



Committee Secretary
Joint Standing Committee on Treaties
PO Box 6021
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17 July 2024

By email: jsct@aph.gov.au

Dear Committee Secretary

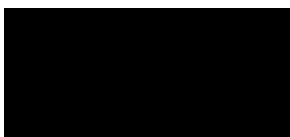
Subject: Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

I am reaching out on behalf of the [Business Council for Sustainable Development Australia \(BCSDA\)](#), in our role as a pivotal advocate for sustainable development within the business sector and as a global network partner of the [World Business Council for Sustainable Development \(WBCSD\)](#).

Our collective mission is to champion sustainable business practices that are not only globally recognized but also carefully adapted to meet the unique demands of the Australian economic, environmental and societal landscape. Outlined in the following pages is our feedback to the Consultation you have requested on the **Subject**. We thank you for the opportunity to make these submissions. We confirm our submission can be made public.

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Yours faithfully,



Andrew Petersen | CEO | Business Council for Sustainable Development Australia



Executive Summary

The Agreement under the United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) represents a critical step towards comprehensive global ocean governance. The Business Council for Sustainable Development Australia (BCSDA) fully supports the ratification and implementation of this agreement, recognizing its alignment with sustainable development goals (SDGs) and its potential to enhance both environmental stewardship and economic opportunities.

Recent Trends and Data

1. **Global Biodiversity Framework (GBF):** The adoption of the Kunming-Montreal Global Biodiversity Framework at COP15 sets ambitious targets for marine conservation, including the protection of 30% of marine areas by 2030. This framework underscores the necessity for international cooperation to halt biodiversity loss and promote sustainable use practices.
2. **Environmental Impact Assessments (EIA):** EIAs are increasingly vital in managing BBNJ, ensuring that potential adverse impacts on marine biodiversity are assessed before significant projects proceed. This process is crucial for sustainable management and conservation efforts.
3. **Marine Genetic Resources (MGRs):** The evolving legal regime for MGRs in BBNJ focuses on equitable access and benefit-sharing, highlighting the need for international collaboration to manage these resources sustainably. This includes addressing intellectual property rights and fostering scientific research.
4. **Climate-Smart Governance:** Integrating climate considerations into high seas governance is imperative. Policies must account for climate impacts on marine ecosystems to ensure their resilience and sustainability. This includes measures to mitigate climate change effects and promote adaptive management strategies.

Policy Insights

1. **International Cooperation:** Effective conservation and sustainable use of BBNJ require robust international cooperation. Harmonizing national policies with international treaties ensures coherent and consistent management practices.
2. **Capacity Building:** Strengthening national and regional capacities for marine technology, research, and enforcement is essential. These initiatives enable countries to meet international obligations and improve the management of marine resources.
3. **Legal and Institutional Frameworks:** Comprehensive legal and institutional frameworks supporting the BBNJ Agreement are crucial. These frameworks should include guidelines for area-based management tools (ABMTs), MGRs, and EIAs.
4. **Stakeholder Engagement:** Engaging diverse stakeholders, including governments, NGOs, indigenous communities, and the private sector, is vital for successful policy implementation. Inclusive decision-making processes ensure that various perspectives and interests are considered.

Conclusion

The conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction are complex and multifaceted issues. The BBNJ Agreement represents a significant milestone in global marine governance, aiming to safeguard marine biodiversity for future generations. BCSDA's support for this agreement highlights the importance of international cooperation, robust legal frameworks, and integrated management approaches to protect and sustainably use marine resources.

BCSDA is committed to working with stakeholders to ensure the successful ratification and implementation of the BBNJ Agreement, aligning with global sustainability goals and enhancing Australia's role in international environmental governance.

Country Comparator

This BCSDA summary provides insights into the measures and actions taken by various countries, jurisdictions, and regions in relation to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ). The focus is on recent policy actions, frameworks, and agreements that align with the objectives of the BBNJ Agreement.

