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# When will the BBNJ Agreement deliver results?

Robert Blasiak & Jean-Baptiste Jouffray



A new international agreement on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction (BBNJ) was adopted and subsequently opened for signature in September 2023. Yet on average, recent multilateral environmental agreements (MEAs) have taken over four years to move from signature to entry into force, while ocean-focused MEAs have taken nearly twice as long. Rapid ratification of the BBNJ Agreement is crucial for multiple reasons, not least to achieve the Kunming-Montreal Biodiversity Framework target for 30% of the marine environment to be protected by 2030. It is also vital to fulfill the Agreement's stated ambition to contribute to a just and equitable future for humankind, considering today's unprecedented expansion of commercial activities into the ocean.

In many contexts, multilateralism seemed to falter and fade in 2023, but it will always be a year of great significance for ocean governance[1]. In June 2023, following some two decades of negotiations in various formats[2,3], States finalized and adopted the "BBNJ Agreement" (formally, 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"; colloquially known as the "High Seas Treaty"). The BBNJ Agreement was opened for signature in September 2023, and is poised to close crucial legal gaps and enable new opportunities for collective action to govern areas beyond national jurisdiction (ABNJ)[2]. In this sense, the BBNJ Agreement has already delivered its first result: a powerful demonstration of the capacity of States to negotiate, build consensus, and agree on text to establish governance mechanisms affecting some two-thirds of the ocean.

Yet, positive results for biodiversity in ABNJ will largely depend on the BBNJ Agreement entering into force – a process that involves the individual legislative and executive procedures of each State[2]. Formally, the BBNJ Agreement will enter into force after a period of 120 days following "ratification, approval, acceptance or accession" by 60 States (Article 68). Within one year of the Agreement entering into force, it will convene its first meeting of the Conference of the Parties (COP), when key decisions can be taken, including the adoption of a budget and the establishment of subsidiary bodies to support the Agreement's implementation (Article 47).

But when will this happen? The international community has a mixed track record for the time it takes to finalize multilateral environmental agreements (MEAs). This includes a period when States are invited to sign the Agreement (a non-binding indication of intent to comply with it), which must then be followed by ratification (indicating assent to be legally bound by the Agreement)[2,4]. Since 1970, 27 MEAs with a similarly international scope to the BBNJ Agreement have taken on average 1678 days to move from opening for signature to entry into force, while the five MEAs specifically focused on ocean issues - MARPOL, CCAMLR, UNCLOS, UNFSA, and PSMA - took an average of 2688 days (Fig. 1). If the BBNJ Agreement follows either of these trajectories, it would enter into force in April 2028 or January 2031, respectively.

Such averages provide only the roughest of estimates, as there is diversity among MEAs, including their scope and the number of ratifications required to enable entry into force. For instance, PSMA required just 25 ratifications to enter into force, while UNFSA required 30, and UNCLOS (similar to the BBNJ Agreement) required 60. While it is encouraging that 83 States signed the BBNJ Agreement within two weeks of it opening for signature, it is also notable that UNCLOS was signed by 115 States on the day it opened for signature, but then went on to take 12 years to enter into force[2]. As of 19 March 2024, two States (Chile and Palau) had ratified the BBNJ Agreement.

## Why rapid ratification is crucial

One of the centerpieces of the BBNJ Agreement is the capacity to establish marine protected areas (MPAs) in ABNJ, with explicit objectives such as establishing "ecologically representative and well-connected networks of marine protected areas" to "protect, preserve, restore and maintain biological diversity and ecosystems" (Article 17). This is well-aligned with the Kunming-Montreal Global Biodiversity Framework and its Target 3 to effectively conserve and manage at least 30% of marine and coastal areas through a system of protected areas by 2030 (currently, some 8.2% of the ocean is under some form of protection, with just 2.9% considered fully or highly protected)[5].

The BBNJ Agreement creates a context within which Target 3 can be achieved. Since no global mechanism has existed to establish MPAs in ABNJ, only a handful have been designated, almost entirely in waters around Antarctica[3]. Of the 16,854 designated or implemented MPAs today, just 37 are found in ABNJ[6]. While these present examples of how leaders have sought to overcome the absence of a global mechanism, the degree of protection they provide and their status as MPAs have been questioned[7,8]. A continued focus on establishing MPAs within exclusive economic zones (EEZs) (which collectively cover just 36% of the ocean) would mean that meeting Target 3 without the BBNJ Agreement would require States to convert almost the entirety of their respective EEZs into MPAs.

