

APPENDICES

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Verbatim Report

Written Responses

Joint Submissions by the
Ministry of Foreign Affairs
and Office of the Solicitor-
General

Joint Briefing on the Conservation and Sustainable use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ)

Briefing to the Standing Committee on Foreign Affairs and Defence
Thursday 20 March 2025



History of BBNJ Agreement Negotiations: Using a bipartisan approach over the 20 years

YEAR	PROCESS	FUNCTION
2004	UNGA establishes OEWG	To study conservation and sustainable use of marine biological diversity in areas beyond national jurisdictions
2015	OEWG establishes Preparatory Committee	To progress discussions on a legally binding instrument
2017	UNGA endorses the Intergovernmental Conference (IGC)	The IGC is the negotiating body to design and develop the text of the BBNJ Treaty
2017 to 2023 (6-year period)		A total of 5 IGC have been convened to develop the BBNJ
2023	UNGA adopts the BBNJ Treaty	Treaty was unanimously adopted by the UNGA

BBNJ Treaty falls under the overarching UNCLOS, signatories are not bound automatically. Treaty will enter into force after ratification by 60 UN member states. To date 20 countries have ratified the BBNJ which includes the Marshall Islands, Federate States of Micronesia (FSM) and Palau.



Key Elements of the BBNJ Agreement

1. Area Based Management Tools - includes establishing MPAs to conserve biodiversity and ensure sustainable use of marine resources;
2. EIAs - the Agreement mandates thorough transparent and consultative EIAs to assess the potential impacts of human activities in the high seas;
3. Marine Genetic Resources (MGRs) - the Agreement addresses the fair and equitable sharing of benefits derived from MGRs including digital sequence information; and
4. Capacity Building and Technology Transfer - The Agreement promotes capacity building and transfer of marine technology to enable developing countries to participate effectively in the conservation and sustainable use of marine biodiversity in the ABNJ.



Key Elements of the BBNJ Agreement

5. The Agreement provides for a Dispute Settlement mechanism under UNCLOS allowing States to refer disputes to international tribunals;
6. There are two main principles of the Agreement which are:
 - Precautionary Principle - must be scientifically based; and
 - Benefit sharing



Summary of the written analysis (BBNJ Agreement)

Legally binding instrument - The BBNJ is the international legal binding instrument that would govern the conservation and sustainable use of biodiversity and marine genetic resources of areas beyond national jurisdiction.

Addressing current limitation in international law - Having no international legal framework to monitor High Sea Activities has led to increase in human rights violation in the open ocean. This requires urgent step to be taken to improve fisheries management in the open waters because these areas are largely far from coastlines, the myriad human activities and corresponding impacts on marine life in those areas are extremely challenging to monitor and control.



Summary of the written analysis (BBNJ Agreement)

Addressing Gap in International Law - This agreement helps to fill the gaps not addressed by UNCLOS and in addition to helping protect vulnerable ecosystems and species, these includes

- i. diplomatic benefits,
- ii. economic benefits; and
- iii. social interest

Supporting Evidence Based Policy Formulation - Looking closely at the objectives of the BBNJ Treaty, it aligns with the National Ocean Policy and other national legislation and policies.

Benefits of the BBNJ Agreement

Diplomatic Benefits

Strengthen Multilateralism – Build upon our role in leading the Ocean Conference, Conference of the Parties on Climate Change and the Paris Agreement, Leading the Charge on the Fisheries Subsidies Negotiations in the World Trade Organisation and achievement of Sustainable Development Goals.

Economic Benefits

Preserve genetic material & diversity, improve fish stock, renewal energy and deep-sea mining potential in the future.

Social Benefits

Promote global equity & address inequality in the high seas,



Challenges of the BBNJ Agreement

Need for global procedures and standards for applying modern tools, such as marine protected areas (MPAs), environmental impact assessments (EIAs) and strategic environmental assessments (SEAs).

Need for sufficient legal mandate for ecosystem-based management, biodiversity conservation, cooperation and coordination in decision bodies in BBNJ.

Need for compliance and enforcement mechanisms to provide incentives for effective flag State performance.

BBNJ Implementati on in Palau and the FSM

	Palau	Federated States of Micronesia
Key Issues	<ul style="list-style-type: none"> • Protection measures - to be put in place to ensure protection of marine biological diversity in areas beyond national jurisdiction and that activities undertaken do not undermine efforts in areas within national jurisdiction. • Cooperation with other nations & organisations - required to monitor and enforce the BBNJ and to address other measures such as IUU fishing, pollution and other activities that harm marine biodiversity. 	<ul style="list-style-type: none"> • Cultural Significance - BBNJ must reflect upon important cultural aspects of island living to endure that an internally legally binding instrument on the BBNJ will not undermine people's culture nurtured by centuries of close contact with the Ocean. • Traditional Structures - Support for the recognition of traditional knowledge of indigenous peoples and communities.

BBNJ Implementati on in Palau and FSM

Challenges	<ul style="list-style-type: none"> • Unregulated Deep-Sea Mining – it will be ineffective to protect water column in the high seas and allow for countries to embark on unregulated deep-sea mining. • Moratorium on deep sea mining - regulatory framework to be in place backed by science-based evidence. • Illegal, Unregulated & Unreported (IUU) – undermine economic stability and jeopardises marine biodiversity. 	<ul style="list-style-type: none"> • Inclusivity - treaty to be fair and transparent and reflect the collective ambition of member states to address global challenges including those facing people in the Pacific nation. • Innovative - when it comes to Area Based Management Tools (ABMTs), environment impact assessment (EIA), capacity building and the transfer of marine technology, in addressing the growing imbalance of opportunities and roles. • Sustainability - conservation and sustainable use of the BBNJ from the perspective of those Small Islands States whose dependence on the Ocean resources .
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BBNJ Implementation in Palau and FSM

Challenges

Capacity Building and Transfer of Marine Technology – small island states lack necessary information as well as scientific and technical capacity to conduct studies on the marine environment and fully implement the Instrument.

Financing – securing financial resources and technical expertise to implement the BBNJ agreement effectively.

Monitoring – need for capacity to properly monitor, assess and manage marine biodiversity in areas beyond national jurisdiction.

Issues Highlighted and Outcomes of the Fiji National BBNJ Agreement Workshop

A national workshop was held at The Naviti Resort, Sigatoka from 14-16 May 2025.

The workshop was led by MFA as Chair of the Maritime Affairs Coordinating Committee (MACC) in collaboration with OPOC and IUCN with support from the Bloomberg Ocean Initiative and Arcadia, and the High Seas Alliance.

Stakeholders included officials from Ministry of Foreign Affairs, Republic of Fiji Navy, Ministry of Environment & Climate Change, Ministry of Fisheries, Office of the Prime Minister, Ministry of Home Affairs & Immigration, Ministry of Lands & Mineral Resources, Office of the Solicitor General, Ministry of Itaukei Affairs, USP, High Seas Alliance, IUCN, Greenpeace, PANG, and OPOC.



Overview of the BBNJ Workshop



The Workshop provided an overview of the BBNJ Agreement and linkages to existing national legislation, regulations and policies that are relevant for the ratification, domestication and effective implementation of the BBNJ Agreement.



It also served as a familiarisation exercise for national agencies, ensuring that all relevant stakeholders are aware of their respective roles and responsibilities under the BBNJ Agreement.

Issues Emanating from the Discussions

Noted the limited expertise in Fiji and the region in marine biodiversity and acknowledged the ongoing, existing academic programmes being offered by national and regional academic institutions.

Agreed to utilize capacity – building initiatives being offered by technical partners.

Agreed to engage in knowledge sharing and institutional strengthening through interagency mechanisms.

Outcomes of the Workshop



Affirmed the need to prioritize the ratification of the BBNJ Agreement to conserve and sustainably manage marine biological diversity in Areas beyond National Jurisdiction (ABNJ) in alignment with national and regional priorities and other international treaties and conventions that Fiji is a Party to.



Affirmed the need to seek Parliamentary endorsement for the ratification of the BBNJ Agreement and committed to support the Office of the Solicitor-General and the Ministry of Foreign Affairs in the ratification process by the end of 2024.



Acknowledged the need for Fiji to be actively engaged in the upcoming BBNJ Preparatory Commission, in New York from 24 – 26 June 2024 and subsequent multilateral and regional meetings, in consultation with OPOC and technical partners.



Acknowledged the need for national BBNJ stakeholders to understand the linkage of their respective ministerial mandates to the BBNJ Agreement.

Outcomes of the Workshop



Affirmed the need to review existing legislation, policies and mechanisms without having to reinvent the wheel to ensure that implementation of the BBNJ Agreement is not burdensome.



Agreed that a clear work plan and timelines on ratification and implementation would be prepared by the Maritime Affairs Coordinating Committee (MACC) to provide guidance to national BBNJ stakeholders by the end of May 2024.



Agreed to regular dialogue and consultations through MACC and related platforms on key issues under the BBNJ Agreement to be addressed and clarified prior to ratification.



Acknowledged the available support provided by technical partners through OPOC, to assist Fiji in the ratification and implementation of the BBNJ Agreement, including but not limited to technical, scientific, legal and policy support.



Means of Implementation

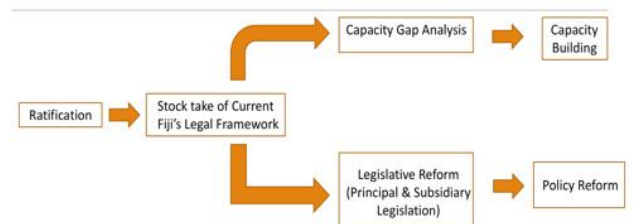
Pre-Ratification

Prior to ratification and once the BBNJ Agreement has been referred to the relevant standing committee, article 71 (Declarations and statements) of the BBNJ Agreement presents a further opportunity for input on possible declarations, where permissible under the BBNJ Agreement, that Fiji may have. The declaration would need to be deposited with the instrument of ratification (if standing order 130 is satisfied) to the Secretary-General of the United Nations.

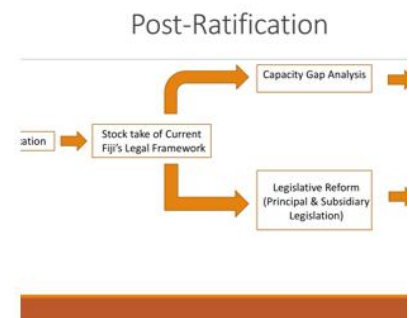
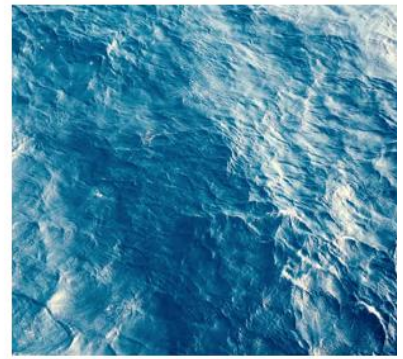


Means of Implementation

Post-Ratification



Means of Implementation

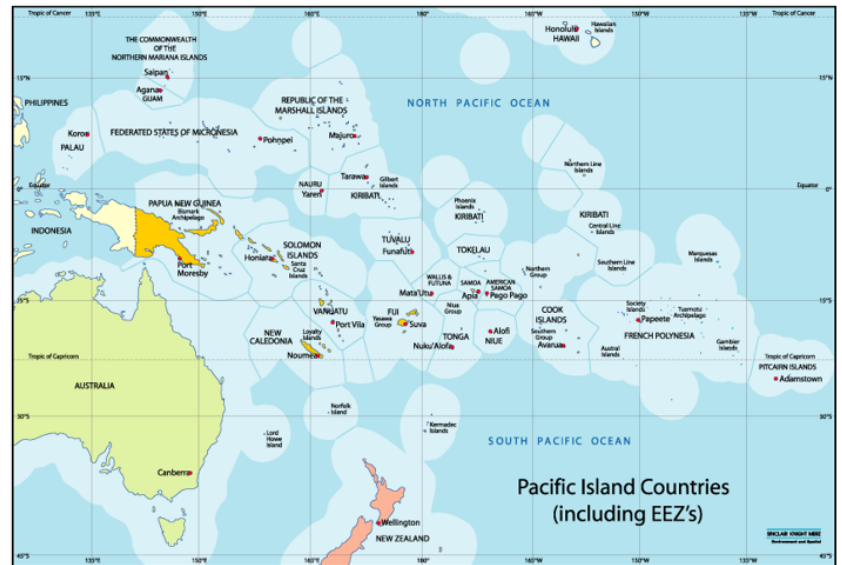


Conclusion

- Looking to have Fiji ratify the Treaty to reinforce our global advocacy on environment protection and biodiversity conservation
- Engage with donor partners on the technical assistance to support domestication of the Treaty
- Re-examine the scope of the Marine Affairs Coordination Committee (MACC) to support implementation and monitoring & evaluation of the treaty.

Joint Briefing on the Conservation and Sustainable use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ)

ANY QUESTIONS



Ministry of Lands and Mineral Resources



SUBMISSION TO THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE

***“Use of Marine Biological Diversity of Areas Beyond National
Jurisdiction (BBNJ Agreement)”***

24.03.2025

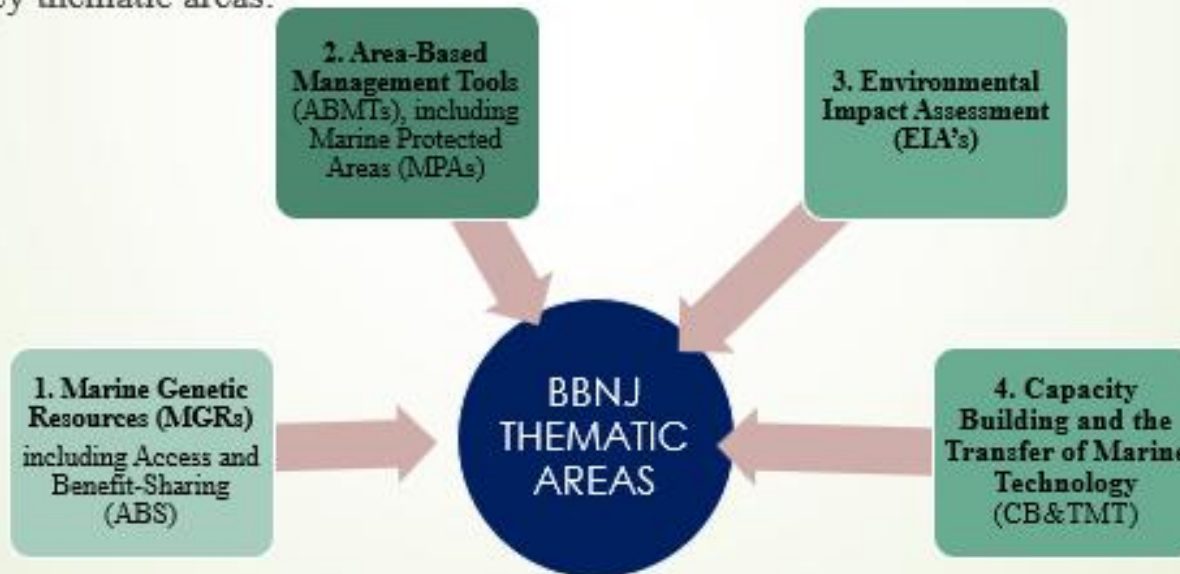



Content

- Background
- Key Linkages of the Ministry of Lands & Mineral Resources (MLMR) to the Implementation of the BBNJ Agreement
- The Role played by the Ministry of Lands & Mineral Resources (MLMR) to the BBNJ Agreement
 - ❖ *What is this about?*
 - ❖ *BBNJ Linkage:*
 - ❖ *How MLMR contributes to the Implementation Actions:*
- The Importance of the BBNJ Agreement to Fiji
- Conclusion

Background

- The BBNJ Agreement adopted on 19 June 2023 is the third implementing Agreement to the 1982 United Nations Convention on the Law of the Sea (UNCLOS).
- The Biodiversity Beyond National Jurisdiction (BBNJ) Agreement is built on four key thematic areas:



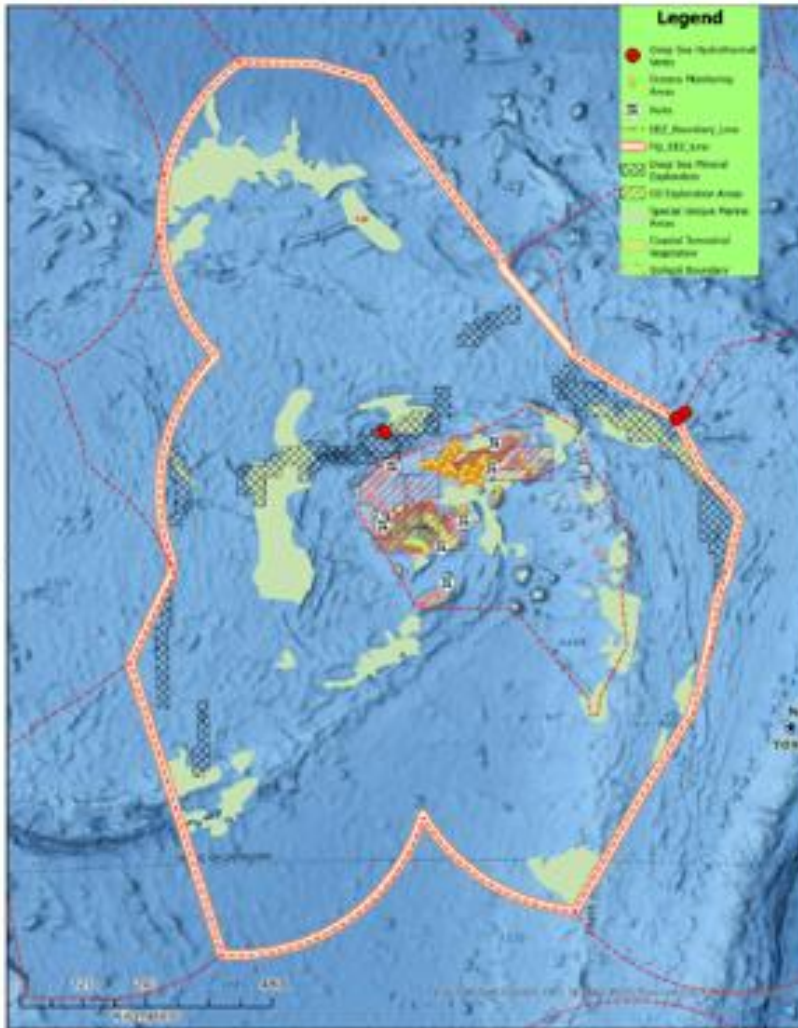


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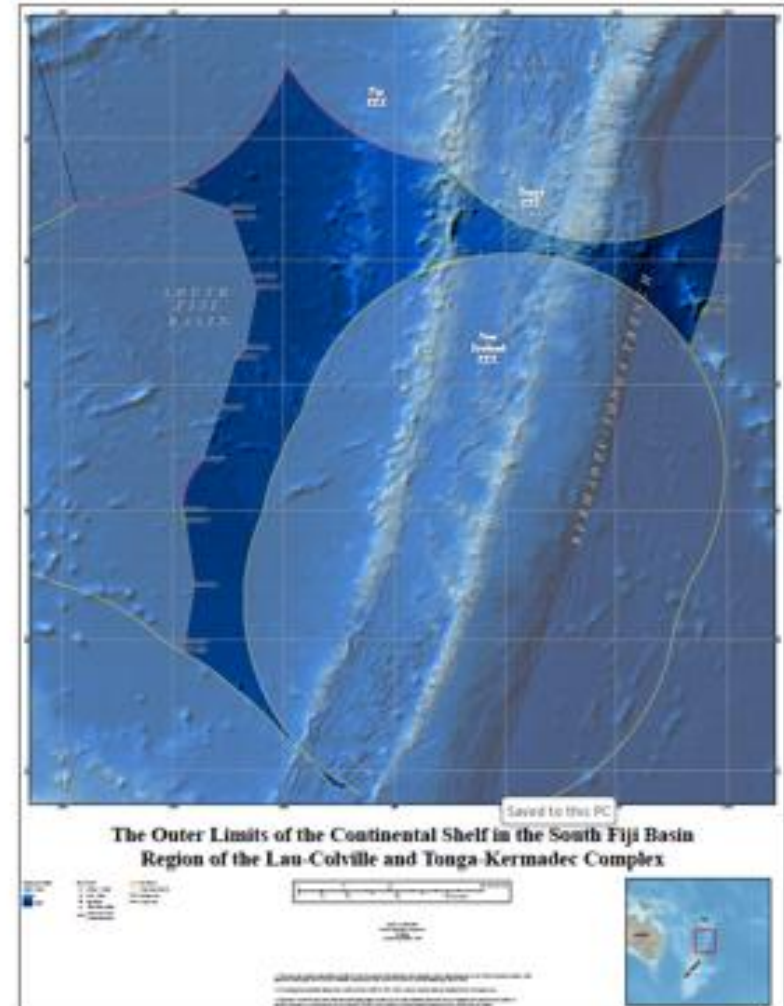
- The Agreement also establishes funding mechanism and institutional arrangements.
- Fiji being one of the signatories signifies our dedication and commitment to the management of marine resources.
- Our participation aims to advance and strengthen the ratification process of the BBNJ Treaty and to ensure its effective implementation.



Fiji Economic Exclusive Zones



Republic of Fiji



1. Marine Genetic Resources (MGRs) including Access and Benefit-Sharing (ABS)

- Marine Genetic Resources (MGRs) – These refer to living organisms (e.g., bacteria, corals, deep-sea sponges) found in the high seas that have unique properties. Scientists study these organisms for medicine, biotechnology, and food production.
- The BBNJ Agreement ensures that any benefits from these discoveries are shared fairly, in particular with developing countries like Fiji.
- The BBNJ Agreement regulates the collection and use of Marine Genetic Resources (MGRs) from areas beyond national jurisdiction, ensuring equitable sharing of benefits.



Role of the Ministry:

Coordinate with MACC Technical Team for the endorsement of Marine Scientific Research

MLMR Contribution:

- Monitor Marine Research: Approving and regulating marine scientific research (MSR) conducted in Fiji's EEZ and Extended Continental Shelf (ECS) to ensure Fiji benefits from discoveries : <https://shorturl.at/yGacs>
- Protect Traditional Knowledge
- Ensure data-sharing agreements are in place so that Fiji benefits from MGR discoveries and research outcomes
- Ensure Fair Benefit-Sharing: Helping to create laws that ensure Fiji gets a share of profits from marine discoveries (e.g., if a company develops medicine from a deep-sea organism found in Fiji's waters that are also found outside of Fiji's EEZ.
- Establish a Spatial Data Hub on behalf of government to store oceanic relation information showcasing areas with economic activities, distribution of marine biodiversity, socio and the physical components of our oceans
- Establishing of the Vanua GIS Oceans Platform as part of our Voluntary Commitment to the Community of Oceans Actions : <https://vanuagis.lands.gov.fj/oceans/>

2. Area-Based Management Tools (ABMTs) & Marine Protected Areas (MPAs)

- Area-Based Management Tools (ABMTs) - Strategies used to manage ocean areas for conservation and sustainable use.
- Marine Protected Areas (MPAs) – Identify specific zones where human activities are restricted to protect marine life.
- The BBNJ Agreement assists countries work together to create and manage MPAs in the high seas.
- The BBNJ Agreement promotes the use of ABMTs and MPAs to protect marine biodiversity in areas beyond national jurisdiction.

Role of the Ministry

The Ministry plays a crucial role in providing geospatial mapping, seabed characterization, and marine spatial planning (MSP), support its designations and management of MPAs.

MLMR Contribution:

- Mapping of Marine Biodiversity: Using geospatial mapping, seabed surveys on the Yau Dikevi and marine geological data to identify ecologically significant areas (ESAs) for ABMTs.
- Support the MPA Designation: Providing scientific data to the Ministry of Environment & Climate Change (MECC) and Ministry of Fisheries (MoF) to design and enforce MPAs.
- Coordinate with the Ministry of Environment & Climate Change (MECC) in developing scientific baselines for MPAs
- Ensure to balance 'Development and Conservation' Ensure that marine mining and exploration activities do not conflict with conservation areas designated under BBNJ.

Example:

The Phoenix Islands Protected Area (PIPA) in Kiribati is one of the largest MPAs in the Pacific, helping fish stocks recover and supporting marine biodiversity. Through BBNJ, Fiji can protect high-seas areas that support migratory fish (like tuna) that directly impact Fiji's economy.

3. Environmental Impact Assessments (EIAs)

- Environmental Impact Assessments (EIAs) are studies conducted before any large project (like deep-sea mining or oil exploration) to assess its effects on marine life.
- The BBNJ Agreement ensures that activities in the high seas undergo proper EIAs before they are approved.
- The BBNJ Agreement mandates Environmental Impact Assessments (EIAs) for activities that may impact marine biodiversity in areas beyond national jurisdiction.

