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UN BBNJ High Seas Treaty — The First Law for the Last Frontier

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SUBJECTS COVERED**ENVIRONMENT****IR****CURATED & WRITTEN BY****Bharat Choudhary**

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WHY IN NEWS

The Biodiversity Beyond National Jurisdiction (BBNJ) Agreement — also called the High Seas Treaty — entered into legal force in January 2026, 120 days after its 60th ratification was deposited in September 2025. It is the first legally binding international framework to protect biodiversity in the high seas, covering nearly half the planet's surface.

THE HIGH SEAS: THE LAST UNGOVERNED FRONTIER

The **high seas** — international waters beyond any nation's 200-nautical-mile Exclusive Economic Zone — cover approximately **64% of the ocean surface** and about **43% of Earth's total surface area**. They contain extraordinary biodiversity: hydrothermal vent communities, seamount ecosystems, abyssal plains, and deep-sea genetic resources of immense potential value for medicine, biotechnology, and climate science.

Yet until January 2026, no comprehensive international treaty protected this vast space. The **UN Convention on the Law of the Sea (UNCLOS)**, adopted in 1982, established the basic legal architecture for ocean governance — territorial seas (12 nautical miles), EEZs (200 nautical miles), continental shelves, and the regime for deep-seabed minerals. But UNCLOS contained no specific provisions for the conservation of marine biodiversity in international waters.

For decades, the high seas were governed by a patchwork of sector-specific instruments: the International Maritime Organization (IMO) for shipping, Regional Fisheries Management Organisations (RFMOs) for fish stocks, the International Seabed Authority (ISA) for deep-sea mining. The result was overlapping jurisdictions, regulatory gaps, and no mechanism to establish comprehensive Marine Protected Areas (MPAs) or require Environmental Impact Assessments (EIAs) across the full breadth of international waters.

THE 15-YEAR NEGOTIATION JOURNEY

The UN General Assembly first recognised the governance gap in **2002** (World Summit on Sustainable Development). Formal negotiations under the UNCLOS framework began in **2008** through the “BBNJ Working Group.” The process was slow — divided between nations that wanted strong binding provisions and those (including major maritime and fishing powers) that resisted new obligations.

Progress accelerated after the **Kunming-Montreal Global Biodiversity Framework (CBD COP15, December 2022)**, which enshrined the **“30 by 30” target** – protecting 30% of land and ocean areas by 2030 – as a global political commitment. The final BBNJ text was adopted at a resumed UN conference on **March 4–5, 2023** after nearly two additional years of intensive negotiations.

Milestone	Date
First BBNJ Working Group session	2008
UN resolution authorising formal treaty negotiations	2015
Final text adopted at UN conference	March 2023
60th ratification deposited	September 2025
Treaty entered into force	January 2026

THE FOUR “PACKAGE DEAL” PILLARS

The BBNJ Agreement’s substance is structured around **four thematic clusters**, negotiated as a package because major power groups insisted on progress across all four simultaneously:

1. MARINE PROTECTED AREAS (MPAS) ON THE HIGH SEAS

The treaty creates a legal process for establishing MPAs beyond national jurisdiction – a first in international law. Key features:

- States parties can propose protected areas for adoption by the **Conference of the Parties (COP)** established under the treaty

- MPA measures must be based on **best available science** and the **precautionary approach**

- Activities in designated MPAs may be restricted to prevent damage to ecosystems

- Target: contributing to the “30 by 30” goal for ocean protection

Why this matters: Current MPAs cover only about 8% of the ocean, with very few in high-seas areas. The new treaty provides the legal machinery to change this.

2. ENVIRONMENTAL IMPACT ASSESSMENTS (EIAs)

The treaty requires mandatory EIAs for activities that **may have more than a minor or transitory effect** on the marine environment in areas beyond national jurisdiction:

- Applies to deep-sea mining, offshore energy infrastructure, commercial fishing at new sites, and cable/pipeline laying

- Cumulative impact assessment required (not just project-specific)

- EIA results must be publicly available – transparency obligation

Review by treaty bodies for significant proposed activities

Why this matters: Currently, there is no binding requirement to conduct EIAs for most activities on the high seas. The ISA requires EIAs for deep-sea mining, but coverage is otherwise patchy.

