal order for the seas and oceans, culminating in the UNCLOS Treaty signed in 1982 at Montego Bay, Jamaica. UNCLOS provides clear definitions for maritime zones: territorial sea (up to 12 nautical miles), contiguous zone (24 nautical miles), exclusive economic zone (EEZ, up to 200 nautical miles), continental shelf, and high seas. It recognizes coastal states' rights over resources within EEZs and continental shelves while preserving freedom on the high seas (navigation, overflight, fishing), balancing sovereignty with global commons.

Despite its comprehensive scope, the convention left some governance gaps in the high seas, especially concerning biodiversity conservation and modern threats like deep-sea mining and marine genetic resource management. Regional groups and sectoral organizations were largely responsible for regulating various activities in the high seas, leading to fragmented governance.⁸

The Biodiversity Beyond National Jurisdiction Agreement (BBNJ) under UNCLOS was adopted on 19 June 2023 aiming conservation and sustainability of marine resources of the international waters. The agreement was open for signature by all states and regional economic integration organizations from 20 September 2023 to 20 September 2025, and entered into force on 17 January 2026. It is to be noted that BBNJ becomes the third implementing agreement to the UNCLOS after the 1994 Part XI agreement and 1995 Fish Stocks Agreement. As of 21 September 2025, any state or regional economic integration organization that has not signed the agreement by the date it was closed for signature may accede to it.

Why do we need BBNJ now?

The recent reports on protection gaps scream exigency with only 9% of the entire ocean and less than 1% of the high seas being covered under marine protected areas (MPAs). 80% of the ocean remains poorly studied with critical species already facing escalated threats.² The world population is projected to reach approximately 9.7 billion by 2050, drastically raising the demand for food, energy, and natural resources,

⁵ United Nations. (n.d.-a). *Oceans and the Law of the Sea* | United Nations.

<https://www.un.org/en/global-issues/oceans-and-the-law-of-the-sea#:~:text=The%20Convention%20was%20opened%20for,%E2%80%9Cconstitution%20for%20the%20oceans%E2%80%9D>

⁶ vajiramandravi. (2025, September 15). United Nations Convention on the Law of the Sea, history, features. *User's Blog*.

<https://vajiramandravi.com/current-affairs/united-nations-convention-on-the-law-of-the-sea/>

⁷ *Review of Maritime Transport 2025: Staying the course in turbulent waters* |. (2025, September 24). UN Trade and Development (UNCTAD). <https://unctad.org/publication/review-maritime-transport-2025>

⁸ Blasiak, R., & Claudet, J. (2024). Governance of the High Seas. *Annual Review of Environment and Resources*, 49(1), 549–572. <https://doi.org/10.1146/annurev-environ-011023-022521>

inclusive of marine resources.⁹ Altered sea routes due to climate change drives unsustainable fishing, marine mining, shipping, and exploitation of genetic resources beyond areas of national jurisdiction (ABNJ), boosting biodiversity loss.¹⁰ With nearly 64% of the ocean falling under ABNJ, countries are expanding their interests and surveillance to protect and exploit marine resources. Overlapping or contested EEZs are leading to rising geopolitical tensions. This includes disputes over maritime boundaries, fishing rights, and access to seabed minerals.

Industrial advances in shipbuilding, deep-sea mining technology, and biotechnology enable access to remote and previously inaccessible areas of the high seas. The number of large vessels globally is growing rapidly.¹¹ Yet capacity gaps persist between developed and developing nations. The seabed in ABNJ is estimated to contain mineral resources valued at trillions of dollars. This is estimated from the untapped fisheries, minerals like polymetallic nodules and genetic resources valuable for pharmaceuticals and climate resilience. But without effective international frameworks like BBNJ, these treasures are vulnerable to over exploitation. The existing limited governance may lead to irreversible biodiversity loss and ecosystem degradation.

Defining BBNJ:

Comprehensively the agreement addresses establishment of funding mechanisms, Conference of Parties and Clearing House Mechanisms. The treaty rests on four core substantive elements:

1. Mechanisms for equitable sharing of benefits arising from marine genetic resources (MGRs) and their digital sequencing information (DSI).

