Policy brief

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Intersections Between BBNJ and the IMO

Protecting the High Seas in a New Era of Ocean Governance

A Turning Point for the Ocean

A historic shift in global ocean governance is about to begin. The United Nations Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction, known as the BBNJ Agreement, has now reached over sixty ratifications and will enter into force on 17 January 2026.

From that date forward, the high seas will operate under a new legal regime. Governments, regional bodies, international organisations, and civil society are preparing for implementation. This moment matters because shipping dominates the high seas. Nearly every aspect of modern life moves across these waters, and vessels bring with them underwater noise, oil pollution, plastic litter, black carbon emissions, greenhouse gases, and rapidly increasing traffic. The high seas are also warming, acidifying, and changing at a pace that outstrips scientific understanding.

The BBNJ Agreement introduces new global tools to protect biodiversity and as a result to protect the planet's largest carbon sink. At the same time, the United Nations International Maritime Organization regulates shipping worldwide. These two UN systems will now interact in practice for the first time. How they connect will shape the future of ocean health.

This paper explains how the BBNJ and IMO frameworks overlap, where cooperation is essential, and how implementation and enforcement will work in real life.

Seas At Risk
Mundo-madou
Rue de la Charité 22
1210 Brussels

Anaïs Rios
Senior Shipping Policy Officer
arios@seas-at-risk.org

@seasatrisk @SeasAtRisk_ngo
@seasatrisk @seasatrisk.bsky.social

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What the BBNJ Agreement Does

The BBNJ Agreement fills the largest governance gap in the ocean. It applies to areas beyond national jurisdiction, which cover nearly half the planet[1].

1.1 Protecting biodiversity in the high seas

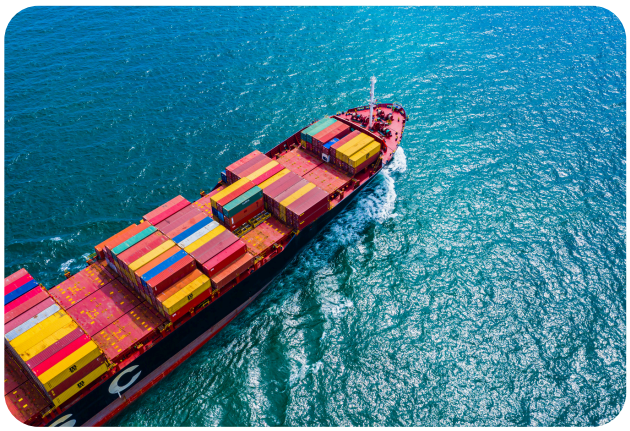
The Agreement establishes legally binding rules for the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction. These obligations apply to biodiversity throughout the high seas and deep seabed water column[2], from migratory species to deep-sea ecosystems[3].

1.2 Marine protected areas in the high seas

For the first time, countries can create marine protected areas (MPAs) in the high seas. Any State Party may propose a marine protected area (MPA), but the designation requires BBNJ Conference of the Parties (COP) approval. Once adopted, such areas require cooperation across all sectors, including shipping4, because activities regulated by other bodies, such as the International Maritime Organization (IMO), must align with the MPA's conservation objectives.

1.3 Environmental impact assessments

Activities that may harm biodiversity in the high seas must undergo environmental impact assessments, including cumulative impacts. Shipping is not exempt simply because it is regulated by the IMO[5].



1.4 Transparency and capacity building

The agreement establishes a clearing house mechanism (CHM) that will serve as the central platform for sharing environmental information, including scientific data, environmental impact assessment (EIA) reports, monitoring results, best practices, and information on area-based management tools such as marine protected areas. The purpose of the CHM is to ensure access to the data needed for science-based decision making and to support coherence across global bodies, including the IMO, regional fisheries organisations, and environmental conventions.

The Agreement also creates a capacity building and marine technology transfer framework to help developing countries meet their obligations. This includes scientific training, support for environmental assessments, access to new technologies, and improved participation in global governance. By combining transparency with targeted capacity assistance, the Agreement aims to ensure that all countries can participate fully in conserving and sustainably using biodiversity in the high seas[6].

1.5 Cooperation with global bodies

The BBNJ Agreement repeatedly refers to "relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies" in its general provisions and cooperation articles[7]. In relation to international shipping, this clearly includes the International Maritime Organization (IMO), which the United Nations Convention on the Law of the Sea (UNCLOS) identifies as the competent global body for vessel source pollution[8]. Under standard UN practice, the IMO is expected to participate as an observer at the BBNJ Conference of the Parties once it is established, although detailed observer modalities are still being negotiated in the preparatory process[9].