1. European Union (EU)

- **Marine Strategy Framework Directive (MSFD):**
 - **Objective:** Achieve Good Environmental Status (GES) of the EU's marine waters and protect the resource base upon which marine-related economic and social activities depend.
 - **Details:** The MSFD requires EU member states to develop marine strategies that include assessment, monitoring, and measures to achieve GES.
 - **Source:** [MSFD Directive](#)

2. United States (US)

- **National Ocean Policy:**
 - **Objective:** Implement a comprehensive, coordinated ocean policy to address conservation and sustainable use of ocean resources.
 - **Details:** Establishes regional planning bodies and promotes marine spatial planning (MSP) as a tool to manage the ocean resources.
 - **Source:** [US National Ocean Policy](#)

3. Australia

- **Australia's Oceans Policy:**
 - **Objective:** Provide a framework for integrated and ecosystem-based planning and management for all of Australia's marine jurisdictions.
 - **Details:** Establishes Regional Marine Plans (RMPs) based on large marine ecosystems.
 - **Source:** Australia's Oceans Policy

4. Canada

- **Oceans Act:**
 - **Objective:** Promote the understanding, protection, and sustainable use of Canada's marine resources.
 - **Details:** Provides the legal framework for comprehensive and coordinated ocean management in Canada.
 - **Source:** [Oceans Act](#)

5. Norway

- **Integrated Management of the Marine Environment of the Barents Sea and the Sea Areas off the Lofoten Islands:**
 - **Objective:** Ensure the sustainable use of natural resources while maintaining the structure, functioning, and productivity of the ecosystems.
 - **Details:** An example of an ecosystem-based management approach to marine resources.
 - **Source:** [Norway's Integrated Management Plan](#)

Analysis and Insights

The reviewed policies indicate a global trend towards integrated, ecosystem-based management of marine resources, emphasizing the importance of marine spatial planning (MSP), comprehensive legal frameworks, and regional cooperation. Key common elements include:

- **Ecosystem-Based Management (EBM):** All reviewed policies incorporate EBM as a foundational principle.
- **Marine Spatial Planning (MSP):** Promoted as an essential tool for sustainable marine resource management.
- **Legal and Regulatory Frameworks:** Establishing comprehensive and coordinated legal frameworks to govern marine resources.
- **Regional and International Cooperation:** Recognizing the importance of collaboration at both regional and international levels to address transboundary marine issues.

Conclusion

Countries and regions are increasingly adopting sophisticated and integrated approaches to manage and protect marine biodiversity in areas beyond national jurisdiction. These efforts are critical to achieving the objectives of the BBNJ Agreement and ensuring the long-term sustainability of the world's oceans.

Relevance to the Sustainable Development Goals

The conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) are critical components of achieving global sustainability. These efforts directly align with several Sustainable Development Goals (SDGs), particularly those focused on life below water, climate action, and partnerships for sustainable development. By understanding and implementing these goals, countries and regions can work together to ensure the health and productivity of our oceans for future generations.

SDG 14: Life Below Water

- **Target 14.1:** By 2025, prevent and significantly reduce marine pollution of all kinds, particularly from land-based activities, including marine debris and nutrient pollution.
 - **Indicator 14.1.1:** Index of coastal eutrophication and floating plastic debris density.
- **Target 14.2:** By 2020, sustainably manage and protect marine and coastal ecosystems to avoid significant adverse impacts, including by strengthening their resilience, and take action for their restoration in order to achieve healthy and productive oceans.
 - **Indicator 14.2.1:** Proportion of national exclusive economic zones managed using ecosystem-based approaches.
- **Target 14.4:** By 2020, effectively regulate harvesting and end overfishing, illegal, unreported, and unregulated fishing, and destructive fishing practices, and implement science-based management plans, in order to restore fish stocks in the shortest time feasible.
 - **Indicator 14.4.1:** Proportion of fish stocks within biologically sustainable levels.

- **Target 14.5:** By 2020, conserve at least 10 per cent of coastal and marine areas, consistent with national and international law and based on the best available scientific information.
 - **Indicator 14.5.1:** Coverage of protected areas in relation to marine areas.