Rapid ratification of the BBNJ Agreement is crucial, as entry into force is just the first step in an (at least) nine-step process. Second, States would have to wait for up to a year for the first COP to be organized, during which they would agree on terms of reference for a Scientific and Technical Body (STB), including an as-yet undetermined selection process for relevant experts. Third, STB members would be selected in line with this process. Fourth, a "proponent" State or States would need to submit a written

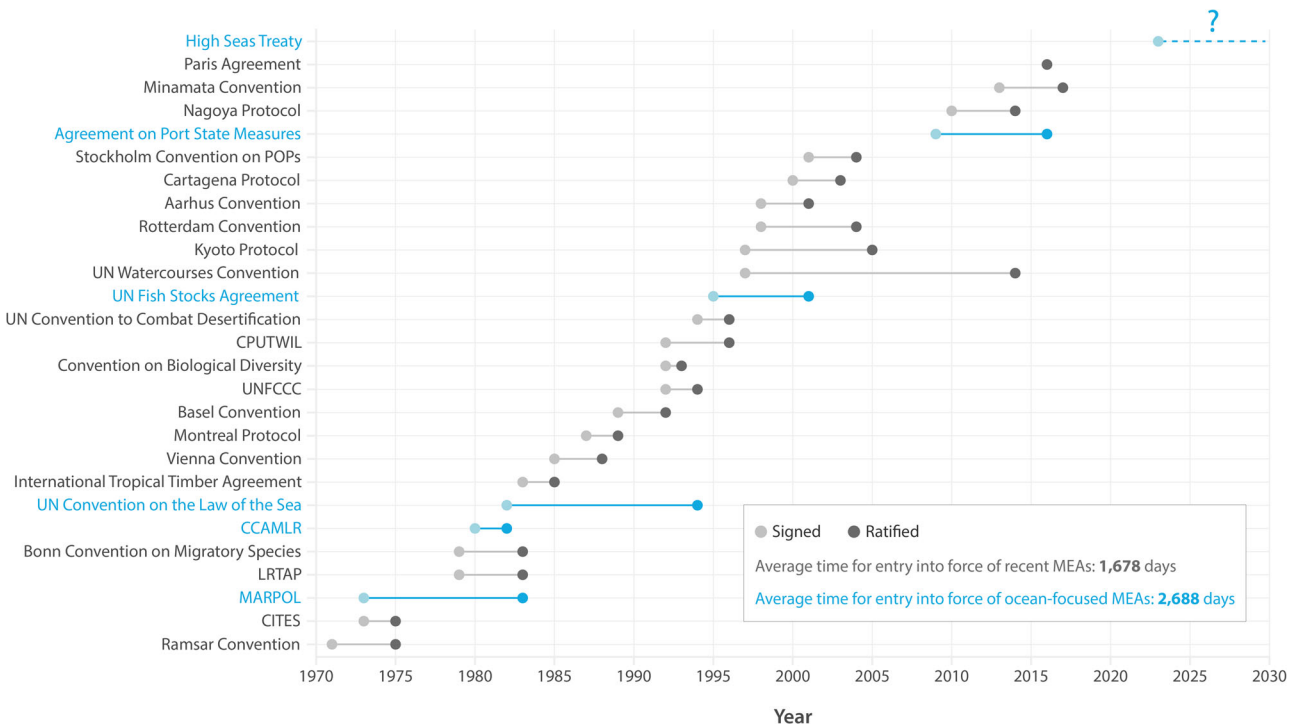


**Fig. 1 | Entry into force of recent international multilateral environmental agreements (MEAs) since 1970.** See the supplementary Data File for details and acronyms. Note that MEAs with a narrower regional focus have sometimes proceeded from signature to ratification on a swifter timeframe, perhaps due to the smaller number of States involved (e.g., the 10 Parties to the Central Arctic Ocean Agreement moved the Agreement from signature to entry into force in less than three years).

proposal to the STB for any area-based management tools including MPAs. Fifth, the STB would conduct a preliminary review of any such proposals and publicly announce the results of the review. Sixth, a "timebound" consultation (the length of which has not yet been specified) and assessment process would be initiated, to gather input from States, bodies of relevant legal instruments and frameworks, and other groups including Indigenous Peoples and local communities, the scientific community, and civil society. Seventh, the proponent would consider the contributions, revise the proposal and resubmit to the STB. Eighth, the STB would assess the proposal and make a recommendation to the COP. Ninth, the COP will seek to take a consensus-based decision on the proposal, but if a two-thirds majority votes that efforts to reach consensus have been exhausted, then the proposal can be moved to a vote and become adopted if supported by at least three-quarters of States. The decision of the COP would become binding following a further 120-day period during which objections may be registered.