2. What the IMO Regulates in the High Seas

The IMO regulates international shipping through global rules that apply to all ships above specific tonnage or operational thresholds (depending on the specific IMO Convention), regardless of where they operate. This global applicability is ensured through flag State jurisdiction under UNCLOS and the binding obligations of IMO treaties and relies on a simple legal structure[10][11].

2.1 Flag State jurisdiction

Every ship must fly a national flag[12]. The flag State is responsible for ensuring the vessel complies with IMO rules anywhere in the world, including on the high seas[13].

This is a binding obligation under UNCLOS[14].

2.2 Port State control

Port States may inspect foreign vessels when they enter port in order to verify compliance with applicable international rules, including IMO conventions[15].

They can detain ships, impose fines, and refuse departure when vessels violate applicable international rules or the State's domestic law, including but not limited to IMO conventions[16]. Together, these two systems give IMO rules global effect.

2.3 MARPOL Convention

The MARPOL Convention is the cornerstone of global marine pollution regulation. It consists of six technical annexes that regulate different types of ship-generated pollution: oil (Annex I), chemicals (Annex II), harmful substances in packaged form (Annex III), sewage (Annex IV), garbage (Annex V), and air emissions including sulphur oxides, nitrogen oxides, and greenhouse gases (Annex VI). Most of these annexes apply to all ships operating internationally, including on the high seas, and carry legally binding obligations for both flag States and port States.

Each annex addresses pollutants that directly affect biodiversity in areas beyond national jurisdiction. Oil residues can smother or poison marine mammals, seabirds, fish, and benthic organisms; chemical discharges threaten planktonic food webs; sewage releases introduce pathogens and nutrients leading to oxygen depletion; plastics and garbage accumulate in pelagic habitats and entangle and are ingested by marine wildlife; and air pollutants such as sulphur oxides, nitrogen oxides, and particulate matter including black carbon contribute to ocean acidification, global heating, and stress on marine ecosystems. These pressures interact with one another, magnifying their impacts on already vulnerable high seas ecosystems.

Despite its comprehensive scope, MARPOL remains organised in silos. Each annex regulates a single pollutant stream and does not require assessment of cumulative impacts across pollution types or of interactions with climate-driven stressors. These gaps are highly relevant for BBNJ implementation, which explicitly requires cumulative impact assessments and ecosystem-based management[17].

2.4 The IMO Net Zero Framework

In 2023, the IMO adopted a strengthened climate strategy. It commits international shipping to reach net zero greenhouse gas emissions by or around 2050, with checkpoints for 2030 and 2040[18]. This marks a major shift in global climate governance for the shipping sector.

The 2023 Strategy is supported by an approved IMO Net Zero Framework, which was expected to include a suite of mid-term measures such as a global GHG pricing mechanism, a fuel standard that increases over time, lifecycle carbon intensity rules for marine fuels, and an implementation architecture for monitoring, reporting, and verification. The adoption of this framework has now been delayed, despite its principles and direction having already been endorsed by IMO Member States. Late 2026 will be when the adoption of this framework comes back to the table. Meanwhile, IMO member States are working on establishing guidelines for its implementation.

For BBNJ purposes, the significance of the Net Zero Framework lies in its potential to reduce climate-related pressures on biodiversity in the high seas coming from ships. Ocean warming, deoxygenation, changing circulation patterns, and acidification are all driven by greenhouse gas emissions, and shipping remains a major emitter of black carbon and CO_2 in areas beyond national jurisdiction (ABNJ). Alignment between the BBNJ Agreement and the IMO Net Zero Framework and its guidelines will be crucial to ensuring that biodiversity conservation in the high seas is compatible with long-term climate goals.

2.5 EEXI and CII

Two global climate measures came into force in 2023:

- Energy Efficiency Existing Ship Index[19]
- Carbon Intensity Indicator[20]

They are referred to within IMO as short-term measures because they represent the first stage of the IMO's climate regulatory timeline (2023–2026), pending adoption of the mid-term measures under the Net Zero Framework.

Energy Efficiency Existing Ship Index (EEXI) requires most existing ships of 400 gross tonnage and above to meet a minimum technical efficiency standard, generally achieved through engine power limitation or other onboard modifications. The Carbon Intensity Indicator (CII), on the other hand, rates ships annually from A to E based on their operational carbon intensity. Ships rated D for three consecutive years or E in a single year are required to implement corrective action plans.