Parties must notify and submit information related to the collection, storage, and use of MGRs and their DSI to a centralized Clearing-House Mechanism. This system generates unique identifiers ("batch identifiers") that track marine genetic materials or digital data, facilitating transparency and traceability across the research and commercialization chain. The framework distinguishes between non-monetary and monetary benefits. Non-monetary benefits include sharing research results, collaboration in scientific research, capacity development, technology transfer, and access to marine technology. Monetary benefits arise from the commercialization of products developed using MGRs or DSI from ABNJ. These monetary benefits are funneled through a financial mechanism established under the treaty to support conservation and capacity building efforts, with particular emphasis on assisting developing countries.¹²

2. Measures for area-based management tools, inclusive of marine protected areas (MPAs):

Area Based management tools (ABMTs) are instruments to regulate one or more human activities within a defined area to protect biodiversity, support ecosystem resilience, and promote sustainable use. MPAs are a specific type of ABMT focused primarily on conservation but may allow sustainable use consistent with conservation goals. The objectives include building an ecologically representative and comprehensive network of MPAs in ABNJ, supporting food security, protecting cultural values, and enhancing cooperation and coordination among states and relevant bodies. The

⁹ Population Connection. (2022, September 19). *New United Nations population estimates and projections*. <https://populationconnection.org/article/new-united-nations-population-estimates-and-projections/>

¹⁰ Wayfindr. (2025, May 19). *How global shipping routes are shifting in 2025 — and what it means for your logistics strategy*. Wayfindr. <https://wayfindr.io/blogs/major-trade-routes-changing/>

¹¹ *Review of Maritime Transport 2024 | Navigating maritime chokepoints*. (2024, October 22). UN Trade and Development (UNCTAD). <https://unctad.org/publication/review-maritime-transport-2024>

¹² Correa, C. M. & SOUTH CENTRE. (2017). ACCESS TO AND BENEFIT SHARING OF MARINE GENETIC RESOURCES BEYOND NATIONAL JURISDICTION: DEVELOPING A NEW LEGALLY BINDING INSTRUMENT. *RESEARCH PAPERS*, 79, 79. https://www.southcentre.int/wp-content/uploads/2017/09/RP79_Access-to-and-Benefit-Sharing-of-Marine-Genetic-Resources-Beyond-National-Jurisdiction_EN.pdf

agreement emphasizes cooperation with existing global, regional, subregional, and sectoral bodies, including frameworks like the International Maritime Organization (IMO), to avoid duplication or conflict and to strengthen governance coherence. The BBNJ Agreement mandates consulting civil society, the scientific community, the private sector, indigenous people and local communities at multiple stages of the ABMT proposal.¹³

3. Environmental impact assessments (EIAs):

EIAs are aimed at preventing, mitigating, and managing significant adverse effects on marine biodiversity ABNJ. Parties are required to conduct EIAs for planned activities under their jurisdiction in ABNJ that may have more than a minor or transitory effect on the marine environment or where effects are unknown or poorly understood.¹⁴ Determining whether an activity requires a full EIA is based on potential impacts considering factors such as location, duration, and technology used. Ongoing monitoring of activities and outcomes, with public reporting will be made mandatory to ensure transparency. EIAs must consider scientific data along with indigenous and local knowledge to ensure comprehensive impact assessment. The Scientific and Technical Body (STB) will develop standardized guidelines for EIAs, including defining thresholds and public participation processes, by evaluating cumulative and long-term impacts, guiding policy and management decisions.¹⁵

4. Capacity building and transfer of marine technology:

Capacity building and technology transfer are to be “country-driven, transparent, effective, iterative, participatory, cross-cutting, and gender-responsive” processes based on national, subregional, or regional needs assessments. Transfers should be on “fair and most favorable terms,” including concessional and preferential conditions, with technology being accessible, affordable, environmentally sound, and up to date, especially tailored to the needs of small island developing states, least developed countries, and geographically disadvantaged States.¹⁶ A financial mechanism, including funds from the Global Environment Facility (GEF), supports capacity-building initiatives. Provisions also include the private sector, civil society, and indigenous people and local communities to leverage diverse expertise and resources across global stakeholders.¹⁷

