



The International Business Alliance
for Corporate Ocean Responsibility

World Ocean Council

**The Law of the Sea “*BBNJ Agreement*”
and Ocean Business Activities**

What is the BBNJ Agreement and its scope?

BBNJ stands for “Biodiversity Beyond National Jurisdiction” and refers to a *legally binding agreement* being developed as part of the United Nations Convention on the Law of the Sea (UNCLOS) to strengthen the regulation of activities and the conservation of marine biological resources in the international ocean area covering 41% of the earth. The geographic scope of the BBNJ will be agreed by States during its negotiation, but will include the surface, water column and seabed of areas beyond national jurisdiction, and possibly the continental shelf.

What are the BBNJ negotiations about and how are they conducted?

In late 2017 the UN agreed to start negotiations of this legally binding agreement under UNCLOS, following several years in which governments met in a UN Working Group and then a Preparatory Committee to identify the BBNJ Agreement’s elements. The first of four planned negotiating sessions took place in September 2018 and two sessions will be held in 2019 (March/April; August). The negotiations are scheduled to conclude in 2020, but there are significant challenges in addressing the BBNJ topics and its impact on maritime activities which mean that more time may be needed.

What are the topics addressed by the BBNJ negotiations?

The four topics agreed by the UN to be covered by the legally binding BBNJ Agreement aim to fill legal gaps in the conservation and sustainable use of marine biodiversity.



What will this new, legally binding BBNJ Agreement possibly mean for ocean industries?

The BBNJ Agreement will have significant ramifications for ocean industries, potentially including:

- New, stricter requirements and controls by States over the activities conducted by companies under their control or jurisdiction
- Expanded or new national, regional and/or international authorities for BBNJ
- New mechanisms of declaration, authorization, and reporting of activities to authorities
- Requirements for EIAs prior to operations or activities
- Requirements for Strategic EIAs for a broader suite of regular activities over a wider area
- Requirements for the monitoring and reporting of activities and impacts (or lack thereof)
- Assessment of cumulative impacts (e.g. marine sound, climate change, acidification)
- Strengthening of surveillance and security mechanisms to protect activities and resources
- Significant ocean areas identified as requiring special consideration for industry operations
- Limitation of geographical scope of activities through area-based management that establishes new area limits to activities, including on the seabed (e.g. seamounts)
- New conflicting or competing activities with the expansion of marine genetic resource exploration and exploitation (e.g. around hydrothermal vents)
- Requirements for private sector input throughout the BBNJ Agreement implementation, e.g. through public consultation, especially as more specific rules and regulations are developed

With the contribution of Dr. Virginie Tassin Campanella

Avocat à la Cour (Paris Bar), acting as Expert Advisor in Ocean Governance & Policy

How will the BBNJ Agreement likely affect industry activities in the high seas?

- *Higher costs:* Due to additional administrative and reporting, technological and operational changes, R&D, and other increased investment in business practices
- *Additional time and effort:* Planning, preparation, declaration, authorization, reporting, etc.
- *New strategic considerations:* The need for new partnerships and cooperation mechanisms, changes due to new ocean areas becoming off limits or requiring special consideration
- *New business and commercial opportunities:* Technological, investment, resources, etc.

Who is concerned?

All ocean industry sectors are potentially affected by the BBNJ Agreement. These include:

- **Shipping:** Marine transport will need to address the impacts on marine biodiversity of radiated sound, invasive species via biofouling, especially in ecologically and biologically significant areas.
- **Fishing:** The impacts of pelagic or trawl fishing on marine biodiversity will have to be identified and documented. The fishing sector may also be affected in relation to marine genetic resources, as these are found in fish species that may be of interest.
- **Geophysical Survey:** Surveys of the seabed, e.g. for submarine cable, oil and gas, will need to identify and address impacts on marine biodiversity from anthropogenic sound.
- **Seabed Mining:** Assessing, avoiding or mitigating the possible impacts of seabed mining on marine biodiversity may have to be addressed and reported on via the BBNJ, in addition to the requirements of the International Seabed Authority.
- **Marine Genetic Resources (MGR):** The exploration and exploitation of MGRs will be subject to an entirely new management regime through the BBNJ.