Role of the Ministry

- **The Ministry oversees seabed mining regulations and large-scale marine infrastructure projects, ensuring they adhere to BBNJ-aligned EIA processes.**

MLMR Contribution:

- Setting National EIA Standards: Develop EIA guidelines for seabed exploration and mining activities in line with BBNJ and (international environmental standards).
- Regulating Deep-Sea Exploration: Working with international agencies like the International Seabed Authority (ISA) to integrate best practices for deep-sea EIAs from seabed activities.
- Providing Scientific Data: Using oceanographic surveys and GIS technology to assess risks before approving marine geoscience-related projects.

Example:

If a foreign company wants to mine minerals from Fiji's deep-sea, MLMR ensures they conduct an EIA first. Without the BBNJ Agreement, such activities could proceed without oversight, leading to marine habitat destruction.

4. Capacity Building & Transfer of Marine Technology (CB&TMT)

- Developing countries often lack the technology and expertise to manage their marine resources.
- The BBNJ Agreement promotes knowledge-sharing and technology transfer so that Pacific nations can better manage their oceans.
- The BBNJ Agreement promotes capacity building and technology transfer to help developing countries enhance their marine governance and conservation efforts.

The Role of the Ministry

As a technical agency, plays a key role in building national and regional expertise in ocean mapping, deep-sea exploration, and resource management.

MLMR Contribution:

- Assist in Training: Partnering with regional organizations (SPC, SPREP, USP) to facilitate training programs on seabed mapping, marine spatial planning, and deep-sea exploration techniques and ocean governance for government agencies, local researchers.
- Secure Marine Technology: Advocating for Fiji to Partner with international organizations (SPC, ISA, UNESCO-IOC) to acquire and apply new marine technologies in Fiji's ocean governance.
- Support Research Collaborations: Advocate for Fiji's inclusion in global research initiatives under BBNJ's capacity-building mechanisms and global marine science initiatives.
- Establish a data-sharing and research collaboration network with regional universities (USP, FNU, SPC) to support marine technology advancements

Example:

- *If Fiji ratifies the BBNJ Agreement, it can access advanced technology for ocean monitoring, such as satellite tracking of illegal fishing and AI-powered ocean mapping. Without BBNJ, developed nations may not be required to share such technologies with Fiji.*

Why it is Important for Fiji to Ratify the BBNJ Agreement

1. Protection of Ocean Resources

- Fiji relies heavily on the ocean for sources of food and livelihood, culture and economic benefits (fisheries & tourism).
- BBNJ Agreement ensures the sustainable use of marine biodiversity for the future generation.

2. Prevent Resource Exploitation by Foreign Nations

- Without clear regulations, foreign companies and nations may exploit high-seas resources without sharing benefits with Pacific nations.
- BBNJ Agreement provides a legal framework to ensure equitable access and benefit-sharing.

Why it is Important for Fiji to Ratify the BBNJ Agreement

3. Strengthen Fiji's Role as an Ocean Peace (and Champion) – PM's Vision

- Fiji has led global ocean conservation efforts which include the Pacific Blue Economy and Climate Change Advocacy (COP).
- Ratifying BBNJ solidifies Fiji's leadership in marine protection and sustainable development of Fiji's marine resources.
- Fiji as custodians of the world's largest ocean is faced with direct threats from climate change, hence the need for our direct engagement.

4. Supports Climate Resilience & Sustainable Development

- The ocean plays a key role in climate regulation, and protecting marine biodiversity helps mitigate climate change effects.
- BBNJ supports blue economy opportunities, balances conservation initiatives and promote economic benefits.

Conclusion

- The BBNJ Agreement is crucial for protecting Fiji's marine resources, ensuring sustainable ocean management and preventing unfair exploitation of the high seas.
- The Ministry of Lands & Mineral Resources (MLMR) is a critical technical agency in the implementation of the BBNJ Agreement across all thematic areas.
- The Ministry's critical roles and responsibilities in regulating seabed resources, scientific research oversight, geospatial mapping, and environmental governance ensure that Fiji upholds its commitments to marine biodiversity protection and sustainable ocean management.
- Through MACC collaboration, international partnerships, and national capacity-building efforts, enhances the Ministry to integrate BBNJ principles into Fiji's ocean governance framework.

Uto Ni Yalo Trust

UTO NI YALO TRUST

Submission to the Standing Committee on Foreign Affairs and Defence
National Sailing Centre, Suva, Fiji Islands
<https://www.uto ni yalo.org/>
team@uto ni yalo.org



Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement) by the Uto Ni Yalo Trust

The Uto Ni Yalo Trust is grateful to the Standing Committee for the opportunity to present this submission in support of Fiji's ratification of the Agreement under the United Nations Convention on the Law of the Sea (UNCLOS) on the Conservation and Sustainable Use of Marine Biological Diversity in Areas Beyond National Jurisdiction (BBNJ Agreement). This submission is founded upon centuries-old traditions and the present-day challenges faced by Pacific island communities, all of which underscore the urgent need for a transformative framework to manage the ocean's resources. We assert that the BBNJ Agreement must be practices, - and holistic security principles to protect our shared blue planet. forward thinking, integrating traditional ecological knowledge, indigenous governance

I. Pacific Traditional Voyaging Societies: Guardians of Ocean Wisdom

A. Historical Background and Contemporary Voyages

Pacific traditional voyaging societies have, for generations, safeguarded the ocean's ecological integrity through practices that blend spirituality, environmental stewardship, and sophisticated navigational knowledge. The Uto Ni Yalo Trust draws inspiration from pivotal voyages such as the **Vuatala Na Ua Voyage (2010)**, the **Te Mana o te Moana Voyage (2011)**, and the more recent **Sautu Voyage**, which carried messages to the 53rd Pacific Island Forum Leaders Meeting in Tonga (2024). The Sautu Voyage, in particular, was not merely a journey across the sea—it was an impassioned call to action, advocating for the protection of 30% of the Pacific Ocean by 2030. This bold vision is grounded in the conviction that the prosperity and well-being of Pacific communities, as well as the natural heritage of the Blue Pacific Continent, depend on the preservation of the ocean's health for current and future generations.

and Hawai'i, where traditional voyaging societies continue to thrive and adapt their ancient practices to contemporary challenges. In a time when global ocean circulation patterns are being disrupted by warming temperatures, the renewal and recognition of such knowledge are imperative for adaptive management and environmental stewardship.

II. The BBNJ Agreement: A Vision for Transformative Ocean Governance

A. Beyond Biodiversity Protection

The ocean is not merely a collection of exploitable resources; it is a living system—a dynamic, interconnected web of life that sustains our planet. Phytoplankton, the microscopic powerhouses that absorb carbon dioxide and produce oxygen, epitomize this essential, life-giving role. The BBNJ Agreement must, therefore, go beyond the **B**.

Indigenous Knowledge and Traditional Navigation

The indigenous peoples and local communities (IPLCs) of the Pacific are the stewards of a vast repository of traditional knowledge about marine ecosystems. Historical voyages yielded profound insights into the behavioral patterns and biological characteristics of marine species, ocean currents, and wave dynamics. Navigators of old understood the significance of spawning and aggregation sites for critical species, as well as the temporal variances in feeding patterns linked to lunar cycles and diurnal changes. Their observations extended to the movements and feeding practices of seabirds and the properties of marine plants used for sustenance and medicinal purposes. This holistic knowledge, though traditionally kept within select communities, has immense potential to inform sustainable marine management today (Mulalap, 2020; see [doi:10.1016/j.marpol.2020.104103](https://doi.org/10.1016/j.marpol.2020.104103)).

Evidence of this indigenous expertise is apparent not only in Fiji but also in regions such as the Federated States of Micronesia, the Marshall Islands, Solomon Islands, conservation of marine biodiversity to incorporate policies that respect the ocean’s biological, cultural, and spiritual dimensions.

B. Integrating Traditional Security Principles

Inspired by the Treaty of Rarotonga’s vision of “Ocean Peace,” the BBNJ Agreement should foster a security paradigm that transcends conventional militarisation. Historically, Pacific peoples have experienced the dual nature of the ocean: on one hand, it nurtures life, sustains livelihoods, and carries profound cultural and spiritual significance; on the other, it has become a theater for militarisation, resource extraction, and ecological degradation. The modern narrative of the “Blue Economy” has often translated ocean resources into commodities and platforms for corporate exploitation, thereby marginalizing indigenous voices and traditional practices.

In the Pacific, traditional security is not defined solely by the absence of conflict (Negative Peace), but rather by the active cultivation of Positive Peace—a state where communal well-being, economic sustainability, and environmental health coexist. Pacific concepts of peace, such as the Fijian notion of **Sautu**—which embodies prosperity, spiritual balance, and collective abundance—highlight the depth and resilience of indigenous approaches to security. Integrating these values into the BBNJ framework will ensure that ocean governance is rooted in inclusivity, cooperation, and a deep respect for the ecological cycles that underpin life below water.

C. Addressing Exploitative Practices and the “Blue Colonisation” Threat

The current Blue Economy paradigm has, in many instances, served to advance a model of “blue colonisation,” wherein large-scale industrial fisheries, deep-sea mining, and other extractive operations are pursued in the name of sustainable development. However, beneath the veneer of progress lies a trail of environmental degradation and cultural erosion. The BBNJ Agreement must embed safeguards against such exploitative practices by mandating Free, Prior, and Informed Consent (FPIC) for all activities that impact indigenous and local communities. By ensuring that the decision-making process includes the voices of those who have steered the ocean for millennia, the Agreement can serve as a bulwark against the encroachment of industrial interests that jeopardize both marine ecosystems and cultural heritage.

III. Transboundary Challenges and the Need for Cooperative Management

A. The Ocean’s Transcendence of National Boundaries

One of the most compelling aspects of the Pacific is its fluid, transboundary nature. Ancient voyagers, migratory fish, and sea turtles traverse the vast expanse of the ocean without regard for the strictures of human-imposed political borders. In the same vein, modern environmental hazards—nuclear waste, plastic pollution, and the disruptive technologies of deep-sea mining (often referenced as the “deep blue peril”)—do not confine themselves to national jurisdictions. Instead, these hazards disperse widely along ocean currents, impacting marine life and coastal communities across diverse political landscapes. This inherent interconnectedness necessitates an integrated, multilateral approach to ocean management that is unbound by traditional concepts of territorial control.

B. The Imperative for International Collaboration

In light of these transboundary challenges, the BBNJ Agreement must serve as a platform for international cooperation. Traditional territorial governance frameworks are ill-equipped to manage the diffuse and pervasive nature of contemporary marine threats. A reimagined governance model—one that acknowledges the ocean as a shared resource and collective heritage—will require robust international collaboration. The Agreement should foster dialogue among states, indigenous peoples, and civil society groups to develop integrated management practices that are adaptive to environmental change. Such an approach would not only safeguard marine biodiversity but also ensure that the ocean’s benefits are equitably shared among all who depend on it.

IV. A Transformative Framework for a Sustainable Future

A. An “Ocean of Peace”: A Holistic Paradigm

The ultimate goal of the BBNJ Agreement should be the creation of an “Ocean of Peace”—a vision where diplomacy and stewardship replace militarisation and extractive paradigms. This vision is predicated on the understanding that the ocean’s intrinsic value lies not in its economic potential alone but in its capacity to inspire and sustain life, culture, and spiritual well-being. By incorporating Pacific perspectives on peace—which emphasize relational harmony, intergenerational responsibility, and ecological balance—the Agreement can pave the way for a more inclusive and just system of ocean governance.

B. Embracing Indigenous Leadership and Traditional Knowledge

A critical element of this transformative framework is the recognition and incorporation of indigenous leadership. IPLCs hold a wealth of traditional knowledge that is crucial for understanding and managing marine ecosystems sustainably. Historical practices of traditional navigation and resource management are not only repositories of practical wisdom but also living expressions of cultural identity. The inclusion of indigenous voices in the formulation and implementation of the BBNJ Agreement is essential for ensuring that governance mechanisms are culturally resonant and ecologically sound. Moreover, integrating indigenous knowledge with modern scientific insights can lead to innovative management strategies that are both adaptive and resilient.

C. Aligning with Global Sustainable Development Goals

The BBNJ Agreement, by encompassing a broad spectrum of environmental, cultural, and security concerns, aligns naturally with Sustainable Development Goal (SDG) 14, which focuses on life below water. SDG 14 underscores the importance of conserving marine ecosystems and ensuring sustainable use of ocean resources. In this context, the Agreement’s emphasis on safeguarding marine biodiversity and promoting holistic ocean governance will contribute directly to achieving global sustainable development targets. By protecting the ocean’s health, the Agreement also supports broader efforts to mitigate climate change and foster socioeconomic well-being.

V. Conclusion

The Uto Ni Yalo Trust ardently supports Fiji’s ratification of the BBNJ Agreement. The

Agreement represents not only a legal instrument for marine conservation but also a visionary blueprint for transforming how the world perceives and engages with the ocean. Rooted in the rich traditions of Pacific voyaging and indigenous ecological knowledge, it calls for a shift from resource exploitation to sustainable, inclusive stewardship. The ocean is a shared heritage—a

Appendices - Review Report of the Convention on Marine 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 (BBNJ AGREEMENT) Page | 39

living, interconnected system that transcends borders and demands respect for its biological, cultural, and spiritual dimensions.

By integrating principles of traditional navigation, indigenous governance, and holistic security—exemplified by concepts such as Sautu and the Treaty of Rarotonga’s “Ocean Peace”—the BBNJ Agreement can counter the exploitative tendencies of the current Blue

Economy. It must safeguard against “blue colonisation” by ensuring that Free, Prior, and Informed Consent is a prerequisite for any marine activity that affects local communities. Simultaneously, the Agreement must adapt to the challenges posed by transboundary hazards such as nuclear waste, plastic pollution, and the disruptive potential of deep-sea mining, which respect no man-made borders.

Ultimately, the BBNJ Agreement offers a transformative pathway toward an “Ocean of Peace” where diplomacy, cooperation, and environmental integrity prevail. It is a commitment to preserving the legacy of ancient navigators, protecting the rich tapestry of indigenous knowledge, and ensuring that the ocean remains a source of life, cultural identity, and hope for all peoples. We urge the Standing Committee to embrace this vision and support Fiji’s ratification of the Agreement as a critical step toward a sustainable, equitable future for our shared blue planet.

References

- Mulalap, C. Y. (2020). Indigenous Knowledge in Marine Policy and the BBNJ Instrument. Marine Policy. <https://doi.org/10.1016/j.marpol.2020.104103>
- Additional scholarly sources and traditional records from Pacific navigational societies (Federated States of Micronesia, the Marshall Islands, Solomon Islands, Hawai’i, Fiji).

(Additional citations from relevant governmental and international reports on the Treaty of Rarotonga, SDG 14, and Blue Economy frameworks may be appended as needed.)

High Seas Alliance



24 March 2025

Standing Committee on Foreign Affairs and Defense
Parliament Building
Suva

**RE: High Seas Alliance submission to the Foreign Affairs and Defense Committee
Examination of the BBNJ Agreement**

Thank you for the opportunity to provide a submission to the Committee's Inquiry into the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction (BBNJ Agreement).

We wholeheartedly support Fiji's early ratification of the BBNJ Agreement and offer our support to the Government of Fiji and its Parliament to assist them in any way we can, to ensure swift ratification of the Agreement and entry into force. Fiji has been an important and constructive participant in the negotiations leading to the conclusion of the negotiations and since then, and we look forward to Fiji's participation as a full Party to the Agreement.

Please find our submission on the Agreement below, and do not hesitate to contact us for further information.

We wish to be heard in support of our submission.

Best regards,

A handwritten signature in dark ink, appearing to read "R. Hubbard", is positioned above the printed name.

Rebecca Hubbard

Director, High Seas Alliance
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Submission by The High Seas Alliance

The High Seas Alliance (HSA) is a coalition of over 40 non-governmental organizations concerned with the conservation of the high seas. Since its inception in 2011, the High Seas Alliance has been at the forefront of advocating for a comprehensive Treaty to address the governance gaps in the high seas. Through collaborative efforts encompassing political advocacy, technical expertise, and public outreach, HSA has played a pivotal role in shaping the Agreement.

The HSA took an active role in the negotiation of the BBNJ Agreement and worked closely with the Pacific Missions based in New York, in organizing workshops, online meetings, breakfast meetings and similar, both for capacity building purposes for Capital-based and New York based representatives and to develop common positions.

The HSA strongly supports Fiji's early ratification of the BBNJ Agreement. In the Pacific, Fiji is a strong advocate for ocean conservation and a champion for bold ocean action. Fiji continues to demonstrate to the Pacific and the world how small island developing states can lead with big ambition on sustainable ocean governance. The HSA continues its work towards ratification and implementation of the Agreement, and participated in national BBNJ workshops in Fiji, Solomon Islands, Tuvalu, Republic of the Marshall Islands and recently, Samoa.

Introduction

The adoption of the BBNJ Agreement by consensus is a deeply significant achievement at a time when multilateralism faces many challenges. The BBNJ agreement presents the biggest progress in decades in progressing the international law of the sea by addressing the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction (ABNJ) in a comprehensive manner. The agreement covers several distinct parts of a package

- marine genetic resources (MGRs), including fair and equitable sharing of benefits;
- area-based management tools, including marine protected areas;
- environmental impact assessments (EIAs);
- capacity building and the transfer of marine technology (CBTMT).

In addition, the Agreement features robust institutional arrangements, financial arrangements and mechanism, implementation and compliance, and dispute settlement to facilitate the implementation of the agreement. The fact that all parts of the 'package' were linked and that all together resulted in the overall agreement was an important feature of the negotiations and will be important to take into account in its implementation. The overall result is that the BBNJ Agreement, with its Conference of the Parties (CoP) and other institutional mechanisms and

committees will be a focus for critically ended actions to address the many threats to marine biodiversity in ABNJ.

Within this overall framework, the objective and legal framework to put into place networks of marine protected areas in the high seas contained in the BBNJ Agreement is particularly striking. The high seas have been under-represented for decades due to the fragmented structure of international governance and lack of the mechanism that BBNJ represents. Equally, the agreement of elements of and a framework for undertaking environmental impact assessments (EIAs), following a state-led approach combined with strong transparency obligations, is a significant achievement and will contribute importantly to preventing activities being undertaken in the high seas which may result in significant adverse impacts. The negotiation of the regime on marine genetic resources from ABNJ including monetary and non-monetary benefit sharing is another signal achievement, achieving consensus and buy-in from the developed and developing world alike, and will contribute to a more equitable and sustainable use of the high seas and Area.

Also worth noting are the agreement on voting, as opposed to consensus - which all too often results in gridlock at worst or lowest common denominator decisions, and other institutional mechanisms to facilitate implementation of and act as an important backstop to facilitate compliance with the agreement, including a financial mechanism and an implementation and compliance committee.

The overall Agreement

We consider that the overall compromise struck in the final agreement is a good one and this assessment has been echoed in bilateral exchanges with governments we have had since the adoption of the agreement. The fact that in making decisions, Parties across BBNJ governance mechanisms shall strive for consensus but are able to vote, where that is not feasible, ensures that the Treaty's operation will not be blocked by few States or reduced to the lowest common denominator. Combined with the oversight and review mandates given to the Agreement's subsidiary bodies, in particular the implementation and compliance committee, which will have a facilitative and non-adversarial approach, majority decision making will allow the Parties of the Treaty to resolve questions around implementation and operationalization as they arise. Also important is the emphasis on international co-ordination and co-operation, underpinned by the broad powers of the CoP. The many principles and approaches endorsed in Article 7 are too numerous to mention here, but worth noting are the polluter pays principle, the precautionary principle or precautionary approach - a compromise reached which does not weaken those that support a precautionary principle - the ecosystem approach, an integrated approach, a focus on ecosystem resilience, including climate change and ocean acidification and carbon cycling, and inclusion of traditional knowledge all point to a robust and comprehensive approach to the conservation and sustainable use of the ocean in ABNJ. The 'not undermine' principle in Article 5 is sufficiently flexible to allow for a dynamic approach to governance, and the Article 8 approach to international cooperation, including an obligation by BBNJ Parties to promote the objectives of the BBNJ Agreement when acting in other legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies

(IFBs) is innovative, complimentary to Article 5, and an important contribution to both cohesion between BBNJ and IFBs and to the achievement of BBNJ objectives more broadly.

The Significance of the BBNJ Agreement

Increasing impacts from human activity continue to negatively affect biodiversity on the high seas. For example, dwindling stocks nearer to shore drive boats further to sea for fish. Destructive fishing practices, such as [bottom trawling](#), and [illegal fishing](#) are threatening high seas marine life. Additional threats like noise, plastic and chemical pollution, shipping, and emerging activities such as [seabed mining](#), compounded by [acidifying and warming waters](#) due to the climate crisis, further endanger marine biodiversity.

Thus, the BBNJ Agreement, agreed in March 2023 and formally adopted on 19 June 2023 at the United Nations, marks a pivotal moment for global ocean governance. Covering nearly half of the Earth's surface, the high seas have long suffered from fragmented management and inadequate protection, leaving them vulnerable to exploitation and environmental degradation. This new Agreement establishes a robust international framework under the United Nations Convention on the Law of the Sea (UNCLOS) to address these governance gaps. It introduces mechanisms for creating MPAs, enhancing transparency through environmental impact assessments (EIAs), ensuring fair and equitable sharing of benefits from marine genetic resources (MGRs), and supporting capacity-building and technology transfer. By providing clear guidelines and promoting international cooperation, the Treaty aims to safeguard high seas biodiversity and contribute to global conservation targets. It presents a [critical opportunity to contribute to the Convention on Biological Diversity's \(CBD\) Global](#)

Biodiversity Framework (GBF), specifically its targets like achieving 30% protection of the ocean by 2030. Recognizing that marine life transcends borders, it is essential to foster synergies between international bodies such as the CBD and the new BBNJ Agreement. This collaboration is vital to securing comprehensive protection for all seas by 2030, encompassing areas within and beyond national jurisdictions.

For Fiji, the BBNJ Agreement holds profound significance due to its rich marine biodiversity and extensive maritime interests. As a Big Ocean State (BOS) in the Blue Pacific, Fiji relies heavily on marine resources for biodiversity, fisheries, and ecosystem services crucial to coastal communities and national interests. The Agreement's provisions, including the establishment of MPAs and enhanced EIAs, will enhance Fiji's efforts to safeguard the marine environment against numerous threats. Its implementation will strengthen ocean resilience and foster sustainable use of marine resources for present and future generations. Ratifying the BBNJ Agreement will enable Fiji to advance its marine conservation initiatives, implement MPAs, and uphold stringent environmental standards in the high seas.

Objectives of the BBNJ Agreement

Its stated objectives are in Article 2 ("to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination") as well as in Article 9 for MGRs and Article 17 for Appendices - Review Report of the Convention on Marine 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 (BBNJ AGREEMENT) Page | 45

ABMTs, including MPAs, and Article 27 for EIAs and Article 40 for CBTMT. The institutional as well as substantive parts of the Agreement, particularly the three-fourth majority voting provision for the CoP under Article 23, mean that there are realistic pathways towards effective decision-making, and the cooperation and coordination provisions, including the Article 8 provision for parties to promote the objectives of the BBNJ provisions, and the implementation and compliance mechanisms, will further contribute to the effective implementation of the Agreement. The similar provision for ABMTs in Article 25(4) likewise requires Parties to promote the adoption of measures in IFBs to implement decisions and recommendations made by the COP for ABMTs. The transparency provisions, particularly in Article 48 but also throughout the agreement, will further contribute to the effective implementation of the Agreement, as will the Clearing-House Mechanism, established in Article 51, in ensuring broad information dissemination. In addition, the capacity-building provisions will assist developing countries in particular to engage effectively, with a dedicated committee to review and provide guidance on their implementation. The implementation and compliance committee will serve as a backstop for the agreement as a whole to discuss and provide guidance on any questions regarding implementation when they arise.

Implementation and Compliance

The implementation and compliance provisions in Part VIII, and particularly the implementation and compliance committee in Article 55, are state of the art. A facilitative and transparent, nonadversarial and non-punitive approach reflects the Aarhus Convention Compliance Committee, Espoo Convention Implementation Committee and Paris Agreement Implementation and Compliance Committee (PAICC) approaches, which reflect modern methods of enhancing implementation and compliance. When twinned with the transparency and provisions of the Clearing-House Mechanism, these will provide a pathway towards effective implementation & compliance. If this fails in individual cases, Article 59 provides for an ad hoc panel to resolve technical disputes and Article 60 provides for formal dispute settlement as a last resort. Advisory Opinions, provided for in Article 47, provide another avenue for resolving issues which may arise.

The Importance of Early Ratification

The effective implementation of the Agreement will be facilitated by broad ratification. The [signature](#) to date by 112 countries and ratification by 21 countries is excellent progress, and this needs to be followed up by ratification by a total of at least 60 countries but in reality a much broader ratification will help with its implementation.

Once it is in force, challenges will include cooperation and coordination with IFBs. In particular, the decision-making provisions for ABMTs under Article 22 will require effective co-operation and coordination with IFBs as well as consultation by stakeholders and States alike.