SDG 13: Climate Action

- **Target 13.2:** Integrate climate change measures into national policies, strategies, and planning.
 - **Indicator 13.2.1:** Number of countries that have communicated the establishment or operationalization of an integrated policy/strategy/plan which increases their ability to adapt to the adverse impacts of climate change, and foster climate resilience and low greenhouse gas emissions development in a manner that does not threaten food production (including a national adaptation plan, nationally determined contribution, national communication, biennial update report or other).

SDG 17: Partnerships for the Goals

- **Target 17.14:** Enhance policy coherence for sustainable development.
 - **Indicator 17.14.1:** Number of countries with mechanisms in place to enhance policy coherence of sustainable development.

BCSD Insights & Resources on the Topic

The conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction (BBNJ) is not just an environmental imperative but also a significant business opportunity. Engaging in sustainable business practices that support BBNJ aligns with several Sustainable Development Goals (SDGs) and can drive long-term economic growth, risk management, and brand reputation.

Economic Benefits

1. **Market Opportunities:**
 - The global market for marine biotechnology is projected to reach USD 6.4 billion by 2025, driven by the demand for novel marine-derived products in pharmaceuticals, cosmetics, and nutraceuticals.
 - Sustainable fisheries and aquaculture can yield economic benefits by ensuring long-term productivity and market stability. The UN Food and Agriculture Organization (FAO) estimates that rebuilding overfished stocks could increase annual catches by 16.5 million tonnes, generating USD 32 billion in additional revenues.
2. **Cost Savings:**
 - Implementing ecosystem-based management and marine spatial planning can reduce costs associated with environmental degradation and regulatory compliance. A study by the European Commission found that marine spatial planning could reduce transaction costs by up to USD 1.6 billion annually.
3. **Investment and Financing:**
 - Sustainable investments are increasingly favored by investors. The Global Sustainable Investment Alliance (GSIA) reports that global sustainable investment reached USD 35.3 trillion in 2020, representing 36% of all professionally managed assets.
 - Green bonds and blue bonds offer financing opportunities for businesses committed to marine conservation. The Seychelles' blue bond, a pioneering financing instrument, raised USD 15 million to support sustainable marine and fisheries projects.

Risk Management

1. **Regulatory Risks:**
 - Businesses that proactively adopt sustainable practices are better positioned to comply with tightening environmental regulations. Non-compliance can result in substantial fines, legal costs, and operational disruptions.
 - The BBNJ Agreement will likely lead to new regulatory frameworks that businesses must navigate. Early adoption of sustainable practices can mitigate these risks and provide a competitive advantage.
2. **Operational Risks:**
 - Unsustainable exploitation of marine resources can lead to depletion and habitat destruction, jeopardizing supply chains. For instance, overfishing has led to a decline in fish populations, threatening the livelihoods of millions dependent on fishing.
 - Climate change and its impacts, such as sea-level rise and ocean acidification, pose significant risks to marine ecosystems. Businesses that invest in resilience and adaptation strategies can better manage these risks.

Brand and Reputation

1. **Consumer Preferences:**
 - Consumers are increasingly demanding products that are sustainably sourced and ethically produced. A Nielsen survey found that 73% of global consumers are willing to change their consumption habits to reduce their environmental impact.

- Certifications such as the Marine Stewardship Council (MSC) label can enhance brand reputation and marketability by assuring consumers of sustainable sourcing practices.
- 2. **Stakeholder Engagement:**
 - Businesses that engage in sustainable practices and contribute to the SDGs can build stronger relationships with stakeholders, including investors, customers, employees, and regulators.
 - Transparency and reporting on sustainability initiatives through frameworks like the Global Reporting Initiative (GRI) can enhance trust and credibility.