India - as a Maritime nation

India’s geographic location is vital for its trade whose 95% of volume, 70% of value, 85% of crude oil and 55% of natural gas are all imported through sea routes.¹⁸ It has a 20 lakh sq. km EEZ with estimated marine potential of 53 lakh tonnes. This presents an enormous scope and potential for harnessing marine species in the EEZ and beyond adjunct areas. Fisherers industry is identified as one of the key ‘sunrise

¹³ *Ten things you should know about the High Seas Treaty*. (n.d.-b). The Nature Conservancy. <https://www.nature.org/en-us/what-we-do/our-insights/perspectives/ten-things-high-seas-treaty/>

¹⁴ Druel, E. & IDDRI. (2013). Environmental impact assessments in areas beyond national jurisdiction: identification of gaps and possible ways forward. In *IDDRI* (Report N°01/13; p. 42). IDDRI.

https://www.iddri.org/sites/default/files/import/publications/study0113_ed_environmental-impact-assessments.pdf

¹⁵ Behnke, L., Division for Ocean Affairs and the Law of the Sea, & Office of Legal Affairs. (2025). *Environmental impact assessments under the BBNJ Agreement*.

[https://www.nairobiconvention.org/clearinghouse/sites/default/files/2_Presentation%20on%20Environmental%20Impact%20Assessment%20-%20Linda%20Behnke%20\(UNDOALOS\).pdf](https://www.nairobiconvention.org/clearinghouse/sites/default/files/2_Presentation%20on%20Environmental%20Impact%20Assessment%20-%20Linda%20Behnke%20(UNDOALOS).pdf)

¹⁶ *Capacity-Building and the transfer of marine Technology | BBNJ Treaty*. (n.d.). <https://bbnj-mgr.fas.harvard.edu/cbmt>

¹⁷ National Oceanic and Atmospheric Administration (NOAA), & Schmidt. (2023). *Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction* [Report]. <https://www.un.org/bbnjagreement/sites/default/files/2024-08/BBNJAgreementFactsheet5CBTMT.pdf>

¹⁸ John, U. (2025, January 17). *Securing India’s maritime energy routes: challenges and strategic responses*. Modern Diplomacy. <https://modern diplomacy.eu/2025/01/17/securing-indias-maritime-energy-routes-challenges-and-strategic-responses/>

sectors' of the Indian economy. It registered 9.08% of average annual decadal growth from 2014-15 to 2022-23. Currently India is the 2nd largest fish producing country with a share of 8% of total global production and first position in shrimp production and seafood exporting metrics with a total value of 60,524 crore rupees.¹⁹ These industries contribute 1.1% of Gross Domestic Product (GDP) and 7.3% to the agricultural GDP. They act as a low cost protein source and a key dietary food in fulfilling nutrition of the country especially for the marginalised and rural communities.²⁰

Many authors conclude Indian consciousness is predominantly limited to its continentality and often tagged policymakers with sea-blindness. On the other hand, some argue India has had a rich maritime legacy since ancient times given the facts of well established maritime trade and connections across the civilisation, with shipbuilding industries and navigating techniques to extend great naval expeditions that reach Southeastern countries.²¹ Anywhich case, India is now prioritizing the maritime future, formulating policies and schemes to achieve through trade, naval power, science, education and other related areas. In this regard, the Maritime India Vision (MIV) 2030 was developed as a comprehensive framework for development of the maritime sector, encompassing ports, shipping and other allied industries. Its policy note identifies key areas of investment and proposes 150 initiatives that ensure a well rounded approach to transforming India into a leading maritime nation.²² Currently India is putting all her efforts to harness the maritime potentials and catalyze its growth path.