3. MARINE GENETIC RESOURCES (MGRS) — ACCESS AND BENEFIT-SHARING

This was the most contentious element — mirroring the debate around the **Nagoya Protocol** (2010) for terrestrial genetic resources. The BBNJ provisions:

MGRs collected from international waters — including deep-sea organisms with unique genetic characteristics — are subject to a **benefit-sharing regime**

Companies, research institutions, and states must share **monetary and non-monetary benefits** from commercial exploitation of high-seas MGRs with a multilateral fund accessible to developing nations

Developing countries had argued for years that high-seas genetic resources — including potentially valuable deep-sea extremophiles — were being collected by wealthy-nation research vessels without any obligation to share benefits

Debate: Developed nations (US, EU, Japan) resisted strong benefit-sharing obligations; developing nations (G77 + China bloc) pushed for them. The final compromise links benefit-sharing to commercial application rather than collection — triggering payment only when commercial products reach market.

4. CAPACITY BUILDING AND TECHNOLOGY TRANSFER

The treaty creates mandatory provisions for developed nations to provide:

Training and technical assistance to developing country scientists

Technology transfer for ocean monitoring and research

Financial support for developing-country participation in treaty bodies

This pillar was essential to secure developing-country ratification — without it, small island developing states (SIDS) and coastal African nations would not have signed.

INDIA'S POSITION AND INTERESTS

India played an active role in BBNJ negotiations. India's interests are multidimensional:

As a developing country: India supports strong benefit-sharing provisions for MGRs and capacity building. India's deep-sea research capacity is growing but lags behind major maritime powers. Access to shared funds and technology would accelerate India's scientific capacity.

As a fishing nation: India is one of the world's largest fishing nations (~8 million tonnes annual catch). RFMOs and high-seas fisheries governance directly affect Indian distant-water fishing fleets. India's position has been cautious about restrictions that could limit fishing effort.

As a Blue Economy aspirant: India’s **Deep Ocean Mission** (launched 2021, budget Rs 4,077 crore) explicitly targets deep-sea polymetallic nodules and hydrothermal vent resources. The ISA’s **India’s Pioneer Area** — a 150,000 sq km zone in the Central Indian Ocean Basin — is already allocated for India’s exploratory polymetallic nodule mining. The BBNJ treaty’s EIA requirements will apply to any mining activities that move toward commercial scale.

As an UNCLOS champion: India ratified UNCLOS in 1995 and consistently upholds it — including in the South China Sea context (where India opposes China’s non-recognition of the 2016 UNCLOS Arbitral Tribunal ruling). Entering into force of a BBNJ Agreement that strengthens UNCLOS-based governance is broadly aligned with India’s international legal position.

GOVERNANCE ARCHITECTURE UNDER THE TREATY

Once in force, the BBNJ Agreement establishes:

Body	Function
Conference of the Parties (COP)	Governing body; decides on MPA designations, rules
Subsidiary Body on Science and Technology	Technical review of EIAs, MPA proposals
Access and Benefit-Sharing Committee	Administers MGR fund, monitors compliance
Multilateral Fund	Finances capacity building and MGR benefit-sharing

The treaty operates alongside — not replacing — existing bodies like IMO, RFMOs, and ISA. Coordination mechanisms were negotiated to avoid conflicting obligations.

“30 BY 30” — CAN IT BE ACHIEVED?