Both measures apply globally. However, they reduce carbon intensity rather than absolute emissions and are not yet sufficient to put the shipping sector on a pathway compatible with Paris Agreement targets. For BBNJ, the relevance of these measures is twofold: they represent the starting point of IMO's decarbonisation pathway, and they demonstrate how regulatory efforts on climate and biodiversity remain functionally separate, even when addressing overlapping environmental pressures.

3. Where BBNJ and IMO Meet

The BBNJ Agreement and the IMO operate in different spheres of ocean governance, yet their mandates intersect in the high seas. BBNJ establishes new global conservation obligations for biodiversity, while the IMO regulates the world's shipping fleet. Ships are the primary industrial presence in areas beyond national jurisdiction, which means that many of the obligations created by BBNJ cannot be implemented without effective cooperation with the IMO. Four areas of intersection are particularly important:

3.1 Environmental impact assessments

The BBNJ Agreement introduces a new global requirement for environmental impact assessments (EIAs) for activities in areas beyond national jurisdiction[21]. EIAs must evaluate potential adverse effects on biodiversity, including cumulative impacts over time. Shipping activities are not exempt from this requirement simply because they are regulated by the IMO.

The IMO does not have an environmental impact assessment process, and the Organization itself does not acquire EIA obligations under the BBNJ Agreement. The Treaty binds States, not international institutions. However, when EIAs conducted under BBNJ identify impacts caused by international shipping, States will be required to act through the IMO, since only the IMO can adopt or update global rules on vessel-source pollution, routing, speed, or fuel standards. In practice, this means that States should bring BBNJ EIA results into IMO negotiations and, where necessary, request new or stricter measures. This is particularly relevant for the design of the IMO net zero framework, including lifecycle rules for marine fuels and other mid-term measures. It will no longer be credible for States to negotiate climate and fuel policies in isolation from their documented biodiversity impacts in areas beyond national jurisdiction. Cooperation between the two institutions will therefore be essential to ensure that shipping activities are adequately considered in BBNJ EIA processes and that IMO measures are consistent with States' BBNJ obligations.

3.2 Marine protected areas

BBNJ creates, for the first time, a legally binding global mechanism to establish marine protected areas (MPAs) and other area-based management tools in the high seas. Once a protected area is adopted by the BBNJ Conference of the Parties, all Parties are required to promote compliance with its conservation objectives[22].

However, many shipping activities that could affect an MPA, including vessel routing, speed, and pollution discharge rules fall under the mandate of the IMO. Because the IMO is the competent global body for regulating international shipping, implementing a BBNJ MPA in practice will require States to bring its management needs to the IMO for consideration. Effective protection will depend on coordinated measures across the two regimes.

3.3 Cumulative impacts

The BBNJ Agreement requires cumulative impact assessments that consider the combined effects of noise, climate change, pollution, species vulnerability, and ecological interactions. Shipping contributes to all of these pressures: underwater noise, climate and air pollution emissions, operational discharges, ship strikes and increased traffic density[23].

IMO regulations, however, are pollutant-specific and issue-specific. Noise, climate, pollution, and safety are regulated under separate instruments, and the IMO does not evaluate cross-cutting ecological risk. BBNJ introduces an obligation to look at these pressures together, which will require new channels of information exchange between the two organisations.

3.4 Data sharing

The BBNJ Agreement introduces new obligations for monitoring, reporting, and transparency, including through a global Clearing-House Mechanism. Effective implementation will require access to environmental data, activity information, ship movement patterns, and emissions profiles[24].

The IMO holds extensive data sets through the Global Integrated Shipping Information System (GISIS), the Data Collection System (DCS), and the Global Fuel Consumption Database. These data sets will be essential for understanding pressures on biodiversity in the high seas. Ensuring cooperation and data exchange between the two institutions will be key to implementing BBNJ's monitoring requirements.