Contribution to SDGs

1. **SDG 14: Life Below Water:**
 - Businesses can contribute to SDG 14 by adopting sustainable fishing practices, reducing marine pollution, and supporting marine protected areas (MPAs). These actions help ensure the health and productivity of marine ecosystems.
2. **SDG 13: Climate Action:**
 - Investing in climate resilience and reducing greenhouse gas emissions from maritime operations contribute to SDG 13. Businesses can implement energy-efficient technologies, use renewable energy sources, and participate in carbon offset programs.
3. **SDG 17: Partnerships for the Goals:**
 - Collaboration with governments, NGOs, and other stakeholders is crucial for achieving sustainable development. Businesses can participate in public-private partnerships, share knowledge and resources, and support policy development for marine conservation.

Conclusion

The business case for supporting sustainable business practices in the context of BBNJ is compelling. By aligning with the SDGs, businesses can unlock economic opportunities, manage risks, and enhance their brand reputation. Sustainable practices not only contribute to the health of marine ecosystems but also drive long-term business success and resilience.

The WBCSD has been actively involved in supporting the United Nations Convention on the Law of the Sea's agreement on the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction.

This agreement aims to address the urgent need for a legal framework to protect marine biodiversity in the high seas, an area that has historically lacked comprehensive international governance.

Key Initiatives and Publications

- **Kunming-Montreal Global Biodiversity Framework:** At the 15th Conference of the Parties (COP15) in Montreal, the Kunming-Montreal Global Biodiversity Framework was adopted, marking a significant milestone in global biodiversity conservation efforts. This agreement aims to halt and reverse biodiversity loss by 2030, setting targets such as protecting 30% of land and marine areas by 2030, reducing pollution, and promoting sustainable agricultural practices ([WBCSD Transformation](#)).
- **Nature Restoration Law:** The European Council's adoption of the Nature Restoration Law aims to restore degraded ecosystems across the EU. This regulation sets legally binding targets for restoring terrestrial, coastal, freshwater, and marine environments, contributing significantly to biodiversity recovery and climate change mitigation ([WBCSD Transformation](#)).
- **Business Accountability and Action:** WBCSD has developed guidance to accelerate nature-positive actions by businesses. This includes setting science-based targets for nature, assessing material impacts, deploying resources for high-impact actions, and supporting enabling policies. These efforts are aligned with the broader goals of the Global Biodiversity Framework ([WBCSD Transformation](#)).
- **Framework for Restoration Actions:** During COP15, WBCSD launched a framework to harmonize ecosystem restoration efforts, supporting companies in implementing regenerative agricultural practices and other biodiversity-positive actions ([WBCSD Transformation](#)).

Ongoing Collaborations and Efforts

- **OP2B (One Planet Business for Biodiversity):** OP2B, a coalition under WBCSD, has been actively engaged in the development and advocacy of biodiversity frameworks. Their efforts include promoting regenerative agriculture and sustainable land management practices ([WBCSD Transformation](#)) ([WBCSD Transformation](#)).
- **Taskforce on Nature-related Financial Disclosures (TNFD):** WBCSD collaborates with TNFD to provide businesses with a standard for setting nature-related targets and reporting progress, fostering greater accountability and transparency in corporate biodiversity actions ([WBCSD Transformation](#)).

Impact and Implementation

WBCSD's involvement in these initiatives highlights the critical role of businesses in achieving global biodiversity goals. By aligning corporate strategies with international biodiversity frameworks, WBCSD aims to foster sustainable practices that benefit both nature and business. The organization's comprehensive approach, involving setting quantifiable

targets, deploying resources, and advocating for supportive policies, underscores the importance of a collaborative effort to address the biodiversity crisis.