Because the BBNJ Agreement was enabled through a compromise reached across all elements of a package, maintaining the overall balance between those elements will be important to maintain a high-level of buy-in and ambition from all States.

Maintaining a high level of ambition on the benefit sharing provisions under the MGR chapter, and in the implementation of the provisions in the capacity building and transfer of marine technology chapter will be particularly critical.

We encourage the Government of Fiji to ratify the BBNJ Agreement as soon as possible. Fiji's ratification will further bolster its leadership and commitment to multilateralism.

In the meantime, it should agree to consider its provisional application pursuant to Article 69 of the Agreement. The High Seas Alliance has made available a discussion [paper](#) on this.

Ratification will also allow Fiji to be an effective participant in the upcoming Preparatory Commission (Prepcom) meetings, to be held in New York from April 14-25 and August 18-29 August 2025, together with a further likely Prepcom in 2026.

We wish to be heard in support of our submission.

Ministry of Defence and Veteran Affairs

SUBMISSION TO THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE ON THE CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION (BBNJ AGREEMENT)

Date: 24 March 2025

1. Introduction

The Ministry of Defence and Veteran Affairs, in collaboration with the Republic of Fiji Navy, welcomes the opportunity to present this submission to the Standing Committee on Foreign Affairs and Defence regarding the BBNJ Agreement. This submission outlines the Ministry's position on the Agreement, its implications for Fiji, and recommendations regarding ratification.

2. Overview of the BBNJ Agreement

The BBNJ Agreement, developed under the United Nations Convention on the Law of the Sea (UNCLOS), seeks to regulate the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction. Key aspects of the Agreement include:

Marine Genetic Resources (MGRs)

The BBNJ Agreement establishes a framework to regulate access to marine genetic resources found in areas beyond national jurisdiction and to ensure that the benefits arising from their use are shared fairly and equitably. These resources, which include organisms from the deep sea that may have valuable applications in medicine, biotechnology, and industry, have traditionally been exploited by a small number of technologically advanced nations. The Agreement seeks to create a system where all countries, including Small Island Developing States like Fiji, can benefit from scientific discoveries and the commercial applications of these resources.

Crucially, the Agreement recognizes the **role of traditional knowledge** held by Indigenous Peoples and local communities in understanding and managing marine biodiversity. Pacific communities, including those in Fiji, have long relied on their knowledge of marine ecosystems for sustainable resource use, conservation, and cultural practices. Many of the species and ecosystems that are now being studied for their genetic potential have been observed, named, and understood within Indigenous knowledge systems for generations. The Agreement ensures that such knowledge is **respected, documented with free, prior, and informed consent, and appropriately incorporated into decision-making processes** related to marine genetic resources.

By ratifying the Agreement, Fiji will have a voice in shaping the rules governing how these genetic resources are accessed, how benefits are distributed, and how traditional knowledge is protected against misappropriation. This will help ensure that Pacific Island nations are not excluded from potential economic and scientific opportunities, and that our cultural and ecological heritage is safeguarded in the global governance of marine genetic resources.

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

A critical element of the Agreement is the establishment of Area-Based Management Tools, including Appendices - Review Report of the Convention on Marine 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 (BBNJ AGREEMENT) Page | 49

Marine Protected Areas, in areas beyond national jurisdiction. This provision allows for the creation of legally recognized protection measures to safeguard marine biodiversity in the high seas, contributing to the global effort to protect at least 30 percent of the ocean by 2030. ABMTs will help manage human activities such as fishing, deep-sea mining, and shipping in ways that balance conservation and sustainable use. For Fiji, this is particularly important as the health of high seas ecosystems directly impacts migratory fish stocks, oceanic currents, and the overall resilience of marine life within our own Exclusive Economic Zone. By actively engaging in the implementation of these management tools, Fiji can contribute to shaping conservation efforts that align with regional priorities and Pacific-led marine protection initiatives.

Environmental Impact Assessments (EIAs)

The Agreement introduces clear and standardized requirements for Environmental Impact Assessments, ensuring that activities proposed for areas beyond national jurisdiction undergo thorough evaluation before they can proceed. This means that industries operating in these areas, including those involved in deep-sea mining and large-scale fishing, will need to assess the potential impacts of their activities on marine ecosystems and biodiversity. The process will also ensure transparency, requiring developers to consider environmental risks and provide scientific evidence of potential impacts before projects can be approved. For Fiji, this provision is crucial as it provides an additional safeguard against harmful activities that could disrupt the Pacific’s marine environment and fisheries, which are vital to our food security, economy, and cultural heritage.

Capacity-Building and Technology Transfer

The Agreement recognizes that many developing nations, including Small Island Developing States, do not have the same level of resources, expertise, and technological capacity as wealthier countries to fully participate in high seas governance. As a result, it includes commitments to provide financial and technical support to ensure equitable participation in ocean research, environmental monitoring, and resource management. For Fiji, this means access to training, funding, and technological advancements that will enhance our ability to monitor and manage marine resources beyond our national jurisdiction. Capacity-building under the Agreement will help strengthen Fiji’s scientific research capabilities, improve maritime law enforcement, and ensure that we can effectively engage in decision-making processes at the global level.

By incorporating these key elements, the BBNJ Agreement provides Fiji with an opportunity to reinforce its leadership in marine conservation, secure economic and scientific benefits, and ensure sustainable management of ocean resources for future generations.

3. Reasons for Ratification

One of the strongest reasons for Fiji to ratify the BBNJ Agreement is that it aligns with our national and regional commitments to ocean conservation and sustainable use. As a large ocean state and a Small Island Developing State, Fiji has long advocated for the protection of marine biodiversity, recognizing the ocean’s crucial role in our economy, culture, and food security. The Agreement provides a framework for establishing Marine Protected Areas in international waters, contributing to global efforts such as the 30x30 target, which aims to protect 30 percent of the ocean by 2030. This complements Fiji’s own national and regional marine conservation initiatives particularly the 2050 Strategy for the Blue Pacific Continent.

Beyond conservation, the BBNJ Agreement ensures that developing countries, particularly SIDS, benefit from capacity-building and technology transfer. This is critical for Fiji, as it will allow us to strengthen our ability to engage in deep-sea scientific research, environmental monitoring, and marine resource management. By ratifying the Agreement, Fiji can access technical assistance and funding to

improve our capabilities in these areas, ensuring that we remain active participants in global ocean governance rather than merely being affected by decisions made by larger nations.

The Agreement also guarantees fair and equitable access to marine genetic resources, ensuring that benefits from discoveries in the high seas—such as those used in medicine, biotechnology, and other industries—are shared rather than monopolized by technologically advanced countries. Given the rapid developments in marine bioprospecting, ratification would allow Fiji to have a say in how these resources are managed and ensure that Pacific Island states are not left behind.

Environmental impact assessments are another vital aspect of the Agreement, requiring countries and corporations to assess and mitigate the potential impacts of their activities in areas beyond national jurisdiction. This is particularly relevant for Fiji, given the growing interest in deep-sea mining and other extractive industries. The Agreement establishes clear procedures to evaluate and manage risks to marine ecosystems, which is essential for protecting our fisheries and biodiversity from potential harm.

Importantly, the BBNJ Agreement recognizes the special circumstances of Small Island Developing States. It acknowledges the unique challenges faced by countries like Fiji, ensuring that we have a voice in the decision-making processes and that our specific needs are taken into account when implementing the Agreement. This means that as a ratifying Party, Fiji will be in a stronger position to advocate for policies that support our national interests and those of the wider Pacific region.

Another key reason why Fiji should ratify the BBNJ Agreement is the importance of being among the first 60 countries to become a Party. The Agreement will only enter into force once 60 countries have ratified it, and as a Party, Fiji would gain a crucial seat at the decision-making table. Many of the Agreement's key operational aspects—such as the rules governing marine protected areas, the sharing of benefits from marine genetic resources, and the mechanisms for environmental impact assessments—will be finalized at the first Conference of the Parties (COP). If Fiji is not a Party at that time, we risk having limited influence over these foundational decisions that will shape how the Agreement is implemented in the long term.

By ratifying early, Fiji ensures that our national interests, and those of the broader Pacific, are considered from the outset. This is particularly important given that many provisions of the Agreement, including capacity-building and financial support for developing states, will depend on decisions made at the first COP. If we are not at the table, we will have to accept decisions made by others—potentially without sufficient consideration of the unique needs of Small Island Developing States. Becoming a Party strengthens our ability to negotiate for equitable benefit-sharing arrangements, robust conservation measures, and effective compliance mechanisms that reflect the priorities of ocean-dependent nations like Fiji.

Furthermore, early ratification positions Fiji as a leader in global ocean governance. It allows us to work closely with other Pacific Island nations and like-minded countries to shape the rules that will govern the high seas for decades to come. It also enhances our credibility in advocating for stronger commitments in other international forums, such as the UN Climate and Biodiversity Conferences. Ultimately, by becoming one of the first 60 countries to ratify, Fiji secures a proactive role in shaping the future of the Agreement rather than being a passive recipient of decisions made by others.

4. National Interests and Strategic Considerations

Fiji, as a large ocean state, has a vested interest in ensuring the protection and sustainable management of marine biodiversity. The Agreement complements Fiji's role as a leader in international ocean governance and strengthens regional collaboration with the Pacific Islands Forum and other multilateral partners.

From a maritime security perspective, the Agreement enhances cooperation on monitoring and enforcement, reinforcing Fiji's ability to prevent illegal, unreported, and unregulated (IUU) fishing and other illicit activities in ABNJ. The Ministry, in collaboration with the Republic of Fiji Navy, recognizes the need to integrate BBNJ provisions into national security strategies.

5. Recommendations on Ratification

Based on this assessment, the Ministry recommends the following:

Ratification of the BBNJ Agreement

The Ministry strongly recommends that Fiji ratify the BBNJ Agreement to secure its leadership in global marine conservation efforts. As a nation that has consistently advocated for the protection and sustainable use of the ocean, Fiji's ratification will reinforce its commitment to international ocean governance. Ratification will also allow Fiji to be among the first 60 countries to bring the Agreement into force, ensuring that we have a seat at the table when critical decisions are made about its implementation.

Consideration of Reservations (if necessary)

In considering ratification, Fiji should assess whether any reservations are necessary to align national policies with the obligations under the Agreement. If reservations are required, they should be carefully considered to ensure that Fiji maintains flexibility in its approach while still upholding the core principles of the Agreement. The Ministry recommends a thorough review of existing national policies and legislation to determine whether any specific provisions need to be addressed following Fiji's ratification.

Strengthening Institutional and Legal Frameworks

To effectively implement the BBNJ Agreement, Fiji must ensure that its institutional and legal frameworks are well-equipped to meet its obligations under the treaty. This includes reviewing and, if necessary, updating national laws, policies, and regulatory mechanisms to align with the Agreement's provisions on marine genetic resources, area-based management tools, environmental impact assessments, and capacity-building. Strengthening these frameworks will enable Fiji to fully participate in the governance and sustainable management of marine biodiversity in areas beyond national jurisdiction.

Enhancing Maritime Security Cooperation

The Ministry also recommends integrating the BBNJ Agreement's provisions into Fiji's maritime security strategies, surveillance, and enforcement efforts. Collaboration among agencies, including the Republic of Fiji Navy, fisheries authorities, and environmental regulators, will be essential to ensure effective monitoring and compliance with the Agreement. Strengthening inter-agency coordination and regional partnerships will allow Fiji to contribute to broader efforts to combat illegal, unreported, and unregulated fishing and other illicit activities in the high seas.

By taking these steps, Fiji will not only uphold its commitments to marine conservation but also secure long-term benefits from sustainable ocean governance, international cooperation, and equitable resource-sharing under the BBNJ Agreement.

6. Conclusion

The Ministry supports the ratification of the BBNJ Agreement, recognizing its importance for marine biodiversity conservation, equitable resource sharing, and sustainable ocean governance. Ratification will allow Fiji to benefit from capacity-building initiatives and ensure its participation in the decision-making processes governing high seas resources.

We look forward to engaging with the Committee and other stakeholders to ensure a comprehensive national approach to implementing the Agreement.

Mr. Mason Smith¹
Permanent Secretary
Ministry of Defence and Veteran Affairs

¹ I acknowledge the research and authorship of this statement to Ms. Maria-Goreti Muavesi a former IUUCN work colleague.

Republic of Fiji Navy

Introduction

The Biodiversity Beyond National Jurisdiction (BBNJ) Agreement, adopted under the United Nations Convention on the Law of the Sea (UNCLOS), presents significant opportunities and challenges for Fiji, particularly with its coastal waters and maritime security concerns. Signed by Fiji, the BBNJ Agreement aims to conserve and sustainably use marine biological diversity in areas beyond national jurisdiction, which holds substantial ecological and economic importance for coastal states like Fiji. This submission analyses Fiji's stance on the BBNJ Agreement, explores the potential impacts on Fiji's national interests, and highlights the pros and cons of Fiji's accession to this high seas' treaty from the lens of an enforcement agency.

Impact of the BBNJ Agreement on Coastal States Like Fiji

The BBNJ Agreement seeks to address the conservation of marine biodiversity in areas beyond the exclusive economic zones (EEZ) of coastal states, including the high seas and the international seabed area. Coastal states like Fiji, whose territories are surrounded by vast ocean areas, are uniquely positioned to benefit from the BBNJ provisions, particularly in marine resource conservation and capacity building.

1. Pros of Fiji's Accession to the BBNJ Agreement

- a. **Enhanced Marine Conservation and Sustainability:** The Agreement provides a platform for countries like Fiji to participate in international efforts to conserve marine biodiversity. This is especially important for small island developing states (SIDS) like Fiji, which rely heavily on marine resources for economic and food security. Through BBNJ's framework, Fiji can ensure sustainable management of shared marine resources beyond its EEZ. We have two high sea pockets, particularly the WEST of Fiji, that we regularly monitor and observe high traffic movements in these areas. It is also assessed that these have also been pockets where staging operations for illegal activities likely occur.
- b. **From a hydrographic perspective,** Fiji currently supports international programs like the Seabed 2030 initiative and GEMCO to make data available for areas concerned within the BBNJ. The FHS works with the MACC to ensure any research ship passing through these areas collects data and forwards a copy to the FHS. The BBNJ would do well to support hydrography in areas where data is scarce due to depths. Fiji also has extended continental shelf (ECS) claims in the North and South Fiji Basin, and the Commission on the Limits of the Continental Shelf has yet to settle these. Acceding to BBNJ would support this.
- c. **Strengthened Regional Cooperation:** The BBNJ Agreement emphasises regional cooperation among nations to protect and manage marine biodiversity. Fiji's accession would enhance its role in Pacific regional initiatives, enhancing collaboration with neighbouring countries and strengthening the collective management of marine resources.
- d. **Improved Maritime Security and Enforcement Capacity:** The Fiji Navy is a critical player in maintaining maritime security and enforcing national and international marine regulations. Fiji's participation in the BBNJ Agreement would enable the RFMF Naval Division to engage more effectively in safeguarding the biodiversity of areas beyond Fiji's EEZ. The Agreement's provisions on monitoring and enforcement would provide the Fiji Navy with stronger mandates and tools to carry out its duties in line with international expectations.
- d. **Capacity Building and Technical Assistance:** The Agreement includes technical assistance and capacity-building provisions. Fiji stands to gain local expertise through training and

development, particularly in hydrography and marine biodiversity monitoring. BBNJ would support hydrography and oceanography, which would have enabling effects on MDA and maritime security. The RFMF Naval Division and other relevant agencies can benefit from such initiatives, improving Fiji's capability to enforce international agreements in the marine environment.

2. Cons of Fiji's Accession to the BBNJ Agreement

a. **Potential Constraints on Sovereignty:** The BBNJ Agreement could limit Fiji's autonomy over marine resources in areas beyond its EEZ. The concept of "areas beyond national jurisdiction" implies a shared governance approach, which may dilute Fiji's control over certain marine biodiversity management decisions. This could raise concerns about Fiji's sovereignty over its maritime interests, especially in light of economic dependencies on fishing and other marine resources.

b. **Implementation and Compliance Costs:** Implementing the BBNJ Agreement will require significant resources and infrastructure, particularly monitoring, reporting, and enforcement. Fiji may face challenges in securing adequate funding and technical resources to meet the obligations outlined in the Agreement. This could place a strain on the Fiji Navy's capabilities and those of other government agencies tasked with environmental and marine management. A key requirement for us is to have the right capabilities, such as ships, to operate effectively in these spaces.

c. **Challenges in Legal and Institutional Adjustments:** For Fiji to fully comply with the BBNJ Agreement, legislative amendments will be required on national legislation concerning the maritime space and other national laws. These amendments must clarify the Fiji enforcement powers and responsibilities in areas beyond Fiji's EEZ. There are opportunities to optimise the coordination among stakeholders, including the Ministry of Foreign Affairs, the Ministry of Fisheries, and the RFMF Naval Division. Aligning these diverse interests and ensuring effective governance mechanisms should be prioritised.

Recommendation for Mitigation of Implementation Challenges

While the BBNJ Agreement has excellent potential for enhancing marine conservation efforts and Fiji's role in international ocean governance, it is crucial to address the challenges that may arise during its implementation.

1. **Strengthening National Frameworks:** The Fiji government should amend its national legislation, such as the Marine Space Act, to incorporate provisions for enforcing the BBNJ Agreement. This includes providing the Fiji Navy with the legal mandate and resources necessary to carry out its responsibilities in high seas management.
2. **Increasing Funding and Resources:** Adequate funding mechanisms must be established to support the operational costs associated with implementing the Agreement. This may include seeking financial and technical assistance from international partners and organisations involved in marine conservation.
3. **Regional Collaboration and Capacity Building:** Fiji should continue to engage in regional forums to share best practices and coordinate efforts with neighbouring countries. Capacity-building initiatives, particularly in MDA, should be prioritised to ensure that Fiji has the requisite skills and infrastructure to meet its obligations under the BBNJ Agreement.

Conclusion

Fiji joining the BBNJ Agreement is a big step forward in our global mission to protect marine biodiversity and use ocean resources sustainably. It's a significant move that highlights the need to care for our oceans and the life they support. As a coastal state and developing country, such an agreement is essential. The Agreement aligns with Fiji's interests in preserving its marine environment and ensuring that future generations benefit from a healthy ocean. However, the challenges related to implementation—particularly in terms of legal frameworks, enforcement capabilities, and resource requirements—must be carefully addressed. By aligning national legislation, securing adequate funding, and strengthening regional collaboration, Fiji can mitigate these challenges and successfully implement the BBNJ Agreement to benefit its people and future generations.

Therefore, Fiji should proceed with its accession to the BBNJ Agreement while ensuring the necessary support structures are in place to ensure its effective and sustainable implementation.

University of the South Pacific

Submission to the Standing Committee on Foreign Affairs and Defence – Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement) by USP

Submission by USP Team:

1. Associate Professor Awnesh Singh
2. Mrs. Cherie Whippy Morris
3. Dr. Isoa Korovulavula
4. Mr. Joape Ginigini
5. Dr. Brian Stockwell
6. Professor Afshin Akhtar-Khavari

Introduction

Marine Areas Beyond National Jurisdiction or ABNJ have unique characteristics and provide wide-ranging opportunities for sustainable growth and development. ABNJ have distinctive ecosystems that we have yet to discover or understand, and these should be conserved to ensure we can develop sustainable ways to protect and utilize them. ABNJ also provide critical ecosystem services and valuable resources, such as food, pharmaceuticals, and metals, among others. ABNJ and impacts on ABNJ systems are directly connected to exclusive economic zones or EEZ. Thus, ABNJ management must be connected with EEZ management to enable integrated coastal and ocean management.

The United Nations Convention on the Law of the Sea (UNCLOS) provides States like the Republic of Fiji with the rights, duties and obligations in relation to their marine waters. It was opened for signature in 1982 and came into force in 1994. In 2024 UNCLOS had 169 countries which had ratified it. UNCLOS is recognised as reflecting customary international law. In 1982 it was a landmark convention that created greater rights for coastal states to use and protect their maritime boundaries. Like all multilateral agreements it was a product of its time and it has failed to address issues relating to the management of marine biodiversity. In 2004 the General Assembly of the United Nations established an ad hoc and open-ended informal working group that would study how States can sustainably use biological resources beyond their national jurisdiction. Amongst other things this working group

recommended that States cooperate and develop a legally binding treaty that would help manage marine biodiversity and complement the UNCLOS.

In 2023 the General Assembly convened an Intergovernmental Conference which adopted the **BBNJ (Biodiversity Beyond National Jurisdiction)** Treaty by consensus. The BBNJ Treaty currently has 112 signatories and it will come into force after 120 days from the day that 60 States have become a party to the agreement. As of 24 March 2025, twenty-one countries are parties to the agreement and 7 countries have lodged formal declarations, including the Federated States of Micronesia.² The BBNJ Agreement will be key to both protecting the ocean beyond national jurisdictions, and promoting equity and fairness in its sustainable use.

The BBNJ Agreement has set up a framework in Parts II-V to manage the following: fairly and equitably sharing the benefits that come from States consuming marine genetic resource (Part II); areas-based management tools including marine protected areas (Part III); environmental impact assessments (Part IV); and provisions for capacity building and technology transfer Part V). Bodansky has described these areas of concern as the equivalent of four separate treaties combined in the BBNJ to create a regime for the management of marine biodiversity beyond national jurisdiction.³ Together they address important gaps in international law relating to the management of biodiversity in areas that are beyond national jurisdiction.

In addressing these issues in Parts II-V the BBNJ does not just manage gaps left open by UNCLOS. It also helps achieve coherence and create more certainty amongst existing international agreements that say something about the management of marine biodiversity. Several international agreements already exist providing for the management of marine biodiversity that are within national boundaries, but these are piecemeal in their approach and have limited reach for anything outside of national jurisdiction. The 1992 Convention on Biological Diversity (CBD) for instance doesn't directly apply to marine biodiversity outside of the national jurisdiction of States but under article 4(b) States that are parties to the Convention cannot do something that adversely affects biodiversity 'beyond the limits of' their 'national jurisdiction'. The CBD, however, doesn't provide for many of the things that the BBNJ does in relation to areas beyond national jurisdiction. There are other examples of international agreements that similarly provide limited reach over marine biodiversity, especially those outside of national jurisdiction. The BBNJ provides a consolidated approach to marine biodiversity.

Despite the benefits of the final BBNJ text (which we will discuss below), the negotiations were not straight forward. For instance, developed countries wanted marine genetic resources to be a common heritage of humankind which could then be managed

² https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-10&chapter=21&clang=_enc (Accessed 24 March 2025)

³ Daniel Bodansky, "Four Treaties in One: The Biodiversity Beyond National Jurisdiction Agreement" ((2024) 118(2) *American Journal of International Law* 299-323.

internationally and the benefits of it shared amongst States. Developed countries instead argued that the freedom of the high seas and scientific research espoused by UNCLOS should be retained.⁴ The agreement ultimately ended up adopting a more ambiguous resolution of these issues by providing in Article 7 the

principle of the 'common heritage of humankind' (7(b)) and also in 7(c) the 'freedom of marine scientific research, together other freedoms of the high seas'

In this submission we identify the benefits for the Republic of Fiji in ratifying the BBNJ Agreement. However, there are also lost opportunities which the BBNJ Agreement will further entrench when it comes into force after 120 days from the date of the 60 ratifications. We address these reservations that we have with Fiji ratifying the agreement. However, given that as of 24 March 2025, twenty-one countries have already become parties to the Convention it is likely that the agreement will receive the required 60 ratifications. Most of the provisions of UNCLOS are already customary international law, meaning that despite some countries not signing up to the agreement its provisions still bind them. Article 70 of the BBNJ Agreement precludes States from including reservations or exceptions to the Agreement. The Republic of Fiji will be limited by the terms of Article 70 from making declarations that reserve its right to matters that are dealt with by the BBNJ Agreement. However, several countries (including the Federated States of Micronesia) have made important declarations (using Article 71) that aim to achieve 'harmonization of its laws and regulations with the provisions of' the BBNJ Agreement.

In this text we will specifically address the benefits and also the shortcomings (challenges) of the BBNJ Agreement for the Republic of Fiji. We will separate our discussions by focusing our attention on the four critical parts, namely Parts II (Marine Genetic Resources); Part III (Area-Based Management Tools); Part IV (Environmental Impact Assessments); and Part V (Capacity Building and Transfer of Marine Technology). Our submission however looks at how each Part in the BBNJ Agreement addresses the following issues, which have been identified as important for Fiji⁵:

1. Unique value of the BBNJ Agreement for small island developing States (SIDS);
2. How well it accounts for the use of traditional knowledge;
3. Whether the agreement in parts or as a whole achieve a fair and equitable share of value for States like the Republic of Fiji; and
4. If capacity building and marine technology transfer opportunities and challenges are adequately addressed throughout the Agreement.

We use these issues to identify the benefits and shortcomings of the BBNJ Agreement for the Republic of Fiji and make our recommendations at the end of this document. We also

⁴ Daniel Bodansky, "Four Treaties in One: The Biodiversity Beyond National Jurisdiction Agreement" (2024) 111(2) *American Journal of International Law* 299-232, at 306.