To ensure policy enforcement, the government increased its budgetary allocation to adequate capital resources and schemes that empower fishers.²³ At this point, India is facing various challenges like the need for state of the art technologies, innovation, investment, skill set and infrastructure that accommodate an enlarging marine economy. Often it contests the global north in the form of WTO and others.²⁴

Climate change is severely affecting India. Rising sea levels, drought, excessive rainfall in short periods, rising frequency of extreme weather events such as flood, and cyclones pose a direct threat to coastal regions. Beyond coasts, these effects are felt in agricultural industries as erratic weather patterns, sea water penetration compounding risk of reducing output, all of which inflate the food sources. Overall, these conditions threaten biodiversity, livelihoods, economy, infrastructure, communities and long term sustainability of the country.²⁵

Sea is the Key

In April 2023, as per United Nations Department of Social Affairs (DESA) policy note, India surpassed China as the world's largest populous country by hosting 1.43 billion. The report also predicted that India's population will continue to grow until it reaches its peak point around 2060s with 1.6-1.7 billion population and then will start to decline.²⁶ This population trajectory can be seen as both boom and bane. India's working age population is on the rise and it will reach its highest rate of 68.9% by 2030, with 31.1% of lowest dependency ratio. This can be interpreted as having around 1.04 billion of workforce and

¹⁹Budget 2025-26 Proposes Framework For Sustainable Harnessing of Fisheries from Indian EEZ and High Seas. (n.d.). <https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2098615#:~:text=The%20Budget%202025%2D26%20highlights,60%2C000%20tons%20for%20tuna%20fisheries.>

²⁰Garg, S. (2025). Economic contributions of aquaculture to India's GDP. *International Journal of Fisheries and Aquatic Studies*, 13(3), 101–107. <https://doi.org/10.22271/fish.2025.v13.i3b.3079>

²¹Captain Ranendra Sawan.(2023, Jan 18) India's maritime identity, National maritime foundation <https://maritimeindia.org/indias-maritime-identity/>

²²MARITIME INDIA VISION 2030. (n.d.). <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2080012>

²³Budget 2025-26 Proposes Framework For Sustainable Harnessing of Fisheries from Indian EEZ and High Seas. (n.d.-b). <https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2098615>

²⁴<https://www.taxtmi.com/article/detailed?id=13503>

²⁵Qurashi, R. (2025b, August 2). *India's climate challenge*. The Hindu. <https://www.thehindu.com/opinion/open-page/indias-climate-challenge/article69884757.ece>

²⁶UN DESA Policy Brief No. 153: *India overtakes China as the world's most populous country*. (n.d.). UN DESA Publications. <https://desapublications.un.org/policy-briefs/un-desa-policy-brief-no-153-india-overtakes-china-worlds-most-populous-country>

exploiting competitive advantage of opportunities in the job market.²⁷ This demographic dividend offers economic growth by having the majority of the population bracket under the working age. As a country India has to chart a comprehensive policy for providing education, nutrition and job opportunities to the world's largest young population.

Economists often warn that India is at its cross road of being caught into middle income trap (MIT) if it fails to harness the fullest potential of current demographic dividend. The concept of MIT is a condition in which the country is unable to transit to a high income economy for a prolonged period of time. Economic stagnation or downturn immediately following a rapid growth phase is indicative of inequity in resource distribution. Ever rising debt will further complicate the growth trajectory. The World Bank Group Chief Economist, Indermit Gill has forecasted that it will take 75 years for India to emanate the threshold of middle income trap.²⁸ If it fails even then, it will be an unprecedented humanitarian crisis as it poses the task of hosting the world's largest dependent population. It will be further complicated by the current status of inequality in population trends varying from state to state and their per capita income and other indexes. Another layer of growing health expenditures implies that only a small population is under cover of social security schemes and financial stability. With such circumstance, high seas is the key to achieve India's aspiration to become a developed state (Viksit Bharat by 2047), with its potential for fishing, extraction of natural resources and employment generation to meet its nutrition needs, preserve and empower marginalised coastal communities and improve its foreign exchange by exports and so on.