The **Kunming-Montreal Framework’s 30 by 30 target** requires protecting 30% of the planet’s land and ocean by 2030. Currently:

Protected land: ~17% globally

Protected ocean: ~8% (most in national EEZs; very little on high seas)

Reaching 30% ocean coverage by 2030 requires:

Accelerated high-seas MPA designation under the BBNJ treaty

Strengthening MPAs in national EEZs (most are “paper parks” without enforcement)

Integrating fisheries management restrictions within MPA frameworks

Adequate financing (estimated USD 140–175 billion/year for biodiversity globally)

The BBNJ treaty provides the legal framework. Political will, financing, and enforcement capacity remain the binding constraints.

UPSC RELEVANCE

BBNJ Agreement (High Seas Treaty; adopted March 2023; entered into force January 2026; 60 ratifications; UNCLOS-based); 4 pillars (MPAs, EIAs, MGR benefit-sharing, capacity building); “30 by 30” target (Kunming-Montreal Framework, CBD COP15, December 2022); ISA (International Seabed Authority); India’s Pioneer Area (150,000 sq km, Central Indian Ocean Basin, polymetallic nodules); Nagoya Protocol (2010; terrestrial MGR benefit-sharing)

MAINS GS-2:

“Discuss the significance of the BBNJ Agreement for ocean governance and analyse how it addresses the historical gap in international maritime law.” | “How does the BBNJ High Seas Treaty reinforce India’s UNCLOS-based maritime strategy?”

MAINS GS-3:

“Examine India’s interests in the BBNJ Agreement — balancing Blue Economy ambitions with the treaty’s EIA and benefit-sharing obligations.”

★ FACTS CORNER — KNOWLEDGE PEDIA

BBNJ AGREEMENT (HIGH SEAS TREATY):

Full name: Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction

Commonly called: High Seas Treaty / BBNJ Agreement

Negotiated under: UNCLOS framework (UN General Assembly process)

Negotiations duration: 2008–2023 (15 years)

Final text adopted: March 4–5, 2023

60th ratification: September 2025 | Entered into force: January 2026

High seas: Waters beyond 200 nm EEZ; ~64% of ocean surface; ~43% of Earth's total surface

FOUR PILLARS:

MPAs: Marine Protected Areas in international waters (first time legally possible)

EIAs: Mandatory environmental impact assessments for high-seas activities

MGRs: Marine Genetic Resources benefit-sharing (commercial proceeds shared with developing nations)

Capacity Building: Technology transfer and training for developing countries

“30 BY 30” TARGET:

Source: Kunming-Montreal Global Biodiversity Framework (CBD COP15, December 2022)

Goal: Protect 30% of land + 30% of ocean by 2030

Current status: ~17% land protected; ~8% ocean protected (as of 2023)

INDIA'S DEEP-SEA INTERESTS:

Deep Ocean Mission: Rs 4,077 crore (2021-26); 6 pillars

India's Pioneer Area: 150,000 sq km in Central Indian Ocean Basin; polymetallic nodules

Allocated by: International Seabed Authority (ISA), headquartered in Kingston, Jamaica

KEY INSTITUTIONS:

ISA: International Seabed Authority (Kingston, Jamaica); governs deep-sea mining in international waters

IMO: International Maritime Organization (London); governs shipping on high seas

RFMOs: Regional Fisheries Management Organizations; manage international fisheries

CBD: Convention on Biological Diversity (Montreal Secretariat); hosts Kunming-Montreal Framework

OTHER RELEVANT FACTS:

UNCLOS (1982): 168 parties; India ratified 1995; governs territorial sea, EEZ, continental shelf, deep seabed

Nagoya Protocol (2010): Benefit-sharing for land/freshwater genetic resources; template for BBNJ MGR provisions

Hydrothermal vents: Deep-sea geological features hosting unique chemosynthetic ecosystems; source of MGRs

Polymetallic nodules: Mineral-rich formations on deep-sea floor containing manganese, nickel, copper, cobalt

Extremophiles: Organisms adapted to extreme conditions (deep-sea heat, pressure, darkness); high biotechnology value

IPBES: Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services — provides scientific input to CBD/BBNJ governance

Sources: Insights on India, IISD Earth Negotiations Bulletin, UN

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