⁵ <https://www.foreignaffairs.gov.fj/fiji-takes-center-stage-in-historic-bbnj-treaty-signing-at-the-united-nations/>
Accessed 24 March 2025.

conclude our submission by identifying whether ratification of the Agreement will require new legislation or if Fiji's obligations can be satisfied through existing legislation.

A. Marine Genetic Resources (MGR)

The BBNJ Agreement defines marine genetic resources as "any material of marine plant, animal, microbial or other origin containing functional units of heredity of actual or potential value". This is the first internationally agreed definition of MGRs⁶.

Key Issues ○ Access Benefit Sharing

The utilisation of Biological Digital Sequence information (DSI) without the appropriate track and tracing mechanisms at a global scale remains elusive as work continues via the Scientific and Technical Body (STB) and the Access Benefit Sharing Committee (ABSC)⁷. When compared to ABS within territorial areas, the Convention on Biological Diversity (CBD) provides access to the Clearing House System (ABS-CH) which enables provider countries to track and trace milestone progress on the use of their genetic resources as well enables users to access the necessary pre-requisites for collection of samples in any given country with existing ABS frameworks. In contrast, the BBNJ currently does not currently have the same but utilizes batch identifiers⁸ and data management plans (DMP)⁹ before accessing a separate Clearing House Mechanism under construction.

Reflection on country progress- Although the Nagoya Protocol has been ratified by Fiji, it still does not currently have a functional Clearing House System and an ABS policy with an active Implementation Framework, most of which are in draft or in progress for Cabinet endorsement. On a positive note, there have been immense strides to progress this vis a vis the Nagoya Implementation framework project (2015-2018). A similar effort may be needed for Fiji in relation to the BBNJ treaty to both contextualize and socialize the different aspects for incorporation into Fiji's key line ministries operational mandates.

⁶ [BBNJAgreementFactsheet2MGRs.pdf](#)

⁷ [Lawson et.al., 2024](#)

⁸ The BBNJ Identifier is a means to link information about the subject matter of the BBNJ Agreement – marine genetic resources (MGRs) and digital sequence information on MGRs (DSI) – back to reporting on usage, to enable transparency and equitable benefit sharing

⁹ DMPs outline processes and standards for data creation, access, ownership, management and storage, and the roles and responsibilities of stakeholders where data is derived from MGRs and associated DSI

○ Technological Maturity

Access to national digital databases or datasets for MGR especially from ABNJ are non-existent although curated collections currently with USP provides some level of support for benthic collections of invertebrates, vertebrates and microbial organisms. Monitoring technologies for biological and chemical monitoring in pelagic waters are also scarce although some sliver of hope remains with novel technologies developed at USP such as the PacMAN Decision Support tool which enables marine biodiversity monitoring in any given location.

Reflection on Country progress- There is a need for Fiji's key relevant agencies of Department of Environment, Ministry of Foreign Affairs and Ministry of Fisheries among others do ensure that appropriate legal coverage is established to cater for

the BBNJ treaty through a thorough gap analyses of existing legislation which may result in either the establishment of standalone legislation or the amalgamation of the treaty text into current existing legislation within the key line ministries. This may require a country approach through an implementation and operationalization programme which will trial and test proposed steps, utilize prototype protocols developed with close discussions with the treaty STB and use adhoc or proxy best practices to conduct trial iterations on ABS and DSI use as well as understand the functionality of the BBNJ Clearing House.

Benefits

Fiji's immense maritime boundary allows it to gain significantly from the BBNJ Treaty. Here are some specific benefits in relation to MGR:

Protection of Marine Genetic Resources: Issues in the high seas such as illegal, unreported and unregulated (IUU) fishing activities¹, aquarium harvesting and release of marine invasive species amongst others are of critical concern, because of Fiji's oceans vast spatial scale and the lack of resources for monitoring and enforcement. The BBNJ treaty now allows for the creation of MPA's in high seas therefore meeting Fiji's requirements to meet its 30 by 30 target but also extends its conservation footprint¹⁰.

MGR and the Climate Change nexus: The treaty's focus on biodiversity conservation contributes to climate change mitigation through conservation of marine resources (ABMT) to enhance marine ecosystem resilience in the face of climate change. Coral reefs, Mangrove, Seagrass meadows and other marine ecosystems in Fiji act as vital carbon sinks and buffers against rising sea levels. Protecting marine biodiversity helps sustain these ecosystems, which are crucial for climate adaptation. Additionally, food security for local communities which is of greater concern may be safeguarded from this existential threat. In a new wave of push for energy transition to net zero carbon emissions, the search for rare

¹⁰ ^[1] <https://www.parliament.gov.fj/fiji-commits-to-preserving-our-oceans-and-combatting-climate-change/>

earth metals can exacerbate the climate issue with compliance regulations not established from potential deep-sea activities. Appropriate MGR management may have a trickle-down effect on compliance and monitoring on MGR usage or disturbances in the ABNJ regions. USP has integrated several institutes into the Centre for Sustainability Futures. Under this new institute, it has the ability to address the Biodiversity and Climate Change nexus through more technical capacities and sophisticated equipment. It is currently working to deliver the first Climate Change specific degree programme.

Research and conservation support from the Global North: As a small island developing state (SIDS), Fiji will benefit from international collaboration and financial support for marine conservation. This can enhance its capacity to manage its marine resources effectively. Through sustainable feedback loops bought about by benefit sharing provided for research and commercialization, research collaborations and development initiatives can provide a source of livelihood for Fijian communities through jobs, scholarships, technical capacities for local institutes. Valorization of ABNJ zones may be possible allowing for research collaboration to generate new data

concerning deep sea environments. As developed countries shift towards an energy transition moving away from fossil fuel, deep sea minerals mining will become more important. New research will help to address huge gaps in the impacts of mining both at temporal and spatial scales¹¹. USP leads the Pacific on innovative research that can also be translatable for policy decision making. This is amply covered through research programmes as well its capacity building initiatives and curricula.

Stronger position as a regional champion for conservation and sustainable use of MGR: As an advocate for ocean conservation, particularly through its leadership in the Pacific Islands Forum, Fiji can use the BBNJ Treaty to strengthen its role on the global stage as a champion for ocean protection and sustainable development. With numerous International Organizations e.g. IUCN, CI and WWF, as well regional organizations such as USP, SPC and SPREP, Fiji has the ability to pivot assistance from these IGO's, NGO's and CROP agencies to support capacity building activities and extend its conservation footprint in the region. Its sphere of influence may inadvertently be increased as a result. The UN CBD and its Kunming-Montreal Global Diversity Framework's technical working groups are currently finalizing the access benefit sharing mechanism for the Cali Fund (multilateral system that allows users to contribute to a centralized fund for benefits flowing from data utilization via DSI)¹², more options will become available for developing nations to access funds from the BBNJ's safeguard against data piracy and biopiracy including Fiji. Through its work in the conservation space, USP again is well positioned with its learnings from the establishment of grounded conservation mechanisms such as the Locally Managed Marine

¹¹ [Amon et al., 2021](#)

¹² ^[2] <https://www.downtoearth.org.in/wildlife-biodiversity/cali-fund-launched-at-cbd-cop16-in-rome-to-boost-biodiversity-finance>

Areas (LMMA) and its immense efforts in the space of climate change (Ocean Acidification monitoring and Blue Carbon) as well in ABS development and implementation. The USP still has the largest training facility for MGR located at the USP lower campus in Suva.

Challenge/Limitations

- Legislation gaps and overlapping mandates at national level can affect the implementation and operationalization of the treaty. E.g. Fiji's ocean's policy and its inconsistent and incoherent design (source: anecdotal evidence from anonymous source)
 - Access to technology for MGR research and monitoring is insufficient or totally lacking in Fiji especially in relation to ABNJ. Local practitioners and scientists still rely on North-South cooperation and collaboration to access cutting edge technologies and capacities e.g. Deep-Sea research vessels and collection equipment
 - Access Benefit Sharing mechanisms for DSI via the Cali Fund is yet to be fully established therefore the delineation of benefits to Fiji still remains an odyssey and may take time
-
- The BBNJ Clearing House is yet to be established with the ABSC. If established, Fiji needs to augment local efforts towards building and increasing institutional capacity to establish first its ABS-CH system under the Nagoya Protocol and use this platform with adjustments to cater for incoming regulatory requirements that may be suggested for the BBNJ Clearing House. USP has assisted in similar efforts with the Nagoya Implementation Project (2015-2018) and currently has capacities to assist
 - CROP agencies in Fiji as well as academia are advantaged in having reputable laboratories and experts in the field of MGR exploration but still lacks the latest technology and capacities to fully realize the countries MGR cultural, economic and ecosystem service potential. While USP has capacities for MGR, ABS, ABMT and EIA, equipment and resource funding is required to expand operational scope to cover pelagic areas for research including ABNJ and its BBNJ
 - The problem of biopiracy for ABNJ is a reality. Enforcement and monitoring of these activities remain an issue especially if the threat is across transboundary with neighboring countries. Fiji Navy may be ill equipped to deal with surveilling a larger region let alone Fiji's EEZ where numerous cases of biopiracy have occurred. Regional assistance needed
 - Lack of regional framework to assist with monitoring and enforcement on BBNJ and ABNJ.

Uncertainty

- Under Part II of the agreements Article 10, there is no clear coverage for Fishing but it refers this to international laws that regulate this activity which are many and may offer a confounding basis for Fiji to start with, especially with the application of the precautionary pause as described in the 1995 agreement on the conservation and management of straddling fish stocks and highly migratory fish stocks¹³. These laws

¹³ https://www.un.org/depts/los/convention_agreements/texts/fish_stocks_agreement/CONF164_37.htm

include UNCLOS, UN Fish Stocks Agreement, Regional Fisheries Management Organizations, Convention on the Conservation of Migratory Species of Wild Animals (CMS), CITES, CBD and IMO. Perhaps some justification for this decision may be needed. This is particularly relevant for Tuna stocks which are highly migratory and the highlight Pacific's oceans importance in supplying half of the world's Tuna source. Implications from any deep-sea activities¹⁴ e.g. deep sea mineral mining poses threats as bioturbations may alter stable isotope levels of fish rendering both Tuna inedible (poisonous) or affecting their biological functions such as reproduction¹⁵.

B. Environment Impact Assessment (EIA)

Fiji's Environment Management Act 2005 and subsequent Regulations provide the legislative framework to protect Fiji's environment from significant impact by development. Under the Fiji Environment Management Act 2005, there is the Environment Management (EIA Process) Regulations 2007¹⁶. Part IV of the BBNJ Agreement stressed the promotion of environmental impact assessment (EIA), strategic environmental assessment (SEA), and monitoring of activities that may cause significant adverse effects to the marine environment in areas beyond national jurisdiction.

The BBNJ treaty lays out a framework that guarantees thorough and uniform EIAs without interfering with national obligations or decision-making processes. Processes, criteria, and other obligations for performing, monitoring, and reporting on EIAs are established by the EIA provisions in Part IV of the BBNJ treaty.

The provided text explains that the BBNJ Agreement emphasizes environmental impact assessments (EIAs) and monitoring for activities in international marine areas, building upon national frameworks like Fiji's Environment Management Act. The treaty establishes a structure for uniform EIAs without overriding national authority, tasking the Conference of the Parties (COP) with creating related standards and guidelines based on recommendations from the Scientific and Technical Body (STB). These standards will address key aspects such as screening processes, cumulative impact assessments, cross-jurisdictional impacts, monitoring, and strategic environmental assessments, ensuring equitable participation, especially for Indigenous Peoples, local communities, and developing states. Ultimately, the goal is to ensure that EIAs are thoroughly considered in decision-making to prevent significant harm to the marine environment.

¹⁴ chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.sprep.org/sites/default/files/30-SPREP-Meeting/Officials/Eng/WP_8.4.3_Att.1-DSM_position_paper.pdf

¹⁵ https://www.sprep.org/sites/default/files/30-SPREP-Meeting/Officials/Eng/WP_8.4.3_Att.1DSM_position_paper.pdf

¹⁶ <https://www.mowe.gov.fj/wp-content/uploads/2019/08/Environment-Management-Act-2005.pdf>

Key Issues

Several key issues emerge concerning the implementation of Environmental Impact Assessments (EIAs) under the BBNJ Agreement:

Establishing a Robust Framework for EIAs and SEAs: The BBNJ Agreement emphasizes the promotion of Environmental Impact Assessments (EIAs) and Strategic Environmental Assessments (SEAs) for activities that could significantly harm the marine environment in areas beyond national jurisdiction. The treaty aims to create a framework that ensures thorough and uniform EIAs without interfering with national obligations or decision-making processes.

Defining Standards and Guidelines through the COP and STB: While contracting parties will primarily approve activities, the Agreement empowers the Conference of the Parties (COP) to develop standards and/or guidelines to support the implementation of the EIA process based on suggestions from the Scientific and Technical Body (STB). Article 38 specifically obliges the COP to adopt standards or guidelines on various

topics related to environmental assessment and monitoring based on the STB's recommendations.

Specific Areas Requiring Standards and Guidance: The agreement outlines several key areas that must be addressed by these standards and guidelines:

- The screening process and how to determine if an EIA is necessary.
- The assessment of cumulative impacts and their consideration.
- The assessment of impacts within national jurisdiction resulting from activities in areas beyond national jurisdiction.
- The monitoring and reporting of authorized activities.
- The conduct of strategic environmental assessments.
- The conduct of EIA in areas identified as requiring protection or special attention.
- **Addressing the Meaning of Equivalency:** There may be a need to develop standards or guidance on the meaning of "equivalency" under Article 29(4), as this is crucial for understanding when the new BBNJ rules will apply.
- **Embedding Equity and Ensuring Effective Participation:** The principle of equity must be integrated into the EIA and monitoring regime through the standards or guidance adopted by the COP. It is also vital to ensure that representatives of Indigenous Peoples, local communities, and developing states can effectively participate in consultation processes when they might be affected by a proposed activity. Fiji, for example, needs to develop specific guidance on BBNJ and ABNJ to facilitate effective consultation, which is considered a crucial form of procedural equity.

- Defining Decision-Making Processes and the Mitigation Hierarchy: Guidance from the STB should clarify the decision-making processes that states must undertake to ensure that EIAs are fully considered and that stakeholder comments are effectively addressed. This is crucial for meeting the obligation to make all reasonable efforts to prevent significant adverse impacts. This guidance should also include how to apply the mitigation hierarchy to proposed activities in areas beyond national jurisdiction.

Benefits

Based on the sources provided, the benefits of the environmental impact assessment (EIA) regime established under Part IV of the BBNJ Agreement include:

- It guarantees thorough and uniform EIAs for activities that may cause significant adverse effects to the marine environment in areas beyond national jurisdiction.
- It promotes environmental impact assessment (EIA), strategic environmental assessment (SEA), and monitoring of such activities.
- It establishes a framework without interfering with national obligations or decisionmaking processes.
- It provides processes, criteria, and other obligations for performing, monitoring, and reporting on EIAs.
- The Conference of the Parties (COP) can create standards and/or guidelines to support the implementation of Part IV.
- The COP, based on recommendations from the Scientific and Technical Body (STB), is obliged to adopt standards or guidelines on several important topics related to environmental assessment and monitoring, including:
 - The screening process and the determination of whether an EIA is required.
 - The assessment of cumulative impacts and how they should be taken into account.
 - The assessment of impacts within national jurisdiction of activities carried out in areas beyond national jurisdiction, and how those impacts should be taken into account.
 - The monitoring and reporting of authorized activities.
 - The conduct of strategic environmental assessments.
 - The conduct of EIA in areas identified as requiring protection or special attention.
- It aims to embed the principle of equity into the EIA and monitoring regime.
- It seeks to ensure that representatives of Indigenous Peoples, local communities, and developing states can effectively participate in consultation processes where they may be impacted by a proposed activity. This promotes procedural equity.
- Guidance from the STB should elaborate on the decision-making processes that states must undertake to ensure that full account is taken of the EIA.
- It aims to ensure that states effectively respond to comments from stakeholders to meet their obligation to make all reasonable efforts to ensure that an activity does not cause significant adverse impacts on the marine environment.

- Guidance should include how to apply the mitigation hierarchy to proposed activities in areas beyond national jurisdiction⁶.

Limitations and Challenges

The following limitations and challenges related to the Environmental Impact Assessment (EIA) under the BBNJ Agreement can be identified:

- The need for further development of standards and guidelines by the Conference of the Parties (COP): While the BBNJ treaty lays out a framework for thorough and uniform EIAs, the Agreement also allows the COP to create standards and/or guidelines to support the implementation of Part IV. Article 38 of the BBNJ Agreement obliges the COP, based upon recommendations from the Scientific and Technical Body (STB), to adopt standards or guidelines on a range of topics related to environmental assessment and monitoring. The fact that these standards and guidelines need to be developed suggests that the current framework is not fully detailed and requires further elaboration, which could present a challenge in reaching consensus and timely implementation.
- Addressing specific aspects through standards and guidelines: The COP needs to develop standards or guidelines on several key aspects, including:
 - The screening process and the determination of whether an EIA is required. This implies a current lack of detailed, universally agreed-upon procedures for this crucial initial step.
 - The assessment of cumulative impacts and how these should be taken into account. Assessing and incorporating cumulative impacts is a complex undertaking, and developing effective methodologies and guidelines will be challenging.
 - The assessment of impacts within national jurisdiction of activities carried out in areas beyond national jurisdiction and how those impacts should be taken into account. This cross-jurisdictional aspect adds complexity to the EIA process.
 - The monitoring and reporting of authorized activities. Establishing effective and consistent monitoring and reporting mechanisms across different contracting parties could be challenging.
 - The conduct of strategic environmental assessments. Developing guidelines for SEAs in areas beyond national jurisdiction is a relatively new area and may present methodological and practical challenges.
 - The conduct of EIA in areas identified as requiring protection or special attention. Defining the criteria for such areas and tailoring EIA processes accordingly could be complex.
- Potential ambiguity in the application of the agreement: There may be other issues on which standards/guidance may need to be developed, such as the meaning of equivalency under Article 29(4). This provision is vital for understanding when the new rules will apply, and the lack of clarity could lead to challenges in the consistent application of the BBNJ Agreement.
- Ensuring procedural equity and effective participation: Embedding the principle of equity into the EIA and monitoring regime through the elaboration of standards or guidance is crucial. Ensuring that representatives of Indigenous Peoples, local communities, and developing states can effectively participate in consultation processes where they may be

impacted by a proposed activity is identified as a challenge requiring specific guidance, for example, by Fiji. Effective consultation is essential for procedural equity but can be difficult to achieve in practice, particularly in areas beyond national jurisdiction.

- Ensuring full account is taken of the EIA and effective response to stakeholders: Guidance from the STB should elaborate on the decision-making processes that states must undertake to ensure that full account is taken of the EIA and that the state effectively responds to comments from stakeholders. This highlights a potential challenge in ensuring that EIA findings and stakeholder input meaningfully influence decision-making and that states genuinely make all reasonable efforts to avoid significant adverse impacts.
- Application of the mitigation hierarchy: Guidance should include how to apply the mitigation hierarchy to proposed activities in areas beyond national jurisdiction.

This suggests a potential challenge in the practical application of mitigation measures in these complex and remote environments.

- Primary responsibility of contracting parties: Although the Agreement allows for the development of standards and guidelines, contracting parties will be primarily responsible for approving activities. This could lead to variations in the stringency and implementation of EIAs depending on the national priorities and capacities of individual contracting parties, potentially undermining the goal of thorough and uniform EIAs.

Uncertainties

Here are some of the identified key uncertainties and unknowns:

- **The specifics of the screening process:** The exact procedures and criteria that will be used to determine whether an EIA is required for an activity in areas beyond national jurisdiction are yet to be defined. The COP, based on recommendations from the Scientific and Technical Body (STB), will adopt standards or guidelines on this.
- **How cumulative impacts will be assessed and taken into account:** The methodology for assessing cumulative impacts of activities in areas beyond national jurisdiction and how these assessments will influence decision-making are currently uncertain. The COP will need to develop standards or guidelines on this matter.
- **The process for assessing impacts within national jurisdiction of activities carried out beyond national jurisdiction:** The specific procedures for evaluating and considering the impacts of activities conducted in areas beyond national jurisdiction that may affect areas within national jurisdiction need to be established through COP standards or guidelines.
- **Details of monitoring and reporting of authorized activities:** The precise mechanisms for monitoring authorized activities in areas beyond national jurisdiction and the procedures for reporting on these activities are yet to be determined by the COP.
- **The practical application of strategic environmental assessments (SEAs):** While the BBNJ Agreement promotes SEAs, the specific procedures and requirements for conducting them will be elaborated through standards or guidelines adopted by the COP2
....

- **The conduct of EIA in areas requiring protection or special attention:** The specific approaches and considerations for conducting EIAs in areas identified as needing special protection are still to be detailed in guidelines or standards from the COP2.
- **The meaning of equivalency under Article 29(4):** The interpretation of "equivalency" is crucial for understanding when the new rules of the BBNJ Agreement will be applicable. This is highlighted as an issue on which standards or guidance may be developed by the COP4.
- **The nature of the decision-making processes:** The specific steps that states must undertake to ensure that EIAs are fully considered and that stakeholder comments are effectively addressed to prevent significant adverse impacts on the marine environment are yet to be fully elaborated in guidance from the STB5. This includes how to apply the mitigation hierarchy to proposed activities in areas beyond national jurisdiction6.
- **Ensuring procedural equity:** While the principle of equity in the EIA and monitoring regime is emphasized, the concrete ways to embed this principle through standards or guidance adopted by the COP, particularly concerning the effective participation of representatives of Indigenous Peoples, local communities, and developing states in consultation processes, are still to be fully defined4. Fiji, for example, needs to develop appropriate guidance specifically on BBNJ and ABNJ to facilitate this4.
- In summary, while the BBNJ Agreement lays a foundational framework for EIAs in areas beyond national jurisdiction, the practical implementation and specific requirements are subject to the development of standards and guidelines by the COP, based on recommendations from the STB1. These future developments will clarify many of the current uncertainties.

Recommendations

A key recommendation for Fiji is to **develop appropriate guidance specifically on the BBNJ Agreement and activities in Areas Beyond National Jurisdiction (ABNJ)**.

This is highlighted because the BBNJ Agreement, particularly Part IV concerning environmental impact assessment (EIA) and monitoring, lays out a framework for ensuring thorough and uniform EIAs for activities that may significantly affect the marine environment beyond national borders2.

Developing specific guidance for Fiji is important for several reasons:

- **Effective Consultation:** It will help ensure that representatives of Indigenous Peoples, local communities, and developing states can effectively participate in consultation processes related to proposed activities in ABNJ that may impact them1 . The source emphasizes that effective consultation is a crucial aspect of procedural equity within the EIA and monitoring regimes of the BBNJ Agreement.
- **Implementation of Part IV:** While contracting parties will primarily approve activities, the Conference of the Parties (COP) can create standards and guidelines to support the implementation of Part IV, based on suggestions from the Scientific and Technical Body (STB). Fiji's national guidance can align with and contribute to this broader implementation.

- **Addressing Key Topics:** The COP, based on STB recommendations, will adopt standards or guidelines on several topics relevant to EIA and monitoring under Part IV³. These include the screening process, assessment of cumulative impacts, assessment of impacts within national jurisdiction from ABNJ activities, monitoring and reporting, strategic environmental assessments, and EIA in protected areas⁴. Fiji's specific guidance can incorporate these aspects.
- **Ensuring Full Account of EIA:** Guidance from the STB should elaborate on decision-making processes that states must undertake to ensure that full account is taken of the EIA and that states effectively respond to stakeholder comments to avoid significant adverse impacts. Fiji's guidance can detail how to apply the mitigation hierarchy to activities in ABNJ.
- **Principle of Equity:** Embedding the principle of equity into the EIA and monitoring regime under Part IV, through the elaboration of standards or guidance adopted by the COP, is crucial¹. Fiji's national guidance can further strengthen this principle in its application.

By developing specific guidance, Fiji can ensure its effective participation in and implementation of the BBNJ Agreement's EIA and monitoring provisions, particularly concerning the protection of the marine environment in areas beyond national jurisdiction and the equitable involvement of relevant stakeholders.

Finally, due to the lack experts in-country to carryout EIA on development orientated initiatives in BBNJ and High Seas but there is provision in the BBNJ agreement in which pool of experts from the STB can be requested. Key thematic areas that the EIA may cover are:

- i. Marine Biology and Ecology;
- ii. Oceanography and Geology;
- iii. Engineering and Technology; iv. Environmental Law and Policy;
- v. Risk Assessment and Management;
- vi. Communication and Stakeholder Engagement; and
- vii. Social- Cultural Heritage indigenous Traditional Knowledge.

C. *Area Based Management Tools (ABMT)*

The BBNJ Agreement defines an ABMT as “a tool, including a marine protected area, for a geographically defined area through which one or several sectors or activities are managed with the aim of achieving particular conservation and sustainable use objectives in accordance with this Agreement”¹⁷.