Four percent of India's GDP comes from fisheries, aquaculture, and coastal tourism. Ratifying the treaty could directly support this blue economy. Healthier high-seas invariably mean replenishing fish stocks that migrate into India's EEZs, positively impacting the coastal livelihood. Such ecosystems also act as carbon sinks empowering oceans and thereby fighting climate change.²⁹

BBNJ - Expected Outcomes and Challenges

The BBNJ Agreement is expected to significantly advance ocean governance by expanding the global network of MPAs, directly contributing towards the global 30x30 target to protect 30% of oceans by 2030.³⁰ It aims to ensure sustainable and equitable access to marine resources, particularly genetic materials with biotechnological importance, fostering innovation and fair economic benefits. It targets to strengthen legal clarity and cooperation in ABNJ governance, reducing conflicts and promoting shared responsibility for ocean health.

Despite its promise, the BBNJ Agreement faces several challenges. Ratification and effective national implementation vary, and geopolitical tensions may influence cooperation. Some countries may resist measures perceived to limit economic opportunities or strategic control over high seas resources, complicating universal adherence and enforcement. The high seas governance has traditionally been fragmented among different regional and sectoral bodies, posing coordination and compliance

²⁷https://www.ey.com/en_in/people/ey. (n.d.). *Reaping the demographic dividend*.
https://www.ey.com/en_in/insights/india-at-100/reaping-the-demographic-dividend

²⁸Mohan, D. (2024b, August 24). Interpreting India's Middle-Income Trap Position and its Implications - The Wire. *The Wire*.
<https://thewire.in/economy/interpreting-indias-middle-income-trap-position-and-its-implications>

²⁹Aryan Rai (2026, January 22) Why is India still hesitant to commit to the critical High Seas Treaty, *India Today*.

³⁰ *Global ocean conservation treaty enters into force*. (n.d.). EEAS.

https://www.eeas.europa.eu/delegations/african-union-au/global-ocean-conservation-treaty-enters-force_en

challenges.³¹ Effective monitoring, control, and surveillance of the vast ocean areas remain technologically and financially demanding. Operationalizing fair benefit sharing, especially monetary benefits from genetic resources, is complicated by differing national interests, scientific uncertainty, and potential commercial sensitivities. Limited baseline data on ABNJ biodiversity and ecosystems hinder fully informed decision-making and assessment of conservation efficacy. In summary, while the BBNJ Agreement establishes a groundbreaking and comprehensive framework for conserving biodiversity beyond national jurisdiction, its success depends on overcoming political, technical, and capacity-related hurdles and ensuring commitment to global shared governance principles.³²

Parliamentary approval becomes increasingly crucial considering the Conference of Parties to be held in August, 2026. India's hesitation to immediate BBNJ ratification appears to have legislative reasons rather than any principle misalignment. The ratification would inevitably call for domestic bodies to adhere to implementation of MPAs, EIAs and benefit sharing norms. To examine the implications of the agreement on the local population and to identify the areas of amendments required in existing Indian laws, the Ministry of Earth Sciences set up a 12-member drafting committee in September 2025. The following are the concerns raised:

1. Maritime freedom is compromised

Autonomy over the Indian ocean region serves crucial for both economic and security reasons. Establishment of MPAs, especially without regional consultation, might curb the accessibility to species essential for the Indian fisheries sector, severely declining the socio-economic well-being of the coastal regions. The treaty provides mechanisms for detecting potential security threats in international waters. But there is a practical concern of the same provisions' potential to be misutilized as geopolitical tools.

2. Inequitable consumption of benefits

It is agreeable that the benefit-sharing mechanisms will aid developing countries like India and promote global equitability. However, the skepticism revolves around growing biopiracy and lack of any concrete preventive measures. Historical observation of developed countries exploiting the resources monetarily is also a valid apprehension to be addressed.

3. Increased expenditure

Developing countries always battle to meet the growing financial demands. India needs to invest significantly to enforce BBNJ locally. This includes the infrastructural boost to biotechnological research, monitoring facilities and efficient technology transfer.