4. Gaps That Must Be Addressed

The BBNJ Agreement creates new obligations for biodiversity protection in the high seas.
The IMO regulates the vessels that operate in those waters.
Yet the two systems still operate in parallel rather than in partnership.
Four governance gaps stand out and must be resolved to ensure that BBNJ delivers real ecological benefits:

4.1 No global assessment process for shipping impacts

Shipping is one of the most impactful human activities on the high seas, yet there is no global process to evaluate how new or intensified traffic affects ecosystems – indeed there has never been a process to evaluate existing traffic impacts. Changes in routing, increases in traffic density, or shifts to previously undisturbed regions all carry ecological consequences, but currently the IMO does not assess these impacts and BBNJ cannot implement its environmental impact obligations without them.
BBNJ introduces a requirement for biodiversity-focused environmental assessment, but it does not have access to the shipping data or sector-specific expertise needed to evaluate the consequences of maritime activity. This leaves a critical gap between what the treaty requires and what the current regulatory system provides.

4.2 Limited transparency

Effective biodiversity protection in the high seas depends on knowing where ships operate, what they emit, how they behave, and what environmental pressures they create. Although the IMO holds extensive information through GISIS, their Data Collection System, and other databases, some of this information is not publicly accessible or is only available in aggregated form.

Without access to this data, BBNJ Parties cannot perform robust environmental assessments, track cumulative pressures, or design effective area-based management tools. High-seas biodiversity protection therefore depends on greater transparency and data-sharing mechanisms between the two systems.

4.3 Fragmented climate and biodiversity regimes

Climate change, pollution, underwater noise, habitat degradation, and ecological vulnerability interact in the ocean, yet the global governance structures addressing them remain fragmented. The IMO regulates pollution, climate emissions, and noise under separate instruments. The BBNJ Agreement approaches ocean management through ecosystem-based, cumulative impact assessments, these are not the only existing frameworks but they are the ones looked at in this paper.

The two frameworks speak different regulatory languages. Without a mechanism to align climate and biodiversity considerations, measures adopted under one regime may undermine the objectives of the other. Bridging this divide is essential for meaningful conservation in areas beyond national jurisdiction.

4.4 No structured cooperation mechanism

The BBNJ Agreement requires States to cooperate with “relevant global bodies,” and the IMO is unquestionably one of these. Yet there is no formal pathway for coordination between the BBNJ Conference of the Parties and IMO committees.

Without a structured cooperation mechanism:

- BBNJ MPAs cannot be fully implemented
- cumulative impact assessments cannot incorporate shipping pressures
- monitoring obligations cannot be met
- scientific data cannot be exchanged in real time
- and sector-specific management measures cannot be aligned with biodiversity objectives

A dedicated cooperation process must be established to ensure that BBNJ and IMO operate in synergy rather than in isolation.

5. How Implementation Works in Practice: Two Case Studies

The following legal scenarios illustrate how BBNJ and IMO enforcement will work together once the treaty enters into force.

Case Study 1: A vessel violates IMO rules inside a BBNJ area

Scenario

A bulk carrier crosses a high seas region that contains rare deep-sea corals. The vessel illegally discharges oily waste, violating MARPOL Annex I. A regional satellite monitoring center detects the discharge. The alert is sent to the BBNJ clearing house mechanism.

Step 1 — IMO enforcement through the flag State

The flag state is legally required to investigate and where appropriate, institute proceedings in accordance with its national law[25].

Step 2 — Port State control

The vessel arrives in, for example, Rotterdam. Port State inspectors, aware of the satellite alert, inspect the ship and find:

- Falsified Oil Record Book entries
- Irregular sludge tank volumes
- Evidence of bypass equipment (equipment like a portable pump and valve system used to illegally dump oily water overboard by redirecting it around the required monitoring and treatment equipment)

The vessel is detained.

Penalties under domestic law

Once obligations under BBNJ and MARPOL are incorporated into national law, States can provide a range of sanctions for violations detected in their ports or under their jurisdiction. Depending on the legal system, this may include criminal or administrative fines, detention of the vessel, suspension or revocation of licenses, civil liability for environmental damage, criminal charges against responsible officers, and denial of port entry for repeated offenders.

Step 3 — BBNJ response

The incident is recorded in the Clearing House Mechanism. The BBNJ Secretariat prepares an environmental impact summary and shares the case with:

- The flag state
- The Netherlands
- IMO
- The BBNJ COP

Outcome

The vessel faces MARPOL penalties under Dutch law. The flag state is pressured to act. The incident informs future BBNJ biodiversity assessments and MPA decisions.

Case Study 2: A vessel complies with IMO rules but violates BBNJ rules

Scenario

A container ship transits a new BBNJ marine protected area on its way from, for example, Singapore to Los Angeles.

No IMO rule prohibits this.