¹⁷

<chromeextension://efaidnbmninnbpcjpcgclcfndmkaj/https://www.un.org/bbnjagreement/sites/default/files/202407/BBNJAgreementFactsheet3ABMTs.pdf>

Issues

Conflicting interests between resource extraction and conservation efforts, as well as the difficulty of engaging local communities and traditional knowledge meaningfully, may create obstacles in managing ABNJ effectively. Enforcement of regulations in offshore waters can be complicated, and international legal frameworks may evolve in ways that could affect Fiji's management capabilities. Mapping out maritime boundaries and claims could clarify jurisdictional challenges, especially in relation to countries with differing approaches to the United Nations Convention on the Law of the Sea (UNCLOS). Furthermore, the impact of climate change on ocean ecosystems introduces an additional layer of uncertainty, requiring adaptive and flexible management strategies to remain effective over time.

There is a lack of documentation of traditional knowledge of species particularly those that migrate between EEZ's.

Benefits

Biodiversity Conservation: ABMTs can lead to the protection of critical habitats and endangered species, enhancing overall marine biodiversity.

Sustainable Resource Use: Effective management can promote sustainable fishing practices and reduce overexploitation of resources.

Ecosystem Services: Healthy marine ecosystems provide vital services such as carbon sequestration, climate regulation, and support for fisheries.

Resilience Building: Protecting marine areas increases ecological resilience, helping ecosystems adapt to climate change and other stressors.

International Cooperation: Area-based management can foster collaboration among countries and stakeholders, promoting shared goals for ocean conservation.

Challenges

1. **Enforcement:** Monitoring and enforcing regulations in vast, remote ocean areas can be logistically difficult and resource-intensive.
2. **Funding:** Securing adequate financial resources for establishing and managing protected areas can be challenging.
3. **Stakeholder Engagement:** Involving diverse stakeholders effectively can be complex, especially when interests conflict.
4. **Adaptation to Change:** Regulations and management practices may need to be frequently updated in response to evolving marine conditions and human activities.
5. **Legal Frameworks:** Navigating international laws and agreements can complicate the implementation of ABMTs.

Limitations

1. **Geographical Constraints:** The vastness of BBNJ makes comprehensive management difficult; not all areas can be effectively monitored or protected.
2. **Sovereignty Issues:** Disagreements among nations about jurisdiction and rights can impede the establishment of ABMTs.
3. **Bureaucratic Hurdles:** International negotiations can be slow and complicated, delaying the implementation of management measures.
4. **Potential Economic Impacts:** Management measures may restrict certain economic activities, leading to resistance from industries reliant on marine resources.
5. **Scientific Uncertainty:** The absence of comprehensive scientific data can limit the effectiveness of management strategies.

Potential Tools:

1. **Marine Protected Areas:** Designating specific regions as MPAs helps in conserving marine ecosystems and biodiversity. These areas can limit or prohibit certain activities, such as fishing or mining, to protect habitats.
2. **Ecological or Biological Areas:** Identifying critical habitats and ecological processes that require protection, such as spawning grounds or migratory routes.
3. **Sectoral Management Approaches:** managing specific sectors, such as fisheries or shipping, through regulations and best practices.

D. Capacity Building of Marine Technology Transfer (CBMTT)

Issues:

There needs to be stronger, enforceable mechanisms to ensure that developing nations and small island nations have the necessary support and access to technology and expertise to protect and manage their marine environments effectively.

While individual efforts are essential, mobilizing action at institutional and societal levels is equally important and needs to be addressed. Capacity-building initiatives often occur in isolation with minimal coordination. Furthermore, there are few, if any, opportunities to review progress periodically or assess overall effectiveness and impactⁱ.

Benefits:

Capacity building measures tailored to the needs of each country/ region and promotion of home-grown approaches.

Cross-sectoral capacity building and improving coordination within ministries, among sectors and stakeholders nationally and regionally. This could be achieved through the key

outputs of the Cross-sectoral Project (Cross-sectoral Project) which is implemented by the UN Environment Programme, executed by the Global Ocean Forum, together with 6 partner organizations including the University of the South Pacific. The key project outputs include capacity building benefiting both management of ABNJ and of national EEZs and coastal zones; Improved information and data (including improved data sharing and access to existing data), and the skills to use the data; awareness raising, both on the political level and among public about importance of BBNJ.

Uncertainty:

Institutional and governance structures may struggle to adapt to the cross-sectoral approach, and the long-term commitment required for sustained success may be undermined by short-term political cycles or shifts in priorities.

The complexity of coordinating multiple stakeholders with varying interests and priorities, coupled with gaps in data on ABNJ, presents a challenge in creating coherent management strategies.

Challenges/Limitations:

Capacity exists for conserving and sustainably using areas beyond national jurisdiction (ABNJ) which is shaped by a comprehensive blend of national policies, international agreements, and regional collaborations. However, the limited number of local experts is facing burnout from their participation in numerous national committees. The National Ocean Policy (NOP) outlines Fiji's strategic approach to ocean management, emphasizing sustainability and biodiversity conservation. However, the NOP has not been socialized well which has impacted reporting against performance indicators (source: anecdotal evidence from anonymous source).

Conclusions/Recommendations

- Ratify the BBNJ Treaty with reservations on Fisheries coverage. Request that this can be added to address indirect effects from deep sea ABNJ activities that can affect Tuna and highly migratory pelagic fish stocks.
- Increased facilitation of enabling environment for collaborative research addressing scientific gaps in pelagic waters and BBNJ areas.
- Fiji should use existing capacities and resources e.g. USP and SPC
- Create a formal partnership with USP to build on local expertise and train personnel in marine science and environmental monitoring in ABNJ (Note: an ABNJ Massive Open Online Course is in development). Additionally, to provide access to knowledge and skills to implement marine protection strategies.

- A national gap analyses with the assistance of either OPOC or PIFS as well as SPREP and IUCN on institutional pathways existent and establishment of buttress policy covers. Cross-sectoral approach needed to holistically address legal coverage.

i

https://www.researchgate.net/publication/342339346_A_Policy_Brief_on_Capacity_Development_as_a_Key_Aspect_of_a_New_International_Agreement_on_Marine_Biodiversity_Beyond_National_Jurisdiction_BBNJ

Fiji National University



**FIJI NATIONAL
UNIVERSITY**



**SUBMISSION TO THE STANDING COMMITTEE
ON FOREIGN AFFAIRS AND DEFENCE – USE
OF MARINE BIOLOGICAL DIVERSITY OF AREAS
BEYOND NATIONAL JURISDICTION (BBNJ
AGREEMENT)**

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DREAM IT, WEAVE IT, ACHIEVE IT

FNU TEAM

- **Professor Nii-K Plange, Team Lead**

Professor of Interdisciplinary Studies & Dean Center for Graduate Studies.

- **Associate Professor Dr. Kaliova Ravuiwasa**

Dean, College of Agriculture, Fisheries and Forests.

- **Assistant Professor Dr. Shalini Singh**

Associate Dean, Learning and Teaching, College of Agriculture, Fisheries and Forests.

INTRODUCTORY STATEMENTS PACIFIC ISLAND STATES AND BIODIVERSITY

- Biodiversity is critical to the livelihood of Pacific Island families, communities and governments.
- Pacific Island governments and regional organizations have taken cognizance of this.
- National and regional support to, and collaboration with, international efforts at preservation and sustainability must ensure and note the voice of the Pacific island states.
- And also recognize indigenous knowledge and practices in sustainability.

ACKNOWLEDGING THE SOUTH PACIFIC REGIONAL ENVIRONMENTAL PROGRAMMES

FNU acknowledges the tremendous work and effort by **SPREP**:-

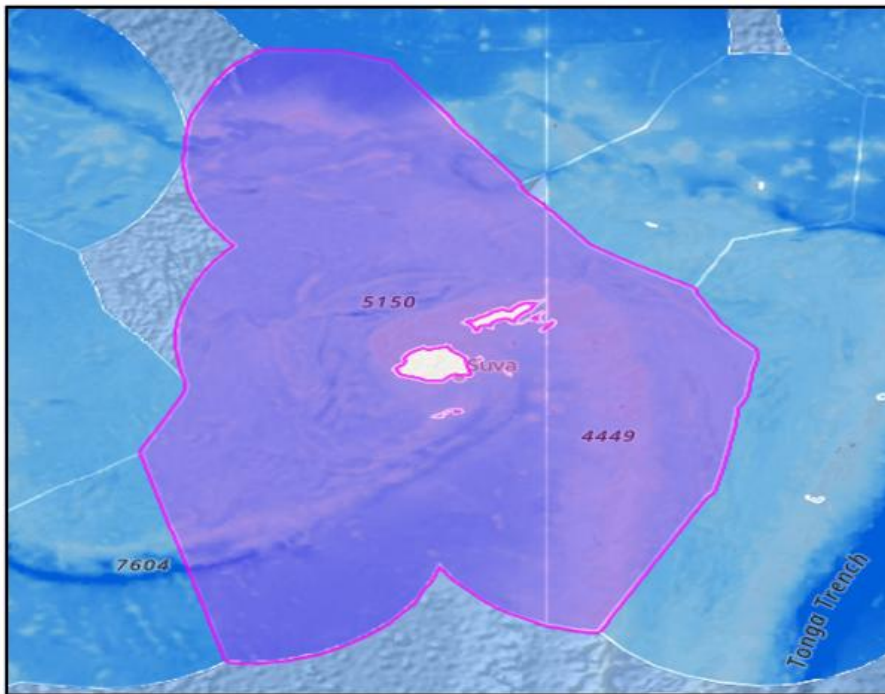
- In supporting Pacific Island countries to work towards achieving the AICHI BIODIVERSITY TARGETS (2010).
- In ensuring a 'One Pacific Voice' at International fora on biodiversity to halt biodiversity losses.
- SPREP's work in supporting AICHI BIODIVERSITY TARGET 14 which recognizes and take into account "the needs of women, indigenous and local communities and the poor and vulnerable"
- And following on with its work for the Kumining-Montreal Global Biodiversity Framework (2024)

IN FIJI

WE acknowledge Fiji Government efforts as demonstrated with,

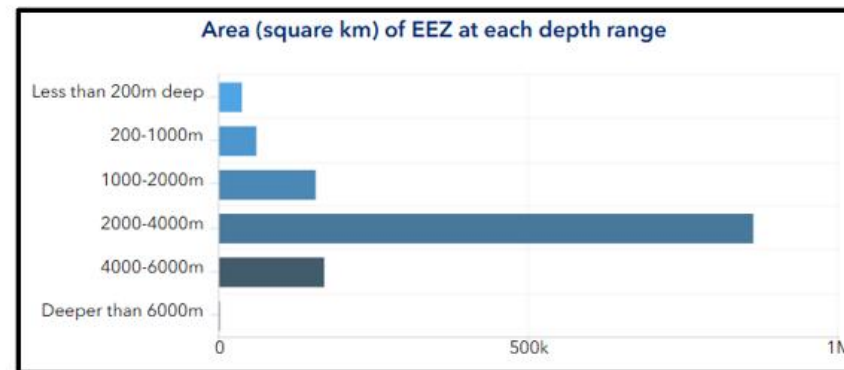
- The National Oceans Policy, 2020-2030
- National Biodiversity Strategy and Action Plan, 2020-2025

Deep ocean - 200 meters depth and beyond where light is reduced



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97.2% of Fiji's Exclusive Economic Zone (EEZ)
is within the deep ocean



Source: Ocean Discovery League

<https://ucsdonline.maps.arcgis.com/apps/dashboards/c508abed461d4d49aa7c17d38949ce79>

FIJI NATIONAL UNIVERSITY AND BIODIVERSITY

- FNU's College of Agriculture, Fisheries and Forestry (CAFF) collaboration with SPREP, the Ministry of Fisheries and Forest, Ministry of Climate Change and Conservation International (Fiji) and other key stakeholders in coastal restoration projects
- There are also ongoing individual projects in biodiversity especially in CAFF and CETVET

VARIOUS CONVENTIONS THAT SUPPORT BIODIVERSITY

- Several international conventions focus on biodiversity issues:
 - ✓ the Convention on Biological Diversity (1992)
 - ✓ the Convention on Conservation of Migratory Species of Wild Animals,
 - ✓ the Convention on International Trade in Endangered Species of Wild Fauna and Flora (1975),
 - ✓ the International Treaty on Plant Genetic Resources for Food and Agriculture (2004), the Ramsar Convention on Wetlands (1971),
 - ✓ the World Heritage Convention (1972) and the International Plant Protection Convention (1952), the International Whaling Commission (1946).

PURPOSE / OBJECTIVES OF BIODIVERSITY CONVENTIONS

- **PRIMARILY TO ENSURE CONSERVATION AND SUSTAINABILITY**
- ✓ Biodiversity-related conventions are designed to ensure implementation of specific actions at, and within, national, regional and international levels and boundaries, to achieve collective and agreed goals of conservation and sustainability and sustainable use of resources.

COVERAGE OF BIOLOGICAL BIODIVERSITY

THE IDENTIFIED INTERNATIONAL WATERS IS HUGE AND EXTENDS TO,

- ✓ A vast ocean area of over 60% is outside national jurisdictions
- ✓ This vast area has been **unregulated**
- ✓ *The Biological Diversity Beyond National Jurisdiction Ocean Treaty (BBNJ -2023) is to now introduce regulatory measures to this vast and resourceful area.*

THE CONVENTION ON BIODIVERSITY

Convention on Biological Diversity Areas Beyond National Jurisdiction, March 2023

The objectives are,

- ✓ the conservation of biological diversity outside national waters and borders
- ✓ the sustainable management and use of its components
- ✓ fair and equitable sharing of the benefits arising from commercial and other utilization of genetic resources
- ✓ Capacity building and transfer of marine technology

The agreement covers all ecosystems, species, and genetic resources.

✓ *SOURCE :UN ,BBNJ Agreement,.2023*

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RELEVANCE OF BIODIVERSITY CONVENTIONS

Conservation of biological Biodiversity is critical for the development agenda especially of Developing country of the Global South.

- ✓ Biodiversity represents an essential natural asset of importance for economic, social and cultural development and national well-being of Pacific Island Countries
- ✓ Its loss can have destructive impact on all development efforts
- ✓ The loss of biodiversity will undermine the possibilities of sustainable growth of developing countries and especially large Ocean States.

Preservation of Marine Species as Natural Assets Benefits

- Strengthening biodiversity – biodiversity is a good indicator for ecosystem performance. Ecosystem collapse when keystone species from the marine environment are removed eg; Sharks and Dugongs.
- Building resilience to climate change - enhancing carbon sequestration (blue economy).
- Preserve culture – pacific culture is linked to the ocean and totem species e.g. turtles.

Conservation of Marine Species as Natural Assets Benefits

- Food security – seafood is primary source of protein for many pacific islanders (through sustainable fishing).
- Sustainable tourism – involving local communities and tourist in project that minimize environment impact e.g. coral planting in resorts.
- Marine Protected Areas (MPA) – protecting critical habitat and biodiversity long term while allowing coastal communities to benefit from MPAs.

CONVENTION ON CONSERVATION OF MIGRATORY SPECIES PROTECTING & CONSERVING

- Reef mantas
- Nine species of Mobula rays
- Shark (Blue shark)
- Sea turtles (Green turtle)
- Whales (Endangered Oceania Humpback)
- Spinner dolphins
- A domestic fisheries industry has emerged on the back of this vibrant ecosystem.
- This sector plays a crucial role in the overall growth and development of the country and needs to be sustainably and collaboratively managed.
- Many coastal fish stocks are now overexploited, and other wildlife is being caught and killed as collateral damage.

BIOLOGICAL DIVERSITY AND CLIMATE CHANGE

THE CONVENTION ON BIOLOGICAL DIVERSITY NOTED

- the interlinkages between biological diversity and climate change
- loss of biodiversity will intensify the existential threat of Ocean States including the PICs
- This was included in the Executive Secretary submission to the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC).

FIJI NATIONAL UNIVERSITY'S POSITION

- FNU RECOGNISES THE IMPERATIVE NEED FOR REGULATORY MEASURES TO SECURE AND SUSTAIN MARINE RESOURCES FOR FUTURE GENERATIONS
- IN THIS FNU CONCURS WITH World Wildlife Fund (WWF) THAT, IN OUR CURRENT GLOBAL SITUATION OF UNREGULATED ACTIVITIES WITHIN AND OUTSIDE NATIONAL WATERS.
- ***'THE OCEAN IS STRESSED, AND THE NEW GROUNDBREAKING TREATY CAN AND WILL HELP RELIEVE THE STRESS'***

SOURCE : Alfred Ralifo, Senior Policy & Government Affairs Manager, WWF-Pacific

STRESSING THE OCEAN AND RELEVANCE OF IMMEDIATE ACTION

The large ocean environment continues to provide space for multiple activities some criminal in nature and with destructive consequences to biodiversity and Pacific Island countries survival. These include;

- ✓ illegal and extensive exploitation of fishing and other marine resources
- ✓ dumping of industrial waste material
- ✓ increasing disposal of plastics
- ✓ the acidification of the ocean
- ✓ deep sea mining and other extractive activities

FIJI NATIONAL UNIVERSITY RECOMMENDATIONS

- The Government to ratify the *Biological Diversity Beyond National Jurisdiction Ocean Treaty*
- Government must collaborate with FNU to build capacity to enhance research into aspects of the treaty to ensure sustainability for the next generation
- Government to collaborate with the FNU to participate in International implementation, monitoring and assessment of the treaty
- Government to allow voices of civil society organizations to be represented in future BBNJ forum, and allow relevant protests within the law, on issues relating to the Pacific
- Government to continue to collaborate with local and regional organizations to ensure the recognition of indigenous knowledge and practices in management of marine protected areas.

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University of Fiji



The University of Fiji

(An Entity of Arya Pratinidhi Sabha of Fiji)

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OFFICE OF THE VICE-CHANCELLOR

March 26 2025

**Submission by the University of Fiji regarding the Convention on Marine
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 (BBNJ Agreement)**

University of Fiji Team

**Professor Shaista Shameem, Vice Chancellor, Dean of the Justice Devendra Pathik
School of Law and Coordinator International and Regional Relations and Diplomacy.
Professor Aziz Mohammed, Senior Professor JDP School of Law, member of the
University of Fiji Council.**

Dr Ramendra Prasad, Head of Department, Science.

**Ms Zahida Afrin Nisa, Department of Science and Researcher, Ecological and
Climate Crises Legal Institute (ECCLI) Office of the Vice Chancellor.**

Ms Patricia Chand, JDP School of Law.

Ms Priyatma Singh, Department of Science.

**Mr Rodney Vakaloloma, Vice President, The University of Fiji Student
Association.**

Introduction

Appendices - Review Report of the Convention on Marine 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 (BBNJ AGREEMENT)

Professor Shaista Shameem, Vice Chancellor

1. Team members introduced
 2. ITLOS reference, attached, especially paragraphs 197- 258 and paragraphs 300-321, and the University of Fiji's role in the ITLOS submissions producing the landmark Advisory Opinion, as Legal Expert on behalf of the Commission of Small Island States on Climate Change and International Law (COSIS).
-

Substantive Submissions

Professor Aziz Mohammed.

Madam Chairperson, Honourable members of the Standing Committee on Foreign Affairs and Defence, it is with immense pleasure that we appear before this august forum to make submission regarding the Convention on Marine 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 commonly referred to as the BBNJ Agreement or the High Seas Treaty. Thank you for affording us the opportunity to comment on an international instrument that undoubtedly in time will influence and have causal effects to many other international instruments already in place, but importantly is likely to follow as a result of evolving foreign policies and diplomacy. More importantly, this new treaty is likely to revolutionise domestic legislations and practices regarding Conservation and Sustainable use of Marine Biological Diversity of Areas Beyond National Jurisdiction.

We note that the Standing Committee has been entrusted with the review of the BBNJ Agreement. We are uncertain what you were contemplating when you referred to “the review”. We are of the opinion that the Standing Committee was not looking at analysing the BBNJ Agreement since the Republic of Fiji has already signed on the instrument on 20th September 2023. Rather, our focus is towards the ratification and implementation of the instrument into domestic laws. From the outset, may we congratulate the Government for its foresight and recognising the importance of the BBNJ Agreement and the importance and benefits it presents for all Fijians. We must also recognise the efforts and contributions of the previous governments, for it was

during their tenure that most submissions and lobbying materialised to achieve this momentous and historic Convention.

The Standing Committee has received numerous submissions on the topic and undoubtedly has become quite familiar with its content. The University of Fiji Team intends to present a different perspective, importantly, to first comprehend and fully understand what this international instrument is about, but importantly, to relate to our maritime setting, the exclusive economic zones and the capacity building that avails its self through our membership. Allow me to take you on a journey in realising this new BBNJ Agreement.

Under the overall objective of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long-term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination, the Agreement addresses four main issues:

- Marine genetic resources, including the fair and equitable sharing of benefits;
- Measures such as area-based management tools, including marine protected areas;
- Environmental impact assessments; and
- Capacity-building and the transfer of marine technology.

For better understanding and to bring the new agreement into perspective, it is important to first understand the concept of the high seas and rights. The high seas refer to parts of the ocean that are beyond national jurisdictions, meaning outside of the Exclusive Economic Zones (EEZ) of countries. In other words, the high seas cover international waters, which are not under the sovereignty of any country. It represents about 60% of the planet's oceans. To better illustrate the vast area represented, the geographic outline below is an ideal representation:

The area represented in light green represents international waters or the high seas.

Image: <https://www.dailymaverick.co.za>



The rights of States in relation to the high seas is best understood in this diagram:

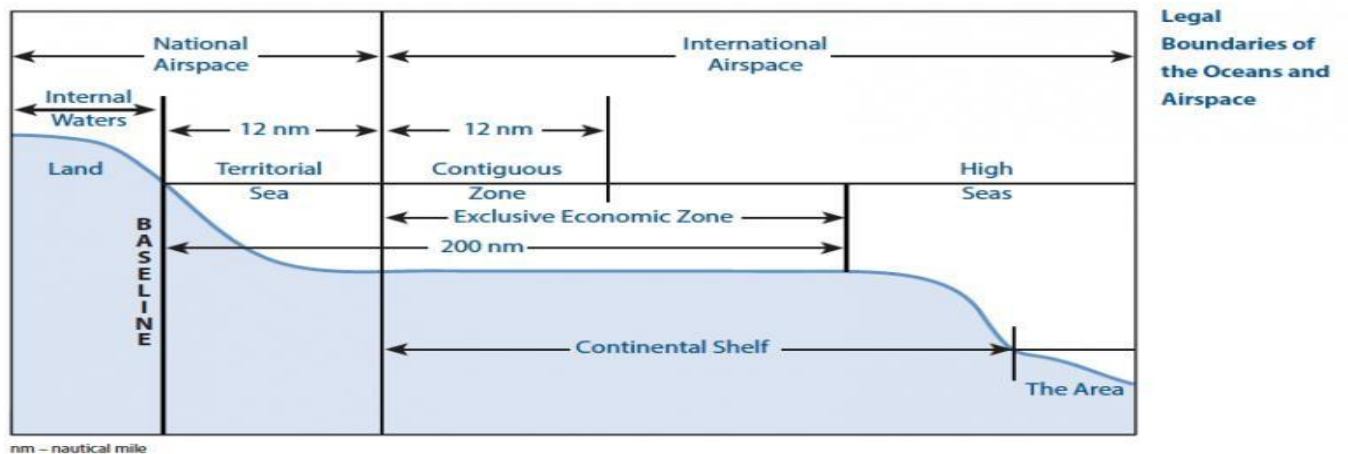


Image: Tufts University online images: <https://sites.tufts.edu/lawofthesea/chaptertwo/>

In the high seas, the only existing legislation is that of the flag state laws. Under international law, the theory of 'res nullius' essentially governs this area. This means that no one has the right to appropriate what could just as easily belong to another. However, reality is never that simple, and several issues arise in the high seas, such as piracy and the search for underwater resources. The exploration and exploitation of the deep seabed, however, are governed by a space rental system that must be carried out with the ISA (International Seabed Authority). The growing pressure on oceans due to human activity, pollution, overexploitation of resources, climate change, and the decline in biodiversity.

We did put a caveat in the beginning by saying that this Agreement will act a catalyst for other Conventions in areas where there are similar concerns, such as the Space and Antarctica. A good starting point is to look back in time when the first efforts were invoked towards realising a Convention on Marine 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.

The genesis and labouring conviction are best realised through United Nations Resolution 69/292 of 19 June 2015, in which the General Assembly decided to develop an international legally binding instrument under the United Nations Convention on the Law of the Sea (the Convention) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. The Assembly decided to establish, prior to holding an intergovernmental conference, a preparatory committee, open to all States Members of the United Nations, members of the specialized agencies and parties to the Convention, with others invited as observers in accordance with past practice of the United Nations, to make substantive recommendations to the Assembly on the elements of an international legally binding instrument under the Convention, relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction.