4. Legal incongruence

There are three primary laws that need to be updated for BBNJ implementation. The Maritime Zones Act 1976, according to which India has complete sovereignty and currently prohibits international oversight over its own EEZ. The Environmental Protection Act 1986 allows the local bodies to penalize ecological crimes only within land and coastal borders, leaving global waters vulnerable. The Biodiversity Act 2002 protects the national resources by either denying access or

³¹Camila. (2025, September 22). *HISTORIC MILESTONE FOR GLOBAL OCEAN PROTECTION: 60th ratification triggers entry into force of High Seas Treaty - High Seas Alliance*. High Seas Alliance. <https://highseasalliance.org/2025/09/19/historic-milestone-for-global-ocean-protection-60th-ratification-triggers-entry-into-force-of-high-seas-treaty/>

³²Fu, J., & Liu, W. (2025). The Impact of the BBNJ agreement's EIA provisions on China: a comprehensive analysis under the SWOT-PEST framework. *Frontiers in Marine Science*, 12. <https://doi.org/10.3389/fmars.2025.1686221>

applying taxation to any foreign entity intersecting with the equitable sharing of MGRs as called by the BBNJ.³³

India and BBNJ

Of the 53 lakh tonnes of marine potential, shockingly only 25% production is from offshore fishing, the remaining being obtained from inland fishing. It is ironic that diversification of marine fishing is still rudimentary in a country with an elongated 11,098 km coastline. This poses a serious threat of resource depletion.³⁴ 90% of small-time fishermen contribute only 10% of output. The fisheries sector needs to regulate these inequalities and work towards sustainability and fish stock preservation to aid economically marginalised communities. The treaty alone can surmount the advantages of diversification of marine fishing by assisting in tapping the hidden biodiversity to meet the growing domestic and global demand. Despite this urgency, the treaty is yet to be ratified in the parliament citing the need for pending domestic legal alignment. The delay may certainly impede India's seat at the decision making tables of the new regime's governance, scientific standards and benefit-sharing norms. Access to capacity-building funds is conditional on strong treaty engagement.

Currently India hosts 18% of world population managing its affairs by just a meagre 2.4% of global land, 2% of forest and 4% clean water resources.³⁵ India has the lowest per capita consumption of natural resources than the rest of the world, due to overshoot and constraints in benefitting from the resources.³⁶ The proposed treaty should not jeopardize the economic interests of the country as fishing, seabed mining are drivers of the economy as well as the livelihood of millions of people.

The vertical of capacity building and technology transfer bring unique challenges to global south countries like India. The treaty calls for developed Global North countries to aid the global south countries in their capacities to manage and preserve ocean ecosystems. However it will impose financial burden on states like India, which already needs to significantly increase its investment in research, monitoring and high seas governance mechanisms. Additionally in terms of technology transfer, there is still a lack of clarity on the mechanism, whether it will come with restrictions or conditions which will create dependency over the provider country.

The MGR is gaining momentum as it is a nascent area where only limited developed countries are exploring and exploiting the benefits. The marine bio-prospecting technologies utilize various industries like pharmaceutical, cosmetics, agriculture and others. Optimization of the shared resources and data of MGR is challenging as it requires a balanced approach to fair and equitable sharing without compromising global standards. India needs to formulate a comprehensive strategy to harness this opportunity by integrating existing medical, pharmaceutical, education and research departments. The limited surveillance mechanism and enormity of the Indian Ocean is restricting the effectiveness of the country's ability to detect and impose treaty obligations. To improve maritime awareness and active presence, the nation would need meaningful financial investment and international support. Favorable collaborators are required for synchronised patrol and coordinated marine governance.³⁷

³³ Pulkit Verma, *BBNJ Agreement and National Security Considerations: An Indian perspective*, SICMSS, Rashtriya Raksha University.

³⁴ Dharmamony, V. (2025, May 21). *Overfishing — the threat to ocean wealth, livelihoods*. The Hindu.
<https://www.thehindu.com/opinion/op-ed/overfishing-the-threat-to-ocean-wealth-livelihoods/article69602910.ece>

³⁵ Kaushal, A. a. a. P. (2022, August 2). India's millions consume more than the country can sustain. *Eco-Business*.
<https://www.eco-business.com/opinion/indias-millions-consume-more-than-the-country-can-sustain/#:~:text=India%20has%20lower%20per%20capita,of%20the%20world's%20respective%20totals>.

