



# SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



## Latest NZ Maritime Legal Developments

### ***New Zealand to Ratify BBNJ Agreement***

New Zealand has decided to ratify the BBNJ Agreement – more fully known as 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.

The BBNJ Agreement was adopted by consensus on 19 June 2023 at an intergovernmental conference in New York. New Zealand signed it on 20 September 2023. More than 100 other countries are also signatories.

Cabinet approved ratification of the BBNJ Agreement on 25 November 2024. Parliament's Foreign Affairs Defence and Trade Committee conducted an international treaty examination and, on 21 February 2025, recommended that New Zealand ratify it. The Government will soon introduce the United Nations Convention on the Law of the Sea (Biodiversity Beyond National Jurisdiction Implementation) Bill in Parliament. This will implement the BBNJ in New Zealand law. Ratification of the BBNJ Agreement is intended to take place in mid-2026.

The BBNJ Agreement is an implementing agreement that falls under the umbrella of the United Nations Convention on the Law of the Sea (UNCLOS). It applies to “areas beyond national jurisdiction” – in other words, the high seas and the deep seabed beyond any continental shelf. It does not apply to the Exclusive Economic Zone (EEZ).

The BBNJ Agreement deals with four main topics:

- access to, and use of, marine genetic resources
- capacity-building and transfer of marine technology, particularly for developing states
- environmental impact assessments
- area-based management tools (including marine protected areas)

Marine genetic resources are the genetic material of marine organisms. They can have uses for medicines, food and industrial processes. There is currently no legal regime governing the collection and use of marine genetic resources. The BBNJ Agreement fills this gap. It also provides for benefits (including royalties from products and findings from research) to be shared equitably between countries, including developing countries in particular.

Relatedly, the BBNJ Agreement requires states to co-operate in capacity-building and the transfer of marine technology. This is particularly focused on developing states. This builds on provisions regarding the transfer of marine technology in UNCLOS.



*Daniel Jackson*

The BBNJ Agreement provides for a state to conduct environmental impact assessments (EIAs) on activities that will be carried out in areas beyond national jurisdiction, or will have major effects on such areas, but that are under the state's jurisdiction or control (for instance, because the company or person who will carry them out is from that state). It sets out processes and threshold for EIAs, as well as monitoring and reporting requirements.

The BBNJ Agreement also enables "area-based management tools" to be implemented in areas beyond national jurisdiction. These are tools in a particular area for managing activities or sectors with the aim of achieving conservation and sustainable use objectives. They can include marine-protected areas.

States can submit proposals to implement area-based management tools. They will be reviewed by a scientific and technical body of experts, which will make recommendations on them after considering feedback from states, international organisations and other stakeholders. The Conference of the Parties will make the decision on whether to establish the proposed area-based management tool. A state must ensure that activities under its jurisdiction and control that take place in the relevant area comply with the area-based management tools, unless the state has objected to its establishment within 120 days (in which case the state will not be bound by it).

A Preparatory Commission to develop rules and procedures for the Conference of the Parties and other bodies under the BBNJ Agreement will have its first session in April 2025. 60 states must ratify the BBNJ Agreement for it to come into force. More than ten have already done so. The BBNJ Agreement is expected to enter into force in 2026.

Daniel Jackson  
Solicitor  
Oceanlaw New Zealand  
p +64 3 548 4136, m +64 27 246 2981  
[Daniel@oceanlaw.co.nz](mailto:Daniel@oceanlaw.co.nz)

March 2025