The General Assembly also decided that the Preparatory Committee would start its work in 2016 and, by the end of 2017, report to it on its progress, and that the Assembly, before the end of its seventy-second session, and considering the aforementioned report of the Preparatory Committee, would decide on the convening and on the starting date of an intergovernmental conference, under the auspices of the United Nations, to consider the recommendations of the Preparatory Committee on the elements and to elaborate the text of an international legally binding instrument under the Convention.

The General Assembly recognized the desirability that any legally binding instrument relating to marine biological diversity of areas beyond national jurisdiction under the Convention would secure the widest possible acceptance, and for that reason, decided that the Preparatory Committee should exhaust every effort to reach agreement on substantive matters by consensus. It also recognized the importance of proceeding efficiently in the Preparatory Committee on the development of the elements of a draft text of an international legally binding instrument under the Convention, and recognized further that any elements where consensus was not attained, even after exhausting every effort, might also be included in a section of the recommendations of the Preparatory Committee to the General Assembly.

The General Assembly decided that negotiations should address the topics identified in the package agreed in 2011 (see resolution 66/231), namely the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, in

particular, together and as a whole, marine genetic resources, including questions on the sharing of benefits, measures such as area based management tools, including marine protected areas, environmental impact assessments and capacity-building and the transfer of marine technology.

It further recognized that the process should not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies, and that neither participation in the negotiations nor their outcome might affect the legal status of non-parties to the Convention or any other related agreements with regard to those instruments, or the legal status of parties to the Convention or any other related agreements with regard to those instruments.

Allow me to contextualise the convention and generally what it provides:

Section A

Preambular elements

The provisions set out broad contextual issues, such as:

- A description of the considerations that led to the development of the instrument, including key concerns and issues.
- Recognition of the central role of the Convention and the role of other existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction
- Recognition of the need to enhance cooperation and coordination for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.
- Recognition of the need for assistance so that developing countries, in particular geographically disadvantaged States, least developed countries, landlocked developing countries and small island developing States, as well as coastal African States, can participate effectively in the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

- Recognition of the need for the comprehensive global regime to better address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.
- An expression of conviction that an agreement for the implementation of the relevant provisions of the Convention would best serve these purposes and contribute to the maintenance of international peace and security.
- An affirmation that matters not regulated by the Convention, its Implementing Agreements or the instrument continue to be governed by the rules and principles of general international law.

Madam Chairperson and members of the Standing Committee, what we have shared forms the foundation and benchmarks the progressive benefits as well as the safety net when considering conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

The General elements of the Convention are contained in the provisions regarding the use of terms. The contents provide definitions of key terms, bearing in mind the need for consistency with those contained in the Convention and other relevant legal instruments and frameworks. The scope of application can be divided into geographical and material. When addressing the Geographical scope, the provision is important as it states that the instrument applies to areas beyond national jurisdiction. It recognises the rights and jurisdiction of coastal States over all areas under their national jurisdiction, including the continental shelf within and beyond 200 nautical miles and the exclusive economic zone, is to be respected. As to the Material scope, the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, in particular, concerns together and as a whole, marine genetic resources, including questions on the sharing of benefits, measures such as area-based management tools, including marine protected areas, environmental impact assessments and capacity-building and the transfer of marine technology. It sets out exclusions from the scope of application of the instrument, and address, consistent with the Convention, issues relating to sovereign immunity.

The objective of the instrument is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction through effective implementation of the Convention. If read in between the lines, the Convention promotes international cooperation and coordination, ensuring the achievement of the overall objective of conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

Another important aspect of the Convention and relates to one of the themes is the relationship of the Convention and other instruments and frameworks and relevant global, regional and sectoral bodies. With regard to the relationship to the Convention, the provision provides that nothing in the instrument shall prejudice the rights, jurisdiction and duties of States under the Convention. It further state that the instrument shall be interpreted and applied in the context of and in a manner consistent with the Convention. The instrument promotes greater coherence with and complement existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies. Hence, the instrument should be interpreted and applied in a manner which would not undermine these instruments, frameworks and bodies of the document.

The other tenet of the Convention concerns the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. We note that the general principles and approaches are more elaborate and detailed. The provisions set out the general principles and approaches guiding the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, include:

- Respect for the balance of rights, obligations and interests enshrined in the Convention.
- Due regard as reflected in relevant provisions of the Convention.
- Respect for the rights and jurisdiction of coastal States over all areas under their national jurisdiction, including the continental shelf within and beyond 200 nautical miles and the exclusive economic zone.
- Respect for the sovereignty and territorial integrity of all States.
- Use of marine biological diversity of areas beyond national jurisdiction for peaceful purposes only.
- Promotion of both the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.
- Sustainable development.
- International cooperation and coordination, at all levels, including north-south, southsouth, and triangular cooperation.

- Relevant stakeholders' engagement.
- Ecosystem approach.
- Precautionary approach.
- Integrated approach.
- Science-based approach, using the best available scientific information and knowledge, including traditional knowledge.
- Adaptive management.
- Building resilience to the effects of climate change.
- Duty not to transform one type of pollution into another consistent with the Convention.
- Polluter-pays principle.
- Public participation.
- Transparency and availability of information.
- Special requirements of small islands developing States and least developed countries, including avoiding transferring, directly or indirectly, a disproportionate burden of conservation action onto developing countries, and
- Good faith.

The Purpose and principles advocated through Article 2 of the United Nations charter is much evident and fostered in the Covenant. The Provisions set out the obligation of States to cooperate for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, and elaborate on the content and modalities of this obligation.

When we consider marine genetic resources, including questions on the sharing of benefits the objectives of benefit-sharing, we note the following:

- Contributing to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.
- Building capacity of developing countries to access and use marine genetic. In terms of the principles and approaches guiding benefit-sharing, the provisions recognise:
- Being beneficial to current and future generations.

The provisions of the Convention set out that the process for identification of areas within which protection may be required would be based on the best available scientific information, standards and criteria, including:

- Uniqueness.
- Rarity.
- Special importance for life history stages of species.
- Importance for threatened, endangered or declining species and/or habitats.
- Vulnerability.
- Fragility.
- Sensitivity.
- Biological productivity.
- Biological diversity.
- Representativeness.
- Dependency.
- Naturalness.
- Connectivity.
- Ecological processes, and
- Economic and social factors.

The provisions on proposals related to area-based management tools, including marine protected areas. When considering marine protected areas, and other area-based management tools where relevant, the elements of the proposal should include:

- Geographic/spatial description
- Threats/vulnerabilities and values
- Ecological factors related to identification criteria
- Scientific data concerning the standards and criteria for the identification of the area
- Conservation and sustainable use objectives
- The role of relevant global, regional and sectoral bodies
- Existing measures in the area or areas adjacent to it
- Specific human activities in the area
- Socio-economic considerations
- A draft management plan.
- Monitoring, research and review plan.

When addressing consultation on and assessment of the proposal, the provisions set out a process for coordination and consultations on the proposal with relevant global, regional and sectoral bodies, all States, including adjacent coastal States, and other relevant stakeholders, including scientists, industry, civil society, traditional knowledge holders and local communities. It sets out guidance for a scientific assessment of the proposal.

Drawing on existing dispute settlement provisions, such as those of the Charter of the United Nations and the Convention, the text sets out the obligation to settle disputes by peaceful means as well as the need to cooperate to prevent disputes. It also sets out the modalities for settling disputes concerning the interpretation or application of the instrument.

When we look in the context of our commitment and voice towards climate and environmental protection, the Convention reflects accepted principles in international environmental law such as ‘the polluter-pays’, equity and equitable sharing of benefits, precaution, use of the best available science and scientific information, and prevention of transboundary harm. The convention also contains innovative ideas such as the recognition of rights of future generations, taking actions now to protect future rights,

regulation of collection and access to digital scientific information, and the establishment of a digital open-access platform (the clearing-house mechanism, to provide and share information on implementation of the agreement.

The Convention establishes a broad institutional framework, including a Conference of the Parties (COP); a Scientific and Technical Body—an expert body under the

‘authority and guidance’ of the COP—to provide scientific and technical advice to the COP, and other duties as will be determined; a framework for settlement of disputes, including special provisions for disputes of a ‘technical nature’; and, advisory opinions on question arising from this treaty.

We can be safe in saying that this is the first treaty to deal with environmental protection that applies in areas beyond national jurisdiction per se, rather than regulating states’ obligations vis-à-vis activities, vessels and persons under their jurisdiction and control. The BBNJ Agreement is also unique because the drafting process goes back to an old practice of preparing draft text to negotiate on – similar to the International Law Commission’s drafts (e.g., the 1958 Convention on the Continental Shelf).

Ratification by Republic of Fiji (*Art. 65 and 75 of the BBNJ Agreement*)

Fiji must take the following steps to become a Party to the BBNJ Convention:

1. Sign the BBNJ Treaty at the UN Headquarters from 20 September 2023 through 20 September 2025

This was achieved through the signing of the Instrument by the Honourable Prime Minister on 20 September 2023.



2. Ratify (or approve, accept, or accede to) the BBNJ Agreement (if after the BBNJ Treaty is closed for signature).

The proposed agreement is an implementing agreement under the 1982 United Nations Convention on the Law of the Sea. UNCLOS provides the legal framework in which all activities in the ocean and seas are carried out, including the obligation to protect and preserve the marine environment. This obligation applies to the water and seabed beyond national jurisdictions, with the Agreement not applying to areas within Fiji's national jurisdiction.

As discussed earlier, the purpose of the Agreement is to close gaps in the conservation and sustainable use of marine biodiversity in areas beyond national jurisdictions. The Agreement addresses four areas in this respect – marine genetic resources, area-based management tools, environmental impact assessments and capacity building, including the transfer of marine technology. The Agreement enhances coordination and promotes coherence across global, regional, subregional and sectoral bodies.

Should Fiji ratify the Agreement. **We submit in the Affirmative without any reservation.** Ratifying the Agreement will enable Fiji to take an active role in maintaining the health of marine environments outside of its jurisdiction. Maintaining ocean health supports Fiji's marine industries and is reflective of the government's international environmental leadership and nature-positive agendas especially in environment protection and climate change. We must continue championing our calls towards mitigating climate change and that of conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

Fiji's endorsement of the Agreement and its entry into force aligns with its interests, including 'bolstering international rules-based order, enhancing domestic environmental action, supporting scientific endeavours, and supporting foreign policy objectives.

Fiji's ratification of the Agreement will allow contributions to decision-making and the maintenance of the international rules-based order. A thriving and enduring marine ecosystems, biodiversity and resources provides cultural, social and economic value to Fiji and its resources. Industries that operate in a regional and global context, such as tourism, fishing and aquaculture, rely on a healthy ocean and will benefit from the clear and level regulatory environment provided by the Agreement. We cannot become complacent as the well being of all Fijians are dependant on the Ocean and its resources and with activities associated with its protection.

As we were discussing earlier, the fact that over 90 per cent of the ocean's volume falling outside of areas of national jurisdiction, it is vital that Fiji becomes Party to the

Agreement so that it can contribute to the global rules that govern this space and ensure they align with national interests. We have to be in the game to play it, we cannot afford to be on the pavilion as a spectator. Much of the seafloor of this area is yet to be mapped clearly and roughly two-thirds of the estimated 700,000 to 1 million species in the ocean have yet to be discovered or officially described. This seafloor extends beyond national jurisdiction and contains biodiversity that could contain material to improve human wellbeing. The Agreement contains a framework for the use of material gathered from unmapped seafloor and could stimulate Fiji's research sector.

The Agreement is a priority for many nations within the Pacific region and being a major player, it could allow Fiji to play a more leading role in its implementation. This role could enable Fiji contribute towards security, stable and prosperous Pacific by conducting environmental impact assessments and establishing and managing marine protected areas. We cannot rely on other major powers in the Region to champion our cause and interest. They have their own interest to promote and protect.

Marine genetic resources are defined in Article 1 as 'any material of marine plant, animal, microbial or other origin containing functional units of heredity of actual or potential value'. The Agreement establishes obligations for subjects under Fiji's jurisdiction or control that regulate the collection and use of marine genetic resources and digital sequence information relating to these resources. Article 11 of the Agreement requires Parties that carry out activities with these resources and data in areas beyond national jurisdiction do so in accordance with the Agreement, to promote cooperation in such activities, and to carry them out exclusively for peaceful purposes.

Article 12 requires that Parties provide information to the Clearing-House Mechanism (an open access information platform managed by a secretariat established by the Agreement), before and after collecting marine genetic resources in areas beyond national jurisdiction, as well as any material changes to that information. This information includes the research subject matter, its collection location, the timing of the collection, and its storage location. The same Article obliges Parties to ensure that samples of the collected resources and digital sequence information is identified as collected from areas beyond national jurisdiction in their repositories, and for those repositories to the extent practicable, to provide a biennial report to the access and benefit-sharing committee.

Article 13 requires Parties to aim to ensure that traditional knowledge associated with marine genetic resources in areas beyond national jurisdiction, that is held by Indigenous Peoples and local communities, shall only be accessed with the free, prior and informed consent or approval and the involvement of such communities. If marine genetic resources and digital sequence information from areas beyond national jurisdiction is utilised for research or development (R&D), including commercially, relevant Parties are required to provide certain information to the Clearing-House Mechanism, including the results of the utilisation (such as publications and patents),

how to access the relevant resource or data utilised, and information on sales (if marketed).

The obligations relating to any benefits (both non-monetary and monetary) arising from marine genetic resources and digital sequence information from areas beyond national jurisdiction are stipulated by Article 14. Non-monetary benefit-sharing obligations include ensuring access to samples and providing opportunities for developing Party participation in relevant activities. Any resources or data that is the subject of R&D is to be kept in publicly available repositories within three years from the start of R&D.

Monetary benefits are shared through a financial mechanism established under Article 52, with the general obligation requiring developed Parties (including Fiji) to pay an additional 50 per cent of their individually assessed contribution into a 'special fund'.

Changes to this monetary benefit-sharing regime can only be made by agreement of a three-fourths majority of Parties.

Article 15 establishes an access and benefit-sharing committee, which addresses access and benefit-sharing issues and requires each Party to the Agreement to provide the committee with information on access and benefit-sharing and national focal points.

Transparency and periodic reporting requirements are outlined by Article 16.

The Agreement imposes obligations relating to 'the establishment, implementation, and review of area-based management tools. Marine protected areas are a highlighted area-based management tool due to their stronger conservation focus compared to other area-based management tools.

If we look at the provisions of Article 18 prevents Parties from submitting proposals for area-based management tools that relate to any areas within national jurisdiction and from relying on the establishment of tools as a basis for deciding on claims to sovereignty, sovereign rights or jurisdiction. The Conference of Parties will not consider a proposal that includes an area of national jurisdiction or one that can be interpreted as recognition or non-recognition of any claims to sovereignty, sovereign rights or jurisdiction.

Article 19 requires proposals for area-based management tools to be submitted to the secretariat. These proposals must be considered by relevant stakeholders, use the best available science and traditional knowledge of Indigenous Peoples and local communities (when relevant), and address certain criteria, including information relating to the geographical area and a draft management plan. After the proposal is reviewed by the Scientific and Technical Body, Article 20 requires for the proposal to be re-submitted to the secretariat who will then publish the proposal for consultation.

Article 21 outlines this consultation process and specifies that proposals must be subject to targeted and proactive consultation with relevant States (including when a proposal affects areas entirely surrounded by exclusive economic zones (EEZs)), must

take into consideration any contributions received throughout consultation, and revise as appropriate before re-submitting.

When decisions relating to area-based management tools cannot be made by

consensus, a three-fourths majority is satisfactory. Article 23 stipulates that decisions relating to these tools made by the Conference of Parties are binding on all parties and enter into force after 120 days. Parties may object to a decision within those 120 days but must provide an explanation to the secretariat on specified grounds. Objecting Parties have additional obligations, including that the Party adopt alternate measures to the extent practicable, that they not adopt measures that would undermine the effectiveness of the original decision, that they report to the Conference of Parties on their alternate measures, and that they renew and provide an explanation for their objection every three years. If a renewed objection is not made, then the objection is withdrawn and the original decision applies 120 days later.

Parties are required by Article 25 to ensure that subjects within their jurisdiction or control act consistently with relevant area-based management tools. Parties are required to promote decisions made by the Conference of Parties in other appropriate international organisations and must encourage non-Parties to adopt similar measures and join the Agreement. Periodic reporting on the implementation of area-based management tools is required by Article 26.

One of the notable provisions concerns environmental impact assessments. Article 28 of the Agreement imposes obligations on Parties to ensure that they assess, monitor and provide information for planned activities within their jurisdiction or control that may cause substantial pollution or damage to the marine environment beyond national jurisdiction.

Articles 30 and 31 outline the mandatory steps of these environmental impact assessments, including 'an initial screening of the activity, scoping to identify key environmental and associated impacts, assessment and evaluation of impacts, and measures for the prevention, mitigation and management of potential impacts. Consultations and opportunities to comment are to be provided throughout the assessment. The Clearing-House Mechanism and secretariat are to be notified of planned activities and proposing Parties must advise and consider any concerns raised if they determine that an assessment is not required.

Article 32 requires that Parties planning activities must consider and respond to comments from other Parties and must publish comments and responses. Additional obligations apply to planned activities within high seas pockets (small areas of the high seas surrounded by EEZs), with the planned activity to be revised in accordance with comments provided by surrounding States. The proposing Party is required to provide

access to all information relating to assessments and indicate where any information may have been redacted.

Parties are required to provide an environmental impact assessment report with information that is specified in Article 33. The draft report must be made available during the consultation period so the Scientific and Technical Body can evaluate it, and the Party must consider the Scientific and Technical Body's comments with the final report to be published through the Clearing-House Mechanism.

Article 34 states that after considering the environmental impact assessment, the Party planning the activity is responsible for deciding whether the activity can proceed. The Agreement and Conference of Parties have no decision-making role, with Parties retaining their right to make decisions. The decision to proceed must only be made when the Party has determined it has made all reasonable efforts to prevent significant adverse impacts on the marine environment. The Party's decision, including any conditions of approval or follow up requirements, must be published through the Clearing-House Mechanism, as must any future monitoring and reporting resulting from the activity, as required by Article 35 and 36.

Article 37 requires Parties to review the impacts of their authorised activities, with the Conference of Parties to be notified of any unforeseen adverse impacts or impacts resulting from breaches of the conditions set out in the approval of the activity. Parties are required to review the authorising decision, put in place measures to mitigate the adverse impacts and/or halt the activity and evaluate such measures. The Party must keep adjacent coastal and other relevant States informed and publish reports on the review and any change of authorising decisions, including through the Clearing-House Mechanism.

If a Party determines that an environmental impact assessment has been correctly conducted by one international organisation, then Article 29 provides that they do not have to do another one under this Agreement as long as the assessment is published through the Clearing-House Mechanism. Parties are obliged to promote the use of environmental impact assessments and the adoption of standards and/or guidelines in other international organisations that they are party to. Article 39 stipulates that Parties must consider conducting and considering strategic environmental assessments for plans that relate to activities under their jurisdiction or control but are in areas beyond national jurisdiction.

This covenant affords Fiji the opportunity to maximise its capacity-building in this area. We all realise our limitations which can become a disadvantage. However, if we look at Article 41 of the Agreement requires Parties to assist other Parties (particularly developing State Parties) to achieve the Agreement's objectives through capacitybuilding and transfer of marine technology. While this cooperation must be all encompassing, Parties must recognise the special requirements of developing States and not condition capacity building and technology transfer on onerous reporting

requirements. While the Agreement does not bind Parties to specific forms of capacitybuilding, as a developed State, Fiji will be required to engage in capacity-building initiatives and to cooperate in transferring marine technology to developing States Parties.

Parties are required to, within their capabilities, provide supporting resources and facilitate other sources of support to Parties that consider the recipients' national policies, priorities, plans and programs. Article 42 states that support must build upon existing programmes, be needs-based and guided by lessons learned, and maximise efficiency where possible. Efforts must be facilitated through the future capacitybuilding and transfer of marine technology committee and Clearing-House Mechanism.

Transfers of marine technology are required to be mutually agreed upon by both Parties but are to take place on terms that are fair and most favourable for the recipient, as required by Article 43. Parties must promote economic and legal conditions that facilitate transfers, including the provision of incentives to enterprises and institutions. Modalities in the Agreement ensure that Parties are not forced to hand over technology and the rights of any technology handed over are respected. Parties are required by Article 45 to submit reports to the capacity building and transfer of marine technology committee.

As many of the obligations imposed by the Agreement require changes to policy and legislation, it is proposed that legislation be introduced to regulate the use of marine genetic resources and digital sequencing information from marine genetic resources of areas beyond national jurisdiction, require those under Fiji's jurisdiction or control to comply with future area-based management tools in areas beyond national jurisdiction, and establish a mandatory procedure to assess the environmental impacts of activities under Fijian jurisdiction or control in areas beyond national jurisdiction.

While there may be costs resulting from decisions on environmental impact assessments to ensure that Fiji is compliant with future area-based management tools, any costs are expected to be minimal due to the small number of activities within Fijian jurisdiction or control. Similarly, the regulatory impact of ratification is expected to be minimal.

While Article 70 provides that no reservations or exceptions may be made unless expressly permitted, Article 71 allows declarations or statements when signing, ratifying, approving, accepting or acceding to the Agreement, provided they do not exclude or modify the Agreement's legal effect.

Article 72 permits Parties to propose amendments and annexes to the Agreement. Proposed amendments must be circulated and if half of the Parties have favourably responded, the Conference of Parties will consider and can adopt it if a two-thirds

majority is present and votes in the affirmative. Parties then need to ratify, approve or accept the amendment, 30 days after which it will enter into force.

We emphasised the importance of early ratification, stating that ratifying and then participating in the first Conference of the Parties would provide Fiji with influence over international policy on marine scientific research and would enable Fiji to protect its interests on decisions about activities in the waters that surround Fiji.

The Agreement's provisions relating to dispute resolution between nations and traditional owners. Agreement contains provisions that protect the rights of traditional owners and mandate targeted consultation. There is no formal mechanism for traditional owners to use the dispute resolution provisions provided by the Agreement as these mechanisms were provided to the signatories of the Agreement. Traditional owners could work through the Conference of Parties to request an advisory opinion that while not binding on parties to the Agreement, would provide authoritative guidance on the dispute raised.

The potential for the Agreement creating an increased bureaucratic and regulatory burden. Government must ensure that when ratifying the Agreement, it was done in a manner that ensured 'no additional regulatory burden to individuals, small business and other entities'

There is potential to stimulate the research and development sector from this Agreement and the subsequent economic benefits this stimulus would provide to nations that utilised the marine environment.

The significance that marine biodiversity offers to Fijian tourism. The establishing of marine park areas beyond national jurisdiction would improve the marine biodiversity in areas such and would enhance the appeal of Fiji as a tourist destination as a result.

We submit that the Committee considers and understands the significance of the Agreement and the contribution it will make towards conserving the marine environment in areas beyond national jurisdiction. The Agreement achieves this through a variety of collaborative tools and by creating a framework to enhance coordination and cohesion between parties to the Agreement. Ratification of the Agreement will ensure that Fiji is playing an active role in marine conservation and will support Fijian interest and image and research bodies that are reliant upon this environment.

3. Deposit the ratified (or approved, accepted, or acceded to) Treaty with the UN Secretary-General.

Not everyday do we get to stand tall and support an initiative that has the potential to contribute so much for us as a nation, the region and the world community as a whole.

This is an international instrument that offers so much which we had as a nation so desperately longed. BBNJ Agreement is decisive and constitutes, for sure, a new starting point for maritime biodiversity conservation. We submit to the standing Committee that it should have the ratification this Agreement expedited at the earliest.

Priority to be given for its adoption into domestic laws. We are already lagging behind. A similar Committee was commissioned in June 2023 in Australia. Its should not be the international organisations operating in the region to tell us to expedite the process. We must realise the importance and work accordingly. We must come together as a nation on this.

The BBNJ negotiation Regional Preparatory Workshop in March 2020 reflected on the life, contributions and achievements of the late Ambassador Satya Nandan of Fiji. In her closing remarks, the then Secretary General of the Pacific Islands Forum, Dame Meg Taylor, recognised his significant involvement and influence on the United Nations Convention on the Law of the Sea - an international convention that has formed the foundation and sovereignty of our Blue Pacific Continent, and encouraged sustainably managing, using and conserving our ocean and the living and non-living natural resources within its waters as well as on and beneath the seabed. She said of the late Ambassador Nandan that aside from being a respected shaper of and authority on the Law of the Sea Convention “Ambassador Nandan also played an influential role as President of the Fish Stocks Agreement Conference and the Western and Central Pacific Fisheries Convention”, which have also had significant implications for the Pacific Island countries and the Pacific region at large. The accolades are heart warming for all Fijians and a representation the value we have placed on the Ocean.

We are Ocean dwellers, let us assume a leading role in advocating on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

Thank You.

Ministry of Environment & Climate Change



Dr Sivendra Michael
Permanent Secretary for Environment and Climate Change

**SUBMISSION ON BBNJ AGREEMENT TO STANDING COMMITTEE ON
FOREIGN AFFAIRS AND DEFENCE**

Suva
Fiji

Thursday 25 March 2025
930 Hours

Madam Chair

Committee Members

Government Officials

Members of the public joining online,

A very good morning to you all. On behalf of the Ministry of Environment and Climate Change, I make this submission in support of Fiji's ratification of the Biodiversity Beyond National Jurisdictions (BBNJ) Agreement.