Can the Ocean Business Community participate in the BBNJ negotiations?

States are the only actors able to negotiate treaties and binding agreements. But the UN has been creating opportunities for accredited stakeholders to participate as observers given their role in international governance and sustainable development. The Ocean Business Community will be the primary stakeholder group affected by the new BBNJ regulation of high seas activities. Given this, it is critical that ocean industries are aware of, and engaged in, the BBNJ negotiations. The World Ocean Council (WOC) is working to develop and deliver business involvement and input to the BBNJ.

What is the role of the World Ocean Council in the BBNJ process?

The WOC is an accredited observer to the BBNJ negotiations and has been the only private sector organization consistently participating in the overall BBNJ process since it began over a decade ago. One of the key ways that the WOC is implementing its role is by developing the *WOC BBNJ Business Coalition* as an alliance of key ocean industry organizations and companies which are collaborating to systematically, strategically interact and engage in the BBNJ process with a coordinated voice.

The WOC is working to ensure that the global Ocean Business Community:

- Is communicating and collaborating amongst the diverse ocean business sectors
- Is developing the synergies and strengths of a collective Ocean Business Community
- Is informed of BBNJ developments and physically present at the negotiations and side events
- Is aware of gaps, solutions and opportunities in the BBNJ process
- Can readily provide input to BBNJ documents, including the draft treaty text
- Participates in WOC's BBNJ seminars, webinars and Sustainable Ocean Summit sessions
- Communicates with, and engages, governments, the UN and other stakeholders

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THE CHALLENGE

The ocean is an inter-connected global ecosystem supporting a wide range of uses. Maintaining a healthy ocean requires responsible stewardship by all users.

Concerns about the impacts of economic activity on ocean health from a growing range and level of commercial uses are on the rise. These concerns may limit industry access to marine areas and resources. Ocean users are increasingly being held accountable by governments and NGOs for the state of the ocean. Continued ocean access and use will increasingly require the social licence to operate – above and beyond simple regulatory compliance – and participation in the Sustainable Development Goals.

The best efforts by a single company or an entire sector will not be enough to address the cumulative impacts on the inter-connected marine ecosystem from growing use across the sectors. Companies dependent on the ocean can achieve business value from working with others to address shared challenges regarding sustainable development, science and stewardship.

WOC – OCEAN BUSINESS ALLIANCE FOR SUSTAINABILITY

The World Ocean Council is the international, cross-sectoral industry leadership alliance on “Corporate Ocean Responsibility”.

The WOC brings together leadership companies from the diverse ocean business community to achieve the business benefits of cross-sectoral leadership and collaboration on sustainability.

The WOC develops global “platforms” to address cross-cutting ocean business and sustainability challenges, e.g. ocean policy and governance, marine planning, marine debris, marine sound, marine mammal impacts, water pollution, data collection by industry vessels and platforms, sea level rise and extreme event impacts, priority regions (e.g. Arctic, Indian Ocean), and investment for ocean sustainable development.

THE INVITATION TO RESPONSIBLE OCEAN COMPANIES

Responsible ocean companies are invited to join the growing number of organizations distinguishing themselves as leaders in “Corporate Ocean Responsibility” through the WOC.

In addition to the 75+ WOC Members from the diverse Ocean Business Community, the WOC Network includes 35,000+ ocean industry stakeholders around the world. The WOC is recognized or accredited by numerous U.N. agencies and other international organizations as *the* credible, global leadership body on ocean business and sustainability. The WOC Sustainable Ocean Summit (SOS) – 2010 Belfast; 2013 Washington DC; 2015 Singapore; 2016 Rotterdam; 2017 Halifax; 2018 Hong Kong; 2019 Paris – is acknowledged as *the* international business conference on ocean sustainable development, science and stewardship.



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