³⁶ Dharmamony, V. (2025b, May 21). *Overfishing — the threat to ocean wealth, livelihoods*. The Hindu.
<https://www.thehindu.com/opinion/op-ed/overfishing-the-threat-to-ocean-wealth-livelihoods/article69602910.ece>

³⁷ Icwa. (n.d.). *India joins BBNJ Treaty: A New Era for Ocean Governance - Indian Council of World Affairs (Government of India)*.
https://www.icwa.in/show_content.php?lang=1&level=3&ls_id=11950&lid=7247

CONCLUSION

With the looming threat of climate change, depleting natural resources, and degradation of biodiversity, the BBNJ is vital to preserve and possibly reverse many such challenges. The BBNJ treaty is a promising tool for ocean governance with more sustainability and equity of benefits. As far as India is concerned, it is at its peak momentum in her history having a favourable demographic dividend and economically growing trajectory to transit into developed state. Given the fact that India's natural resources are limited, combined with one sixth of world population with varying degrees of inequities, its willingness to adhere to the treaty is a testament to its commitment to sustainable fishing, resource exploration, all without any intent to harm the ecosystem but only to preserve biodiversity.

Stating assistance readiness to the proposed BBNJ treaty from developed states in form of technology transfer, MGR equity sharing, collaborative mechanism, capacity building for marine conservation are all highly promising instances. But ultimately the treaty's success will be in the hands of developed states' concrete willingness and commitment. The global south countries are witnessing many such attempts in multiple domains starting from sustainability, climate change agreement, biodiversity and pollution control. These treaties were well crafted and promised many incentives to global south countries. On the other hand, the implementation and delivery of the promises became diminishing over time.

The Paris Climate Change agreement is a classic example. This agreement was viewed as the savior of the world as it adopted various green mechanisms from energy to transportation. But it arguably failed to fully fulfil its committed financial assurance. The majority of global south countries, who host huge populations with limited natural resources, lacking technologies and inadequate funding, committed to preserve the world by adopting green means. With their scarcity of resources, they can still be seen installing renewable energy sources and adopting other green ways of livelihood which are costlier than easily available ones. On the contrary, similar observations are hard to be made in developed countries. At COP 29 in Baku, India expressed strong dissatisfaction and disappointment, stating the conference outcome as "optical illusion" and "abysmally poor".³⁸ The developing countries demanded 1.3 trillion USD per year as climate finance whereas the developed states rejected the notion and instead attempted to increase contributing bases from the south. India rejected the financial deal by citing insufficient amount, lack of trust, inadequate process and derailing of the green transition.³⁹

The BBNJ is a significant attempt at marine governance, combating climate change and ensuring biodiversity. It requires concrete commitment from developed states. Otherwise it will only impose additional financial burden on infrastructure building, manpower resources, policy shifts and training equipment to fishing communities in developing states. These countries will be left at their own risk and plight to look after their internal affairs. The three E's are a prerequisite for any global attempt to sustainability and success. First is the economy, where developing countries cannot sacrifice their population, poverty alleviation and development needs. Second is the environment as no country is perpetually safe and sustained when the impact of climate change diminishes biodiversity. The last but the

³⁸ India's intervention at the plenary session of the UNFCCC-COP29. (n.d.).

<https://www.pib.gov.in/PressReleaseframePage.aspx?PRID=2075707#:~:text=India%20today%20expressed%20disappointment%20at,the%20enablement%20of%20mitigation%20ambitions.>

³⁹ India expresses dissatisfaction on unwillingness by Developed countries to engage in the Climate Finance and Mitigation Work Programme at CoP29 in Baku, Azerbaijan. (n.d.). <https://www.pib.gov.in/PressReleaseframePage.aspx?PRID=2074011>

most important one is equity. This refers to striking a balance between currently providing economical assistance to developing states and marginalised communities from developed ones intragenerationally, and preserving the environmental biodiversity for the future intergenerationally. Afterall, the earth is a common heritage.



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