The objective of the Agreement is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term.

It has been 20 years in the making. The Agreement will address gaps and challenges in United Nations Convention on Law of the Sea (UNCLOS) related to areas beyond national jurisdiction (ABNJ).

As the first country to sign and ratify UNCLOS in 1982, Fiji was able to assert sovereignty and dominion over large areas of ocean that are essential to national security and economic wellbeing of our people.

Fiji continues to lead by example in matters of sustainable ocean governance. We take our responsibility as ocean stewards seriously and regularly advocate for urgent action at all levels.

The connectivity of the ocean and its biospheres and migratory species is clear. While we have taken steps to steward our national resources through marine spatial planning, and our national fisheries and environmental laws, as well as our national ocean policy, actions beyond our borders continue to affect our ocean health, national and economic security.

In recognition of these fragmented management and vulnerability to threats such as species decline, pollution, exploitation of marine resources, and climate change, work commenced in 2004 through an ad hoc open-ended informal working group to develop the Agreement.

The Agreement does not undermine any existing arrangement to cooperate at a global, regional or sub-regional level to manage marine resources.

For instance, the Ministry looks after several Multilateral Environment Agreements (MEAs) which also relate to the protection of marine biodiversity, including the Convention on Biological Diversity and its Nagoya Protocol; Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); RAMSAR Convention on Wetlands of International Importance; and the Convention on the Conservation of Migratory Species of Wild Animals.

The BBNJ Agreement does not and will not interfere with existing national efforts to conserve our maritime areas and marine resources aligned with Fiji's national laws, policies and decisions.

Rather it will complement national efforts, including our commitment to protecting 30% of our ocean by 2030; as well as protection of threatened species such as our humpback whales, our hammerhead sharks, our turtles and others listed in our Endangered and Protected Species Act 2002 and EPS regulations 2003.

Chair and Members of the Committee, the BBNJ Agreement marks a significant advancement by providing a mechanism for Parties to collaborate on the protection, management, and equitable resource sharing in the high seas. This addresses the critical need for regulation in these previously inaccessible regions, a necessity that has emerged with advancing technology since the 1982 UNCLOS.

Specifically, the BBNJ Agreement applies to the High Seas and the Area, as defined by UNCLOS—the seabed, ocean floor, and subsoil beyond national jurisdiction.

Fiji has supported addressing ocean challenges since its early days, both nationally and as a member of the Pacific Small Island Developing States (PSIDS). Our negotiators worked tirelessly to ensure robust language in the four major parts of the Agreement, namely:

1. Marine Genetic Resources, including the fair and equitable sharing of benefits (Part II, Articles 9 – 16), through which Fiji can access research and data, as well as source funding through benefit sharing arrangements.

Activities under this part must be in the interests of all States and for the benefit of all humanity, particularly for the benefit of advancing the scientific knowledge of humanity and promoting the conservation and sustainable use of marine biological diversity, taking into particular consideration the interests and needs of developing States.

2. Measures such as Area Based Management Tools, including Marine Protected Areas (Part III, Articles 17 – 26), which will

support developing countries, including through capacity building and the transfer of marine technology. There is also recognition that implementation of ABMTs should not impose a disproportionate burden on SIDS or landlocked countries.

3. Environmental Impact Assessments (Part IV, Articles 27 - 39) establishes requirements for assessing and managing planned human activities affecting marine biodiversity in ABNJ. The scope of these provisions covers both activities taking place in the high seas as well as activities taking place within national jurisdiction. The Scientific and Technical Body under the Agreement allows independent review to provide advice, evaluate EIA reports, and develop guidelines and standards.

Parties can use their national EIA process to determine whether proposed activities may cause substantial pollution of, or significant and harmful changes, to the marine environment in ABNJ. For Fiji, the established EIA process set out in Part 4 of the Environment Management Act 2005 can be used in this provision.

4. Capacity Building and the Transfer of Marine Technology (Part V, Articles 40 – 46) which constitutes both an obligation by itself, as well as a means of implementation for other parts of the Agreement.

Through this part, Fiji can access resources to strengthen national capacities to implement provisions of this Agreement, as well as acquiring necessary scientific and marine technological capabilities.

The Ministry has a key role across all four elements, with specific mandate to lead on provisions related to Environmental Impact Assessments.

Parties to the Agreement commit to cooperating through international, regional, subregional, and sectoral bodies. This collaboration necessitates

new international mechanisms, including a Secretariat, a Clearing House Mechanism for activity regulation, an Implementation and Compliance Committee, a Conference of Parties (COP), and a funding mechanism for developing countries.

For Fiji, crucial considerations include:

- Aligning national protected areas legislative and policy approaches with the Agreement;
- Harmonizing national EIA procedures for maritime projects with EIA processes for areas beyond national jurisdiction; and
- Collaborating with regional partners, such as the Forum Fisheries Agency (FFA), to integrate BBNJ processes into regional ocean governance.

Fiji is committed to equitable resource management. The 2021 Pacific Islands Forum Leaders Ocean Statement also endorsed the BBNJ Agreement, emphasizing the need for a robust framework based on scientific information and traditional knowledge, while recognizing the specific needs of SIDS.

It is important to note that the Agreement does not apply to any nation's Exclusive Economic Zone (EEZ), territorial sea, archipelagic waters, or internal waters. The Area and its resources are considered the common heritage of mankind under UNCLOS.

Our engagement is underpinned by the principle of equity, which include the need to ensure proper attention to elements such as the special circumstances of SIDS, fair and equitable sharing of benefits, the precautionary approach, recognition of the importance of traditional knowledge of indigenous peoples and local communities, and factoring in the adverse impacts of climate change into decision-making.

The Agreement is considered to be the most important ocean agreement to be adopted in the last 25 years. Basically, this is four treaties in one, with each major part addressing a key issue, with their own objectives, principles, and obligations.

The final Agreement is seen as balanced, though much work still is left to be done with many key decisions related to implementation to be finalized by the first meetings of the COP. As a State Party, Fiji can ensure decisions are made in alignment with national priorities.

To ensure that Fiji's views are fully considered, during the critical next steps on implementation, it is important to be an early ratifier of the Agreement and engage in the BBNJ process from the start.

Being among the early Parties and present at the first COP, Fiji can play a significant role in advancing our priorities and influence the Agreement's implementation.

The Agreement also amplifies the need for full recognition of the special circumstances of SIDS. This principle will need to be built up through practice and decisions. Having a seat at the table as a Party will enable us to shape that practice.

Madam Chair and Committee Members, I thank you for the opportunity to contribute to these important deliberations.

Greenpeace

Greenpeace submission on the Convention on Marine 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 (BBNJ Agreement)

March 2025

Distinguished members of the Committee,

2025 is a critical year for our Ocean. As governments prepare for the UN Ocean Conference and UNFCCC COP30, and in the face of increasingly challenging geopolitical headwinds, the

BBNJ Agreement continues to be heralded as a historic conservation victory for multilateralism.

We all rely on the ocean, for food, for climate stability and for our cultural heritage. Fiji and all Small Island Development States at the heart of the Pacific Ocean, even more so. Yet, the ocean is in deep crisis. Overfishing, habitat destruction, ocean warming, acidification and pollution are placing ever more strain on ocean ecosystems. The same extractivism logic bringing about those problems is behind a potential new threat to the Pacific: deep sea mining.

The entry into force of the BBNJ Agreement represents an ocean of potential and its operationalisation provides a real opportunity for prioritising nature protection, allowing recovery of marine ecosystems and preventing overexploitation. However, this potential will only be realized if the treaty is in force and implemented equitably.

Fiji's history of leadership

Having been the first country to sign and ratify UNCLOS in 1982, and one of the first countries to sign BBNJ when it opened for signatures in 2023, Fiji has shown itself to be at the forefront of critical global conversations surrounding the future of our oceans. **We ask Fiji to continue to demonstrate the leadership and commitment to BBNJ by ratifying as a matter of urgency.**

Fiji's ratification and proactive participation in the upcoming BBNJ Preparatory Commission (PrepCom) is strongly encouraged to ensure that Fiji's interests are well-represented in the decision-making towards the preparation for the first Conference of Parties (COP).

Key issues of particular relevance to Fiji and the Pacific region within the BBNJ include: addressing the unique circumstances of Small Island Developing States (SIDs); creating high seas sanctuaries to build ocean resilience; recognizing the essential role of traditional knowledge, indigenous peoples, and local communities; ensuring fair and equitable sharing of benefits derived from access to and utilization of marine genetic resources; and promoting capacity building and technology transfer.

Addressing the unique circumstances of Small Island Developing States (SIDs)

Pacific countries have been the frontrunners in ratifying BBNJ, for example Palau made history as the first country to achieve ratification. One of the General Principles and Approaches of the Treaty is the “full recognition of the special circumstances of SIDs and of least developed countries” (under Article 7). This approach will guide the interpretation of all articles of the BBNJ Treaty. Furthermore, BBNJ will open new opportunities for SIDs to access additional funding and support to advance ocean governance. The COP is already tasked with developing an initial resource mobilization goal through 2030 for the Special Fund from all sources. There will also be a Voluntary Trust Fund and a Special Fund, funded through MGRs and contributions from private businesses, donors, and the Global Environment Facility (GEF).

Ocean sanctuaries and the 30x30 global biodiversity goal

The high seas cover approximately two-thirds of the world’s Ocean, however, only 1% of these waters are currently protected. Ocean sanctuaries, free from all destructive activities, are vital to restoring ocean resilience in the face of the climate and ecological crisis. BBNJ sets out a legal framework and a clear process for establishing ocean protected areas in the High Seas. If effectively protected and well-managed, these will help realize the target to protect at least 30% of our ocean by 2030, agreed by countries in December 2022 under the Kunming-Montreal Global Biodiversity Framework.

Fiji and other Pacific Small Island Developing States are well placed to take the lead in advancing the first generation of ocean sanctuaries under BBNJ and it is encouraging to witness the first cross-sectorial convening already this week on Fiji’s approach to achieving its 30x30 target. There are good positive examples of locally managed marine protected areas initiatives and traditional practices that are widely used in the region. Additionally, there is also positive precedence in the work of the Western and Central Pacific Fisheries Commission (WCPFC) where the Pacific led the work on the closure of key high seas pockets in the Pacific known as the “donut holes”.

Recognizing the essential role of traditional knowledge, indigenous peoples, and local communities

Indigenous Peoples and Local Communities (IPLC) are interconnected with the seas and ocean, through cultural practices and stewardship. The BBNJ Agreement made history in the degree to which it included traditional knowledge of Indigenous Peoples and local communities, thanks to the leadership of Pacific SIDs.

The next phase of BBNJ will require co-creation of knowledge and solutions. As the BBNJ PrepCom works to operationalize the mechanisms for treaty implementation, ensuring that Indigenous Peoples' knowledge and governance systems are effectively integrated into decision-making and management processes will be vital.

Fiji is well placed to lead in this regard and we encourage high level political representation at the first PrepCom meeting April 14 to 25 April 2025 at the UN Headquarters in New York, which coincides with the United Nations Permanent Forum on Indigenous Issues. Greenpeace and our allies stand poised to support the voices from Indigenous People and Local Communities be heard throughout the BBNJ PrepCom process and into the first COPs, and are calling for a IPLC representation within the Capacity Building and Technology Transfer Committee.

Marine Genetic Resources and Capacity Building and Technology Transfer

The ocean contains the highest functional biodiversity on Earth. Like most of the ocean's biodiversity, its marine genetic diversity remains largely unstudied, but is expected to hold significant scientific and economic opportunities. BBNJ seeks to balance the freedom of marine scientific research with fair and equitable sharing of benefits of MGRs found in areas beyond national jurisdiction. The Treaty establishes a financial mechanism into which monetary benefits will be paid, as well as a guaranteed funding stream drawn from national contributions. This will provide a reliable initial funding stream to improve the capacity of developing States.

Conclusion

The very future of Fiji relies on the conservation of the ocean. Ratifying the BBNJ Agreement is consistent with Fiji's long standing tradition as a global leader in ocean conservation and will allow Fiji to influence the first steps of preparation and its early implementation.

At the upcoming UN Oceans Conference in June, the world will be watching what the global community of States does on Ocean Conservation. Fiji should attend UNOC being among the first 60 countries to ratify the BBNJ Agreement, unequivocally signaling the country's continued commitment to ocean protection and the sustainable management of its resources.

The International Union for Conservation of Nature (IUCN)



Submission to the Fiji Standing Committee on Foreign Affairs and Defence Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement)

Submitted by: Frances Disiga on behalf of the International Union for the Conservation of Nature and Natural Resources, Oceania Regional Office, Suva, Fiji

Date: Thursday 27th March 2025

Introduction

The legal framework governing marine areas beyond national jurisdiction is fragmented, leaving critical challenges from human activities insufficiently addressed. The United Nations Convention on the Law of the Sea (UNCLOS) provides a foundation, but the complex and interconnected nature of biodiversity beyond national jurisdictions necessitates a more comprehensive and coordinated approach. The new international legally binding instrument under UNCLOS on the conservation and sustainable use of Marine Biological Diversity Beyond National Jurisdiction (BBNJ) seeks to fill the gaps in the current legal regime by establishing a holistic framework that addresses conservation, sustainable use, and benefit sharing.

The resilience of the ocean to climate change and its ability to produce resources vital for human life are both impacted by the deterioration of biodiversity in Areas Beyond National Jurisdiction (ABNJ). The creation of a new international instrument under UNCLOS, which has been the subject of negotiations for 20 years, will strengthen ABNJ governance. This legally binding agreement establishes a framework for safeguarding marine ecosystems and species, evaluating the effects of human activity, transferring technology, creating capacity, and fairly allocating the advantages of marine genetic resources. The negotiations focused on four main components derived from the 2011 “package”:

- Marine genetic resources (MGRs), including the fair and equitable sharing of benefits;
- Measures such as area-based management tools (ABMTs), including marine protected areas;
- Environmental impact assessments (EIAs); and
- Capacity building and transfer of marine technology (CBTMT).

At the 2012 UN Conference on Sustainable Development (Rio + 20), States committed to "address, on an urgent basis, the issue of conservation and the sustainable use of marine biological diversity of areas beyond national jurisdiction," which led to the decision to develop an international legally binding instrument under UNCLOS. After over ten years of deliberations, UN Member States reached a consensus on 19 June 2023 at the UN Headquarters in New York, adopting the legally binding BBNJ Agreement.

After over ten years of deliberations, UN Member States reached a consensus on 19 June 2023 at the UN Headquarters in New York, adopting the legally binding BBNJ Agreement. The conservation and sustainable use of marine biodiversity beyond national jurisdiction is a critical global concern,

INTERNATIONAL UNION FOR CONSERVATION OF NATURE

given the significant ecological, economic, and social value of the high seas and the need to address the challenges posed by activities such as fishing, shipping, and deep-sea mining. The new internationally legally binding treaty is a comprehensive agreement aimed at enhancing the governance and protection of these vital areas.

Key Aspects of the BBNJ Agreement Relevant to Fiji

1. Marine Genetic Resources (MGRs) and Benefit-Sharing

The BBNJ Agreement establishes mechanisms for the fair and equitable sharing of benefits from MGRs, which are critical for pharmaceutical, biotechnological, and scientific advancements. Fiji should advocate for transparent access and benefit-sharing (ABS) frameworks to ensure Pacific Island nations benefit from marine genetic discoveries originating from ABNJ.

2. Area-Based Management Tools (ABMTs), Including Marine Protected Areas (MPAs)

The Agreement provides a framework for establishing MPAs to protect biodiversity and mitigate human-induced threats such as overfishing and deep-sea mining. Fiji, as a regional leader in marine conservation, should support the designation of ecologically significant ABNJ areas as MPAs, building on its leadership in initiatives such as the 30x30 commitment, the establishment of national marine protected areas, and its active role in regional fisheries management. Aligning these efforts with the BBNJ Agreement will

reinforce Fiji's commitment to marine biodiversity protection and sustainable ocean governance.

3. Environmental Impact Assessments (EIAs)

The Agreement mandates EIAs for activities that may have significant environmental impacts in ABNJ. Fiji should advocate for stringent EIA standards that incorporate traditional ecological knowledge and scientific assessments, ensuring the sustainability of marine ecosystems.

4. Capacity Building and Transfer of Marine Technology (CBTMT)

The BBNJ Agreement underscores the importance of CBTMT for developing nations to enhance their ability to participate in ocean governance. Fiji should seek partnerships with organizations such as SPREP, FFA, PIFS, and UNEP, as well as explore funding mechanisms like GEF, to enhance national and regional capacity for marine research, surveillance, and enforcement in ABNJ.

Fiji's Role in the Implementation of the BBNJ Agreement

1. Ratification and Domestic Legislation

- Fiji should expedite the ratification of the BBNJ Agreement and align national policies with its provisions to enhance legal certainty and governance in ABNJ.
- IUCN strongly supports the swift ratification and implementation of the BBNJ Agreement, providing technical assistance, legal expertise, and policy recommendations to ensure effective governance and conservation measures in ABNJ.

2. Post-Ratification Implementation and Support

- Beyond ratification, Fiji will need to develop national policies and legal frameworks that integrate BBNJ provisions within its Exclusive Economic Zone (EEZ).
- IUCN stand ready to support Fiji through capacity-building programs, legal expertise, and compliance tools.
- Support will also extend to stakeholder engagement and enforcement mechanisms for monitoring activities in ABNJ.

Potential Benefits of the BBNJ Agreement for Fiji

Fiji stands to gain multiple benefits from the BBNJ Treaty, given its status as a large ocean state with a strong commitment to marine conservation and sustainable ocean governance.

Enhanced marine biodiversity protection: The treaty will provide a legal framework for establishing Marine Protected Areas (MPAs) in areas beyond national jurisdiction, helping to protect critical ecosystems and migratory species that contribute to Fiji's rich biodiversity.

Sustainable Fisheries Management: It will promote sustainable fisheries management, addressing the depletion of fish stocks that are essential to Fiji's economy and food security.

Climate Resilience: The treaty will contribute to protecting coral reefs and other ecosystems that support Fiji's adaptation to climate change, rising sea levels, and extreme weather events.

Scientific and economic opportunities: Fiji can benefit from marine genetic resources (MGR), scientific cooperation, technology transfer, and capacity-building initiatives. Equitable benefitsharing provisions will allow Fijian institutions to engage in global marine biotechnology research, potentially unlocking new economic opportunities.

Access to international funding mechanisms: Fiji can secure funding mechanisms to support marine research, monitoring, and enforcement of conservation measures.

Strengthened regional and global leadership: The treaty aligns Fiji's role in the Pacific Islands Forum, UN Ocean Conferences, and COP negotiations. By actively participating in the treaty's implementation, Fiji can drive collective regional action and support a sustainable blue economy, ensuring long-term benefits for local communities, tourism, and fisheries.

IUCN's Support for Fiji

IUCN can play a pivotal role in supporting Fiji's implementation of the BBNJ Agreement by providing scientific, legal, and technical expertise. Through its Global Marine and Polar Programme (GMPP) and Oceania Regional Office, IUCN stands ready to assist Fiji in the following ways:

- Identifying and managing high-seas MPAs and other Area-Based Management Tools (ABMTs) under the BBNJ framework. Establishing MPAs and ABMTs in areas beyond national jurisdiction requires scientific research, ecological assessments, and governance frameworks. IUCN can assist Fiji in identifying ecologically significant areas, proposing management measures, and advocating for their designation under the BBNJ Agreement. Additionally, IUCN can support the development of monitoring

and enforcement strategies to ensure these areas achieve their conservation objectives.

- Conducting a National Review and Assessment of Fiji's legal framework to align with the BBNJ Agreement. Under the BBNJ Project at IUCN Oceania, funded by Bloomberg Ocean Initiative and Arcadia, IUCN can provide legal expertise to assess existing national policies and legislation related to marine biodiversity, conservation, and ocean governance. This assessment will help Fiji identify gaps, strengthen legal frameworks, and integrate BBNJ provisions into its national laws, ensuring compliance and effective implementation. IUCN can also provide technical guidance on Fiji's engagement in international negotiations related to the BBNJ Agreement.
- Building capacity through training programs for policymakers, legal experts, and marine scientists to strengthen Fiji's ability to govern and protect its marine resources. Effective implementation of the BBNJ Agreement requires a well-informed and skilled workforce capable of navigating complex legal, scientific, and governance challenges. IUCN can support Fiji by designing and delivering targeted capacity-building programs tailored to policymakers, legal professionals, and marine scientists. These programs can include training on legal and regulatory frameworks for ABNJ governance, best practices in marine spatial planning, and methodologies for conducting environmental impact assessments. Additionally, workshops on marine biodiversity conservation, enforcement mechanisms, and compliance with international treaties can help strengthen national and regional governance capacity. These efforts will empower Fiji to take a leading role in high-seas governance, ensuring that conservation measures are effectively integrated into national and regional ocean policies.
- Advocating for fair and transparent benefit-sharing mechanisms to ensure equitable access to marine genetic resources. Marine genetic resources (MGRs) from ABNJ hold immense potential for pharmaceutical, biotechnological, and scientific advancements, yet Pacific Island nations often lack access to the benefits derived from these resources. IUCN can support Fiji in advocating for equitable access and benefit-sharing mechanisms under the BBNJ Agreement. This includes assisting in the development of policies that ensure fair compensation and access to knowledge for Pacific Island countries, preventing resource exploitation without due benefit-sharing. Additionally, IUCN can facilitate collaborations between Fijian research institutions, global scientific organizations, and biotechnology firms to enhance capacity in marine genetic research and innovation. By promoting technology transfer agreements, Fiji can harness new economic opportunities while ensuring that resource extraction remains sustainable and benefits local communities.
- Securing international funding for conservation projects, supporting Fiji's transition toward a sustainable blue economy. Implementing conservation initiatives in ABNJ requires significant financial resources, and Fiji can benefit from international funding mechanisms to support these efforts. IUCN can assist Fiji in accessing funding through global environmental financing programs such as the Global Environment Facility (GEF), the Green Climate Fund (GCF), and the UN Decade of Ocean Science for Sustainable Development. Additionally, IUCN can help Fiji develop proposals for

grants from philanthropic organizations, research institutions, and private sector initiatives focused on marine conservation. Funding can be directed toward projects such as high-seas marine protected area (MPA) establishment, scientific research, monitoring and surveillance programs, and the enhancement of enforcement capabilities. By securing financial support, Fiji can build a strong foundation for sustainable ocean governance while supporting local livelihoods and economic resilience through a thriving blue economy.

- Strengthening regional partnerships with organizations such as SPREP, PIFS, and FFA to promote a coordinated approach to high-seas governance. Given the transboundary nature of marine biodiversity and ocean governance challenges, regional cooperation is essential for effectively implementing the BBNJ Agreement. Fiji can play a pivotal role in leading regional efforts by strengthening partnerships with key Pacific organizations, including the Secretariat of the Pacific Regional Environment Programme (SPREP), the Pacific Islands Forum Secretariat (PIFS), and the Forum Fisheries Agency (FFA). IUCN can support Fiji in coordinating with these entities to develop joint conservation strategies, harmonize regulatory frameworks, and implement shared monitoring and enforcement mechanisms for ABNJ. Additionally, regional cooperation can enhance knowledge exchange, facilitate joint scientific research expeditions, and strengthen diplomatic advocacy for Pacific interests in global ocean governance negotiations. By fostering a collaborative regional approach, Fiji can amplify its impact and drive collective action for the protection and sustainable management of the Pacific's high-seas ecosystems.

By working together, IUCN and Fiji can advance the implementation of the BBNJ Treaty, securing long-term ecological and economic benefits while reinforcing Fiji's leadership in ocean conservation and sustainable development.

Conclusion

The BBNJ Agreement provides Fiji with a strategic opportunity to strengthen its leadership in ocean governance and marine conservation. As a large ocean state, Fiji has already demonstrated a strong commitment to marine protection through initiatives such as the 30x30 commitment, the establishment of national marine protected areas, and active participation in regional fisheries management. By swiftly ratifying and implementing the Agreement, Fiji can enhance the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, ensuring long-term ecological, economic, and social benefits.

The successful implementation of the BBNJ Agreement will enable Fiji to protect critical marine ecosystems, support sustainable fisheries, and enhance climate resilience. Furthermore, it will create opportunities for Fiji to engage in marine scientific research, benefit from the fair and equitable sharing of marine genetic resources, and access international funding for conservation initiatives. Strengthening partnerships with regional

and global stakeholders will be essential for ensuring effective governance and enforcement of conservation measures in ABNJ.

IUCN remains committed to supporting Fiji and other Pacific nations in this endeavor by providing legal and technical expertise, capacity-building support, and policy guidance. Through collaborative efforts, Fiji can leverage the BBNJ Agreement to drive regional action, promote a sustainable blue economy, and reinforce its role as a leader in ocean conservation and sustainable development.