Ensuring that future MPAs in ABNJ benefit from the full extent of consultation, review and discussion will be crucial to alignment with stated principles of inclusiveness, openness and equity (Articles 7, 17). States will need to work hard to both allow for the time that such processes would require and to meet their 2030 commitments under the Kunming-Montreal Biodiversity Framework. Achieving this also means that either of the "average" ratification timelines described above would render it unlikely that the BBNJ Agreement would result in any new MPAs by 2030.

## Leveraging the BBNJ agreement for a sustainable and equitable ocean

Protected areas are a powerful tool for collectively articulating and achieving conservation goals, and are therefore a useful reference point for the Agreement as a whole[9]. Yet they constitute just one of the four pillars of the BBNJ Agreement, which also encompasses a framework and minimum standards for conducting environmental impact assessments (EIAs) in ABNJ, new ambitions for delivering on capacity building and transfer of marine technology (CBTMT), and the fair and equitable sharing of benefits from marine genetic resources (MGR). In each case, similar arguments can be presented for the urgency of action. For instance, credible and transparent EIAs are critical in the context of rapidly growing ocean industries, which are set to transform the seemingly vast ocean into a crowded space[10,11].

Likewise, a stepchange in focus on CBTMT is an essential requisite for truly "enabl[ing] inclusive, equitable and effective cooperation and participation in the activities undertaken under [the BBNJ] Agreement" (Article 40)[12]. Beyond the scope of the BBNJ Agreement, a push to deliver substantially on CBTMT can be seen in the language of the UN Decade of Ocean Science for Sustainable Development 2021–2030 and Target 14.a of the Sustainable Development Goals (also coming due in 2030)[13]. Currently, just 1.1% of national research budgets are allocated for ocean science, and these resources are concentrated in a small number of countries, according to the regular Global Ocean Science Report prepared and published by the Intergovernmental Oceanographic Commission of UNESCO[13,14].

Meanwhile, the COP of the BBNJ Agreement may face some of the highest hurdles when seeking to not only implement new regulations on MGR from ABNJ and to achieve equitable sharing of benefits, but to keep up with rapid advances in biotechnology[15]. Within national jurisdictions, such issues are addressed by the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, which took nine years to negotiate and a further four years to enter into force[15]. During that time, the human genome was sequenced, the first

synthetic lifeform was created, CRISPR gene editing was developed, some 10% of the Earth's arable land was planted with genetically-modified crops, and bioinformatics tools were developed that dramatically reduced dependence on the physical samples that constitute the focus of the Nagoya Protocol[15,16].

The COP will elect members to an access and benefit-sharing committee to make recommendations and establish guidelines for benefit-sharing and other matters related to the implementation of the BBNJ Agreement. But years of lag time between adoption and ratification are likely to coincide with considerable technological advances and a corresponding burden on the committee to ensure the Agreement is functioning effectively. Likewise, sharing of the monetary benefits from utilizing MGR and digital sequence information from ABNJ will only begin following entry into force of the Agreement, election of committee members and a recommendation from the committee on modalities for sharing benefits.

The BBNJ Agreement is a welcome signal of the possibilities of collaboration and consensus-building to achieve ambitious results. But the same sense of urgency and constructive effort that fueled the final stages of its negotiations need to now feed into ratification efforts around the world, and subsequently into ensuring the Agreement's long-term success[17]. In addition to the committed group of individuals who have brought the Agreement to this stage, new capacities can be sought, for instance:

- The Governments of Costa Rica and France, co-hosts to the next UN Ocean Conference, should lead the charge and engage with States to urge ratification in time to celebrate entry into force in France in June 2025.
- Philanthropic organizations, donors and other investors could establish a collective fund to kickstart capacity-building efforts aimed at enabling all States to participate in an equitable, inclusive and effective manner in the Agreement's implementation.
- Governments, scientists and civil society representatives can support the Agreement's rapid operationalization following entry into force, including by contributing to the work of an associated Preparatory Commission, as proposed in UN General Assembly draft resolution A/78/L.41.
- Scientists and journalists can redouble efforts to keep the BBNJ Agreement in the headlines, by highlighting its potential, informing the public, and helping build a sense of ownership, care and stewardship for the ocean among humanity.

As we embrace ocean optimism as an antidote to a deluge of disheartening news, it is important to recognize that the BBNJ Agreement remains unfinished business. The celebrations of the achievements in 2023 must be tempered by the realization that many steps lie ahead – and that a whole world needs to take them together.

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R.B.: Conceptualization, Investigation, Writing—original draft, Writing—review and editing. J.B.J.: Conceptualization, Visualization, Writing—review and editing.

## Competing interests

The authors declare no competing interests.

## Additional information

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