Understanding of Key Aspects and Elements from the National Interest Analysis

- 1. Purpose and Scope:**
 - The Agreement aims to address gaps in the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.
 - It focuses on marine genetic resources, area-based management tools, environmental impact assessments, and capacity building and transfer of marine technology.
- 2. National Interest:**
 - Supports Australia's marine industries, enhances scientific endeavours, and aligns with international environmental leadership.
 - Enables Australia to take an active role in the global governance of marine biodiversity, contributing to the health of the ocean.
- 3. Key Benefits:**
 - Enhances protection of marine biodiversity and ecosystems.
 - Promotes sustainable use of marine resources, benefiting industries like tourism, fishing, and aquaculture.
 - Supports international cooperation and capacity building.
- 4. Stakeholder Consultation:**
 - Extensive consultation with industry, civil society, and other stakeholders.
 - Broad support for ratification and the establishment of marine protected areas beyond national jurisdiction.
- 5. Implementation:**
 - Requires new legislation for the conservation and sustainable use of marine biodiversity of the high seas.
 - Coordination by the Department of Climate Change, Energy, the Environment and Water (DCCEEW).

Key Aspects and Elements from the Treaty Text

- 1. Marine Genetic Resources:**
 - Regulates the collection and use of marine genetic resources and digital sequence information.
 - Requires fair and equitable sharing of benefits arising from their use.
- 2. Area-Based Management Tools:**
 - Establishes marine protected areas and other area-based management tools.
 - Requires best available science and traditional knowledge in proposals.
- 3. Environmental Impact Assessments:**
 - Mandates environmental impact assessments for activities that may cause significant harm to the marine environment.
 - Includes a detailed consultation and reporting process.
- 4. Capacity Building and Technology Transfer:**
 - Promotes cooperation and assistance to developing States.
 - Facilitates the transfer of marine technology on fair and favourable terms.

BCSDA's Response and Recommendations

BCSDA supports the ratification 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 Agreement).

This Agreement aligns with our commitment to sustainable business practices and contributes to several Sustainable Development Goals (SDGs), including SDG 14 (Life Below Water), SDG 13 (Climate Action), and SDG 17 (Partnerships for the Goals).

Recommendations

- 1. Support for Ratification:**
 - Ratifying the Agreement is essential for Australia to contribute to the global governance of marine biodiversity. It enhances our international standing and supports our marine industries and scientific research.
- 2. Legislative Framework:**
 - Develop and implement a robust legislative framework to ensure compliance with the Agreement's provisions. This should include regulations on marine genetic resources, area-based management tools, and environmental impact assessments.
- 3. Stakeholder Engagement:**
 - Continue engaging with stakeholders, including industry, academia, and civil society, to ensure their views are considered in the implementation process. Provide clear guidance and support to stakeholders affected by the new regulations.

4. **Capacity Building and Technology Transfer:**
 - Promote and support capacity-building initiatives, particularly for developing States in the Indo-Pacific region. Facilitate the transfer of marine technology to enhance regional cooperation and sustainable development.
5. **Environmental Impact Assessments:**
 - Ensure that environmental impact assessments are thorough and transparent. Incorporate best available science and traditional knowledge in the assessment process.
6. **Monitoring and Reporting:**
 - Establish a robust monitoring and reporting mechanism to track progress and compliance with the Agreement. Ensure that information is publicly accessible and regularly updated.

Conclusion

BCSDA believes that the BBNJ Agreement is a significant step towards sustainable ocean governance. By ratifying and implementing this Agreement, Australia can play a leading role in conserving marine biodiversity and promoting sustainable use of marine resources. We urge the Committee to support the ratification and recommend measures to ensure effective implementation and stakeholder engagement.