The ship fully complies with MARPOL and IMO climate measures.
BUT the BBNJ MPA has a management plan that includes:

- A speed limit of 12 knots
- Routing to avoid whale migration corridors
- A prohibition on grey water discharge

The vessel:

- Travels at 19 knots
- Discharges grey water
- Cuts through the whale corridor

Step 1 — Monitoring

Acoustic sensors and satellite tracking record violations.
The BBNJ Secretariat logs the incident.

Step 2 — Flag State obligations under BBNJ

The flag state would be required to act in accordance with its domestic legislation implementing the BBNJ Agreement, which may include investigating the incident and ensuring future compliance, depending on how the treaty is incorporated into national law[26].

Step 3 — Port State action

The vessel arrives in, for example, Vancouver.
Vancouver cannot enforce IMO penalties because no IMO rule was broken.
But under domestic BBNJ legislation, if Canada has incorporated the BBNJ Agreement into its domestic legislation, the port authority may:

- Impose administrative fines
- Order voyage plan modifications
- Require compliance measures
- Deny port entry for repeated violations[27]

Step 4 — BBNJ follow up

The COP reviews the incident and may recommend additional measures.
States may request IMO to consider routing changes aligned with the MPA.

Outcome

The vessel faces consequences under national BBNJ rules, not IMO law.
The BBNJ COP uses the case to strengthen future management, and the flag State faces pressure and accountability.

6. Seas At Risk Recommendations

For States

1. Transpose the BBNJ Agreement into domestic law with clear penalties.
2. Integrate BBNJ obligations into national ocean and maritime policies.
3. Coordinate maritime and environmental authorities for consistent positions and implementation.
4. Support strong action on unregulated emissions and discharges at the IMO including black carbon, scrubber waste water, grey water, underwater noise.
5. Increase transparency of environmental and emissions data.

For the IMO

1. Transpose the BBNJ Agreement into domestic law with clear penalties.
2. Integrate BBNJ obligations into national ocean and maritime policies.
3. Coordinate maritime and environmental authorities for consistent positions and implementation.
4. Support strong action on unregulated emissions and discharges at the IMO including black carbon, scrubber waste water, grey water, underwater noise.
5. Increase transparency of environmental and emissions data.

For the BBNJ COP

1. Establish a permanent cooperation mechanism with the IMO.
2. Create clear Environmental Impact Assessment (EIA) procedures that include maritime activities.
3. Recognise the role of IMO climate and pollution measures in high seas conservation.
4. Facilitate collaboration between regional bodies and the IMO.

7. Seas at Risk Policy Asks

1. Create a formal partnership between the BBNJ COP and the IMO that supports coherent conservation and navigation measures.
2. Accelerate the adoption of mandatory global controls on unregulated emissions and discharges at the IMO including black carbon, scrubber waste water, grey water and underwater noise to support the conservation objectives of the BBNJ Agreement.
3. Develop strong protections for BBNJ marine protected areas, including routing and speed measures.
4. Allow open access to emissions and environmental data for science based decision making.
5. Develop robust cumulative impact assessments, including specifically when it comes to fuels being used.
6. Integrate the IMO Net Zero Framework requirements with BBNJ biodiversity objectives.

Conclusion

The BBNJ Agreement will transform ocean governance on the high seas, while the IMO regulates the vessels that move through those waters every day. The future of the ocean depends on how effectively these two systems work together.

In a time when the triple planetary crisis - marine pollution, biodiversity loss and climate heating is accelerating; shipping cannot delay cleaning up its act. The ocean, our largest carbon sink and foundation of global stability, needs protection backed by enforceable regulation and strong implementation. Global UN treaties matter, but they only work when there is strong cooperation and governments and implementing bodies are pulling in the same direction.

This paper provides a clear and practical guide to how two regimes connect, how implementation will occur, and how enforcement will function in real scenarios. Strong cooperation between BBNJ institutions and the IMO means that governments can protect the planet's largest shared ecosystem and carbon sink while supporting a safe and sustainable maritime sector that operates within planetary boundaries.

Seas At Risk would like to acknowledge and commend the instrumental role of Kristina Gjerde in the international negotiations and development of the BBNJ Agreement, and also contributed to the discussions of shipping policy at the IMO, particularly in relation to Particularly Sensitive Sea Areas. Kristina was a passionate ocean advocate and protector of the high seas from the beginning of her career until her untimely death in December 2025. Implementing the BBNJ in concert with the development of international shipping regulation and practice will be part of her legacy.

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