Reference

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(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 (BBNJ Treaty)*. Retrieved from <https://www.un.org/bbnj>

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Office of the Pacific Ocean Commissioner (OPOC)

OPOC Submission to the Standing Committee on Foreign Affairs and Defence

**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 (BBNJ
Agreement).**

Date: Friday 28 March 2025

Time: 09.00 am FJ time

Venue: Parliament Big Committee Room 2



Presentation Overview

- OPOC and OPOC's role in relation to the BBNJ Agreement
- Fiji's commitment to the developing the BBNJ Agreement
- The BBNJ Agreement – a short summary
- Areas the BBNJ Agreement covers and the objective of this Agreement
- Issues covered under the BBNJ Agreement
- History of the BBNJ Agreement
- Why the BBNJ Agreement is Important?
- Why ratify the BBNJ Agreement?
- Obligations under the BBNJ Agreement
- What is next for the BBNJ Agreement



OPOC's role in relation to the BBNJ Agreement

- OPOC is the lead coordinator in the Pacific region on BBNJ negotiations.
- OPOC has over several years of BBNJ negotiations supported representatives from regional national governments and UN based regional representatives in participating and engaging effectively in the BBNJ Negotiations.
- OPOC has also worked tirelessly along with our partners to build the capacity of our regional government representatives through in country workshops, webinars and funding training and attendance related to BBNJ capacity building programmes.



HOW OPOC COORDINATES PACIFIC COUNTRIES

1) In the BBNJ negotiations OPOC connected regional and international experts to government representatives to ensure that representatives sent from capital had access to expert advice which in turn enabled their effective and strategic participation in the BBNJ negotiation rooms.

2) OPOC worked under PSIDS to coordinate thematic leads and organise Pacific delegates so that there were Pacific representative in all negotiation rooms and that every Pacific representative was effectively advocating for our priorities and interests in those groups. For example, Fiji is the thematic lead for MGR negotiations.

3) OPOC funded the consistent participation of Pacific delegates at BBNJ negotiations to ensure the Pacific had a seat at the table on global negotiations such as the BBNJ negotiations.



FIJI'S HISTORY ON LAW OF THE SEA

- Convened by South Pacific Forum (SPEC) 13 – 14 October 1976, in Suva
- Chair by then Acting Prime Minister of Fiji – Hon. Ratu Sir Penaia Ganilau
- The meeting focused on the creation of:
 - 200mile zone,
 - conservation of marine resources; and
 - possible creation of Pacific Fisheries Agency
- Attended by Cook Islands, Western Samoa, New Zealand, Niue, Gilbert Islands, Solomon Islands, Tuvalu, Australia





Fiji's commitment to the negotiating the BBNJ Agreement

Fiji played an instrumental role in finalizing the United Nations Convention for the Law of the Sea. In the way it has over the years continued to carry that role into the negotiations and adoption of the BBNJ Agreement.

The BBNJ Agreement

- The BBNJ Agreement was adopted on 19 June 2023, following nearly twenty years of negotiations.
- The BBNJ Agreement is an implementing agreement of UNCLOS, which simply means it is an extension of UNCLOS and an implementing arm of UNCLOS, much like the Fish Stocks Agreement and 1994 Agreement on Part XI, which addresses the exploitation of mineral resources in the deep seabed area.
- The BBNJ Agreement is the first comprehensive, crosssectoral ocean treaty in decades. Its adoption marked a historic achievement in efforts to ensure the health and resilience of ocean ecosystems, and to level the playing field in the capacity to participate in and benefit from activities in areas beyond national jurisdiction.
- The BBNJ Agreement is foremost for the preservation and protection of oceans and specifically covers Areas Beyond National Jurisdiction (ABNJ) which are the high seas (waters beyond any country's Exclusive Economic Zone) and the deep seabed area (the seabed beyond any country's continental shelf) or commonly known as the 'Area'.

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

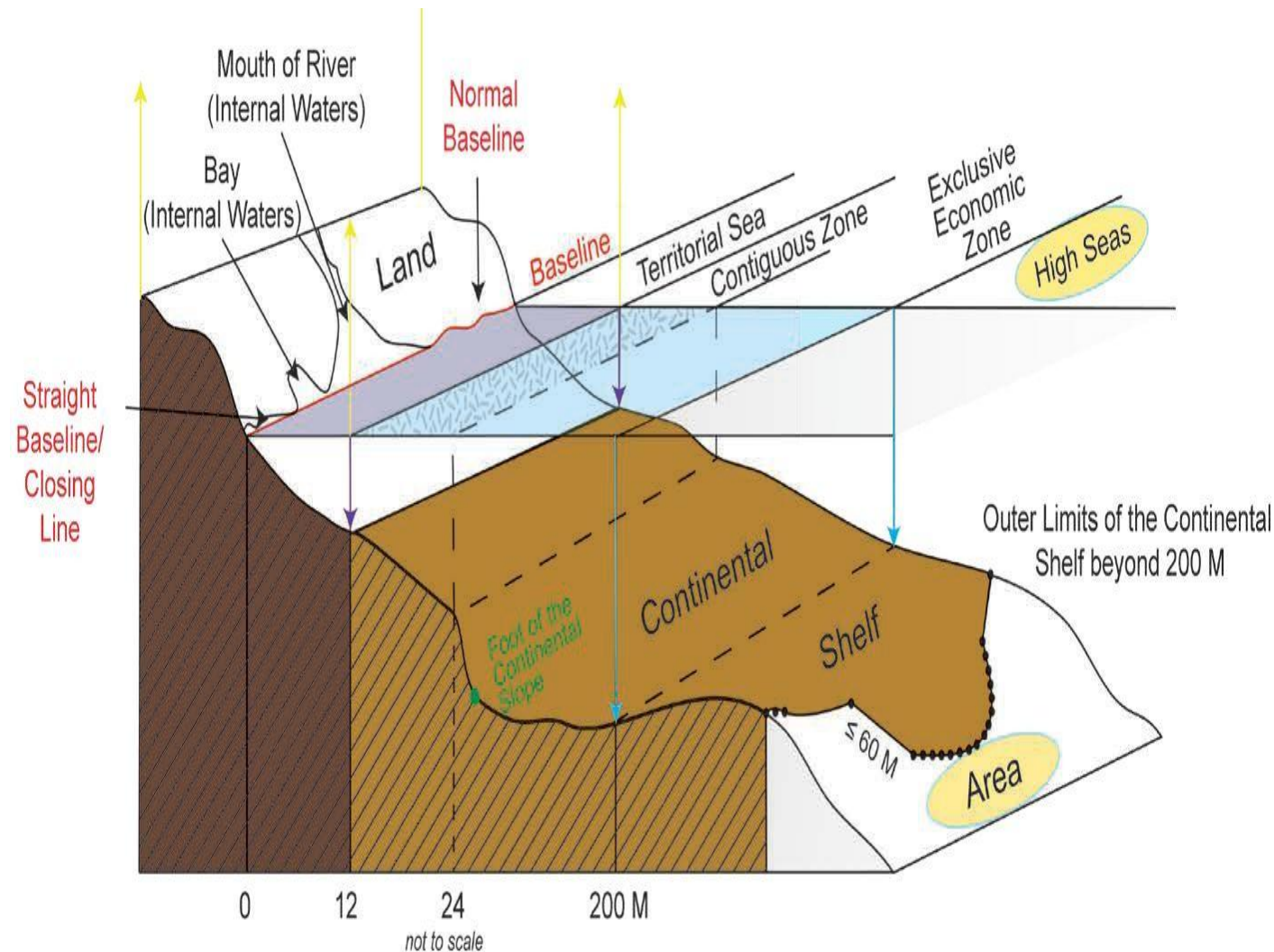


UNITED NATIONS
2023

Scope of the BBNJ Agreement

The Agreement applies to marine biodiversity of “areas beyond national jurisdiction” (ABNJ). This refers to the high seas and the international seabed area (the “Area”).

Art 2 of the BBNJ Agreement reads “The objective of this Agreement is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination.”



Issues covered under the BBNJ Agreement

The BBNJ Agreement covers four main issues:

- 1) Marine genetic resources, including the fair and equitable sharing of benefits;
- 2) Measures such as area-based management tools, including marine protected areas;
- 3) Environmental impact assessments; and
- 4) Capacity-building and the transfer of marine technology.



It also addresses “cross-cutting issues”, which are transversal topics that support the implementation of the Agreement and are relevant to the four main is

History of BBNJ Agreement

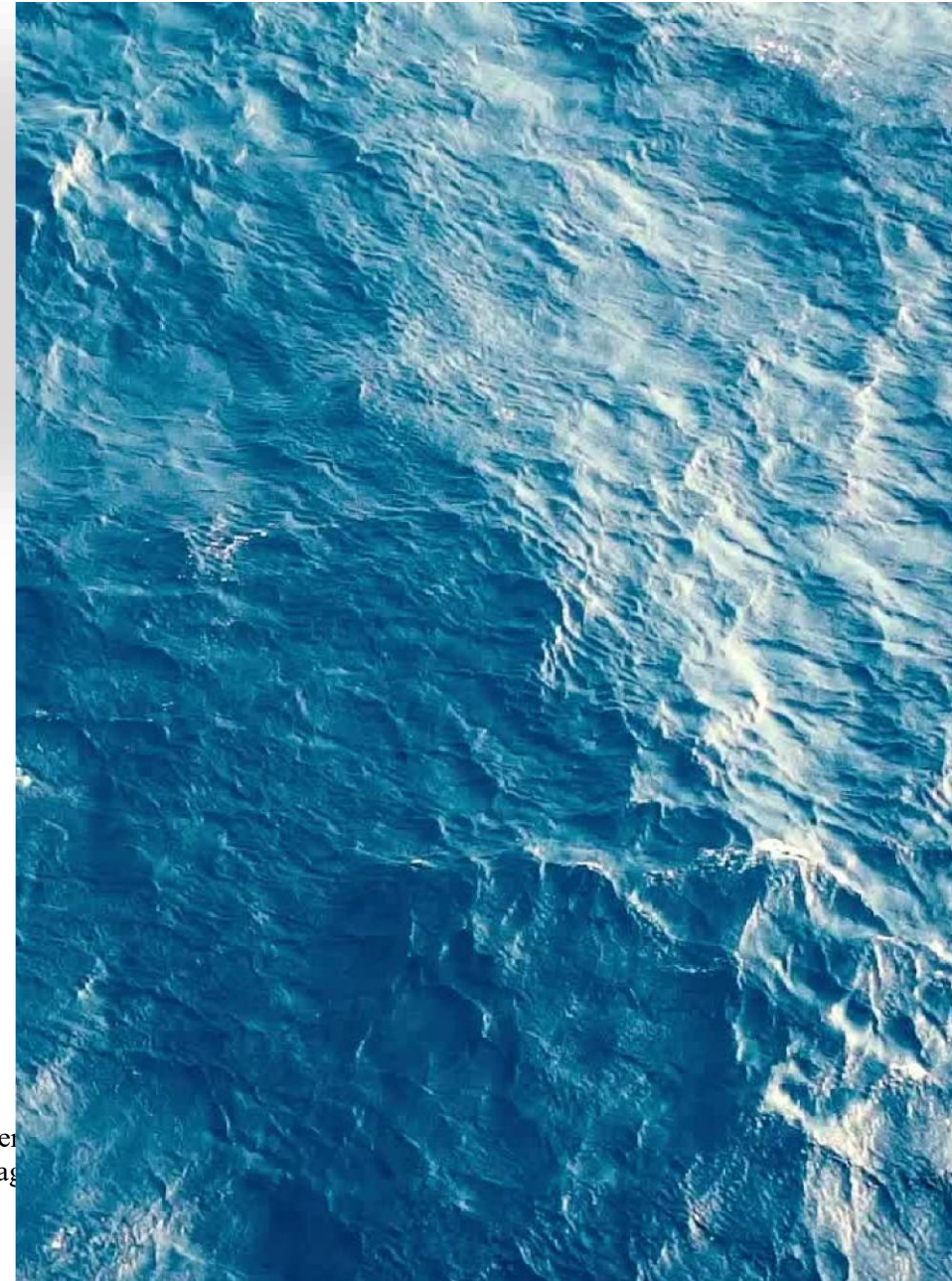
- The BBNJ agreement is not new at all, having endured 20 years of negotiations and discussions in different formats, it has been thoroughly picked apart, deliberated on, considered, built up and compiled by the best academic, scientific, ocean centred, and diplomatic minds that have been through together under the UN banner.
- Fiji and other Pacific countries have been a part of these discussions on BBNJ for several years spanning most of the careers of many regional civil servants who have attended at least one or two



of these negotiations or supported its country delegations remotely.

Why is the BBNJ Agreement Important?

- The BBNJ Agreement marks a vital step towards reversing destructive trends facing the ocean and restoring ocean health. This is critical for addressing the triple planetary crisis of climate change, biodiversity loss and pollution, and to meet various ocean-related global goals, including Sustainable Development Goal 14.
- As the first comprehensive, cross-sectoral ocean treaty in decades, its focus on enhancing and promoting international cooperation has the potential to lead to more integrated, holistic approaches to the management of ocean activities.
- Several of its provisions will support more inclusive ocean management, including those related to the traditional knowledge and participation of Indigenous Peoples and local communities, on gender responsiveness of capacity-building and on



gender balance and equitable geographic representation in the composition of the bodies established under the Agreement.

- The BBNJ Agreement will enable area-based management tools, including marine protected areas, to be established in areas beyond national jurisdiction, which will contribute to protecting and restoring ecosystems and strengthening resilience to stressors, including climate change, ocean acidification and marine pollution.

Why ratify the BBNJ Agreement

- Once countries like Fiji ratify the Agreement we add our voices to growing number of countries who have put their hand up to conserve and continue to protect our oceans.
- Our ratification will help bring the entry into force of the BBNJ agreement closer. 60 parties are needed to ratify/accede or accept the Agreement for entry into force so far 21 parties have ratified. So only 39 more parties to go.
- All Parties to the Agreement, whether coastal or landlocked, stand to benefit individually from the Agreement. They will benefit from the sharing of benefits from activities with respect to marine genetic resources and digital sequence information. They will also be able to contribute to decision-making on, and benefit from, the establishment and implementation of measures such as areabased management tools, including marine protected areas, and participate in the environmental impact assessment processes under the Agreement. They will also benefit from access to capacity-building and the transfer of marine technology.
- Fiji was the first country to ratify the UNCLOS Agreement and played an integral part in the adoption of UNCLOS, we hope to carry on that legacy that for Fiji by ratifying the BBNJ agreement at the earliest possible date.



Obligations under the BBNJ Agreement

- 1) Domesticate Fiji's laws to incorporate the basic principles of the BBNJ Agreement: including to exercise the necessary jurisdiction or control to ensure that its provisions are implemented and enforced.
- 2) To contribute to the budget to be decided upon by the Conference of the Parties and to the functioning of the institutions under the Agreement. However, assistance will be available for those States with limited capacity like Fiji.



What's next for the BBNJ Agreement?

- The Agreement is open for signature by all States and regional economic integration organizations from 20 September 2023 to 20 September 2025 and will enter into force 120 days after the date of deposit of the sixtieth instrument of ratification, approval, acceptance or accession.
- To date – the 112 States have signed the Agreement and 21 States are parties and have ratified the BBNJ Agreement.
- From the Pacific: FSM, Palau and RMI have signed and ratified the Agreement. While other States such as Australia, Cook Islands, Fiji, Kiribati, New Zealand, Nauru, Samoa, Solom Islands, Tonga, Tuvalu and Vanuatu have all signed the Agreement but like Fiji are also still undergoing their national processes to ratify the Agreement.



- Next Meetings; BBNJ Regional Preparatory Meeting organised by OPOC 31 March – 4 April 2025 in Palau and the Preparatory Commission for the Entry into Force of the 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 (BBNJ PrepCom) in New York 14-25 April 2025.



VINAKA VAKALEVU

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 Pacific Ocean Commission



Scan to visit our Website

Pacific Fishing
Company Pte Limited
(PAFCO)

Convention on The Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity (BBNJ Agreement).

More information and details are needed on the entire BBNJ agreement, on its application, benefits for any country ratifying as well as the respective challenges that it will bring about for any country especially Fiji.

When considering the high seas, the domain for the BBNJ Agreement and diversity of the living organisms therein and impact to the island (near land) organisms, especially for Fiji.

The main important biological fish stock in the high seas impacting into Fiji waters are the tunas, a Highly Migratory Fish Stock covered legally under UNIA for the conservation and management. Interestingly, BBNJ used the phrase, "Conservation and Sustainable Use".

Fiji waters are not within the breeding and recruitment areas of the tuna stocks of the Western-Central Pacific and not in the line of their main migratory path. Fiji is not well endowed with tuna, as it is not in the tuna main migratory path, nor a zone for their biological needs (breeding and main feeding ground), therefore the fishing fleet must range out of Fiji EEZ when fishing. Target grounds could be zones of adjacent neighboring countries and high seas.

The woe of PAFCO over the years has been supply of Fish and if any further restrictions are brought about there will be serious repercussions for PAFCO's operations.

Similarly, will there be closure of fishing in high seas beyond but adjacent to Fiji's NJ? This will drastically affect PAFCO in its endeavor to resolve the problem of fish supply that has been with the company for the last 30 years.

1. Marine Protected Areas – Determinations, monitoring and impact due to migratory species. Future of Purse Seine vessels under such restrictions.

- Monitoring challenges due to highly migratory species – especially Tuna
 - What if all species migrate towards the MPA of another jurisdiction beyond our EEZ due to temperature changes – how will fishing vessels follow and catch?
 - 30% target as MPA immediately will not augur well for the industry. This has to start small at around <5%, then managed to show the benefits before increasing the area size.
2. Governing Body – Global and then sub bodies regionally with secretariats – We already Have FFA in place under PIFS – do we really need another establishment? WCPC also exists so do we need another additional regional body as well?

3. Is Government going to contribute to this regional body or does it expect the companies to contribute? When the financial benefits are shared, what can the Fiji Fishing industry expect as a support?
 4. Fishing licensing impacts – will the current system be operable to have foreign vessels be given licences under local jurisdiction manageable?
 5. What level of influence will the governing ABNJ/BBNJ authority have in taking any breaching countries/ companies to task?
 6. Over- regulating the fishing Industry – especially in the WCPO which has healthy stocks. This has to be considered.
 7. Will Fiji gain benefits in terms of trade facilitation with larger countries such as EU and USA by being part of this? Will the governing treaty signing and joining the global body help us in getting better trade opportunities – if yes – how?
 8. Sharing of benefits is stated to be equal – our financial contributions will not be significant compared to places such as Thailand given the scope of activities. How will then the benefits be shared equally? With US pulling Aid significantly – which other countries will come in to cover the financial burden?
 9. We do not support any Deep Sea mining within the EEZ or in the tuna migratory zones. This has the capacity to destroy the marine life as we know it in our high seas.
 10. EIAs are mentioned in the BBNJ Documents – how will this be carried out and monitored? These can be a really costly affair as there are limited resources available in the Pacific for extensive assessments to be carried out.
 11. BBNJ could trigger stricter regulations which could lead to processing Companies like PAFCO to have new certifications to be compliant, this would mean more costs for these audits
 12. Any changes to the current fishing techniques used by the longliners to ensure sustainable fishing may also reduce the catch rates thus low supply to PAFCO.
-

Ocean Eco Alliance

From: Komal Kumar <komal@oceanecoalliance.org>

Sent: Monday, March 31, 2025 11:47 AM

To: Susana Korovou <susana.korovou@legislature.gov.fj>

Cc: Danian Singh <daniansingh@gmail.com>; karishma.komal92@gmail.com <karishma.komal92@gmail.com>

Subject: Submission on the Ratification and Implementation of the BBNJ Treaty

Honorable Members of Parliament,
Parliament of the Republic of Fiji
Suva, Fiji

Subject: Submission on the Ratification and Implementation of the BBNJ Treaty

Honorable Members of Parliament,

On behalf of the Ocean Eco Alliance, a Pacific-led network committed to ocean health and sustainability, we submit this statement in strong support of Fiji's ratification and implementation of the Biodiversity Beyond National Jurisdiction (BBNJ) Treaty. As a nation deeply connected to the ocean, Fiji has an opportunity to lead in securing the protection of marine biodiversity in areas beyond national jurisdiction while ensuring the equitable participation of Pacific youth and communities in ocean governance.

We draw reference from our youth document titled "Pacific Islands Youth Recommendations: A Call to Action for the United Nations Ocean Conference, 2025", which highlights the vital role young Pacific voices play in shaping ocean diplomacy and climate resilience. Youth from Fiji and the broader Pacific region have continuously advocated for stronger ocean protections, stressing the need for inclusivity, intergenerational equity, and the recognition of traditional knowledge in decision-making processes. The BBNJ Treaty aligns with these principles by strengthening marine conservation, regulating access to marine genetic resources, and ensuring capacity-building opportunities for Small Island Developing States (SIDS).

The BBNJ Treaty is not only a legal framework but also a mechanism for climate justice, particularly for communities on the frontlines of climate change. It provides safeguards against the exploitation of marine resources and promotes sustainable practices that will benefit current and future generations. Fiji's leadership in ratifying and implementing this treaty will reaffirm our commitment to multilateralism, sustainable ocean governance, and the protection of our marine resources for the collective benefit of all Pacific peoples.

We urge Parliament to take swift action in supporting the BBNJ Treaty by:

1. **Prioritizing its ratification to strengthen Fiji's role in global and regional ocean governance.**
2. **Developing inclusive national policies to integrate the treaty's provisions into domestic law.**
3. **Ensuring youth and community participation in implementation frameworks, with special recognition of Indigenous and traditional knowledge systems.**

The Ocean Eco Alliance stands ready to support Fiji's efforts in advancing ocean health and sustainability through this landmark treaty. We appreciate your leadership in safeguarding our ocean for generations to come.

Sincerely,



Ratu Felix Colatanavanua

Vanua of Sawau, Beqa Island

From: Felix Colatanavanua
Sent: Thursday, April 3, 2025 7:26 PM
To: Susana Korovou
Subject: Written Submission - BBNJ Agreement

Bula Vinaka Susana Korovou

Submission on the BBNJ Agreement

As someone from the Paramount Chiefly Family of Beqa, now residing in Suva/Nausoi, I carry with me the deep cultural and spiritual connection to the ocean that defines the lives of so many Fijians. The ocean is our mana, our sustenance, and the foundation of our identity. It is not just a resource but a lifeline for our communities. Yet, both terrestrial and deep-sea mining activities threaten the balance and future of our oceans.

In Fiji, ventures like the **Namosi Joint Venture**, though not yet operational, serve as a critical example of the resistance from communities and advocates striving to prevent environmental harm. These ongoing efforts highlight the deep mistrust in systems like **Environmental Impact Assessments (EIAs)**, which are perceived as biased toward applicants due to their direct involvement in funding assessments.

When it comes to deep-sea mining, the stakes are even higher. The interconnectedness of marine ecosystems means that disturbing the ocean floor could have catastrophic ripple effects. Damaging this foundation risks collapsing biodiversity, disrupting fisheries, and jeopardizing food security. For every dollar deep-sea mining may promise today, we stand to lose exponentially more in the long run. These are losses not only of economics but also of culture, heritage, and livelihoods tied to the health of our oceans.

The **BBNJ Agreement** offers a pathway to protection, but it must address flaws in systems like EIAs to ensure transparency and impartiality. We need

- **Independent Funding Mechanisms:** To eliminate conflicts of interest by ensuring assessors are paid through neutral bodies, not by applicants.

- **Neutral Assessors and Public Oversight:** To guarantee transparency and accountability in outcomes.
- **Ironclad Safeguards:** To close any loopholes that could undermine the treaty's conservation goals.

Protecting our oceans is not just about safeguarding ecosystems—it is about protecting who we are. For Fijians, the ocean is the heart of our identity, our source of mana, and the foundation of our cultural heritage. It nourishes our traditions, sustains our livelihoods, and connects us to generations past and those yet to come.

To lose the ocean is to lose a part of ourselves. The **BBNJ Agreement** is an opportunity to honor this profound connection and ensure that the oceans remain a sanctuary—not only for biodiversity but for our communities, our culture, and our future. It must be upheld with integrity, free from loopholes or compromises, so that it serves as a true safeguard for the shared legacy of the ocean and the people who depend on it.

Ratu Felix Colatanavanua

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Vanua of Sawau, Beqa Island

Images Taken During the
Standing Committee on
Foreign Affairs and Defence
Public Consultation on the
BBNJ Agreement

Levuka Public Consultation: BBNJ Agreement

Date: Monday 07 April 2025

Venu: Levuka Vakaviti



Rakiraki Public Consultation: BBNJ Agreement

Date: Tuesday 08 April 2025

Venue: Rakiraki Market Conference Room



Savusavu Public Consultation: BBNJ Agreement

Date: Thursday 10 April 2025

Venue : Yaroi Community Hall



Labasa Public Consultation: BBNJ Agreement

Date: Friday 11 April 2025

Venue: Commissioner Northern's Conference Room