References / Research / Sources

Key Studies and Findings

1. **Spatial Opportunities for High Seas Conservation:**
 - **Title:** Spatial Opportunities for High Seas Conservation Under the UN Biodiversity Beyond National Jurisdiction Treaty
 - **Author:** A. Barbaro, 2024
 - **Source:** DukeSpace
 - **Link:** [PDF](#)
 - **Summary:** This study explores spatial planning opportunities for high seas conservation under the new BBNJ treaty, emphasizing the importance of protecting, preserving, and restoring marine biodiversity.
2. **China's Marine Protected Areas Legal Challenges and Global Engagement:**
 - **Author:** A. Sohail
 - **Source:** humapub.com
 - **Link:** [PDF](#)
 - **Summary:** Analyses China's role and legal challenges in managing marine protected areas (MPAs), highlighting international engagement and compliance with the Convention on Biological Diversity (CBD).
3. **Impact of the BBNJ Agreement on Ocean Governance:**
 - **Author:** R.E. Kim
 - **Source:** Marine Policy, Elsevier
 - **Link:** [Article](#)
 - **Summary:** Discusses the likely impact of the BBNJ Agreement on the architecture of ocean governance, focusing on legal, institutional, and enforcement mechanisms.
4. **International Legal Framework for Area-Based Marine Management Tools:**
 - **Authors:** N. Matz-Lück, S. Al-Hajjaji
 - **Source:** Springer
 - **Link:** [PDF](#)
 - **Summary:** Examines the legal framework for using area-based management tools (ABMTs) in marine areas beyond national jurisdiction to better protect marine biodiversity.

Literature Review

Key Studies and Findings

1. **The Likely Impact of the BBNJ Agreement on the Architecture of Ocean Governance**
 - **Author:** R.E. Kim
 - **Source:** Marine Policy, 2024, Elsevier
 - **Link:** [Article](#)
 - **Summary:** This study examines how the BBNJ Agreement could harmonize existing institutions and improve the architecture of ocean governance by promoting marine biodiversity conservation in areas beyond national jurisdiction.
2. **Stakeholder Perspectives Under the Agreement for the Conservation and Sustainable Use of Marine Biodiversity of Areas Beyond National Jurisdiction (BBNJ)**
 - **Authors:** C. Gaebel, P. Novo, D.E. Johnson, J.M. Roberts
 - **Source:** Marine Policy, 2024, Elsevier
 - **Link:** [Article](#)

- **Summary:** This paper discusses stakeholder perspectives on the BBNJ Agreement, focusing on the seabed and water column beyond coastal state jurisdiction. It highlights the importance of using the best available science in conservation efforts.
3. **Legal Regime of Marine Genetic Resources in Areas Beyond National Jurisdiction**
 - **Authors:** G. Andreone, V. Rossi, G. Ardito
 - **Source:** Wiley Online Library, 2024
 - **Link:** [Article](#)
 - **Summary:** This article outlines the existing legal frameworks for the conservation and sustainable use of marine genetic resources in ABNJ, emphasizing the role of the Intergovernmental Conference on Marine Biodiversity.
 4. **Best Available Science in the United Nations Treaty to Protect Biodiversity Beyond National Jurisdiction**
 - **Authors:** E. Mendenhall, R.R. Helm
 - **Source:** Marine Policy, 2024, Elsevier
 - **Link:** [Article](#)
 - **Summary:** This study argues that the current scientific standards are insufficient and calls for increased support for scientific research to protect biodiversity in ABNJ effectively.
 5. **Quantifying and Predicting Vulnerable Marine Ecosystems on the Antarctic Continental Shelf**
 - **Author:** C. Gros
 - **Source:** University of Tasmania, 2024
 - **Link:** [Thesis](#)
 - **Summary:** This research focuses on identifying and predicting vulnerable marine ecosystems in the Antarctic, contributing to broader international conservation efforts.
 6. **Area-Based Management Tools**
 - **Author:** F.M. Platjouw
 - **Source:** Elgar Encyclopedia in Urban and Regional Planning, 2024
 - **Link:** [Article](#)
 - **Summary:** This entry discusses the role of area-based management tools (ABMTs) in achieving global biodiversity goals, particularly in deep-sea areas beyond national jurisdiction.
 7. **Strategic Environmental Assessment in Areas Beyond National Jurisdiction: Existing Regimes, Challenges, and Prospects**
 - **Authors:** Y. Song, Z. Mao, Z. Zhang
 - **Source:** Frontiers in Marine Science, 2024
 - **Link:** [PDF](#)
 - **Summary:** This paper evaluates the existing strategic environmental assessment (SEA) regimes and identifies challenges and prospects for applying SEAs in ABNJ.