



Ratification of the *Biodiversity Beyond National Jurisdiction Agreement*: Implications for Indonesia's National Interests and Implementation Challenges

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Abstract

Introduction: Areas Beyond National Jurisdiction (ABNJ) cover approximately two-thirds of the world's oceans. These areas play a vital role in maintaining the balance of the global marine ecosystem. However, the United Nations Convention on the Law of the Sea 1982 does not comprehensively regulate the conservation and utilisation of marine biodiversity in these areas. This legal vacuum led to the creation of the Agreement on Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement). Indonesia has ratified this agreement through Presidential Regulation No. 67 of 2025, which has legal implications for the national legal system.

Purposes of the Research: This article aims to analyse the implications of ratifying the BBNJ Agreement for Indonesia's national interests and the challenges of implementing it within the national legal system.

Methods of the Research: This study uses a normative legal research method with a legislative and conceptual approach through a review of relevant international legal instruments and national legislation.

Results of the Research: The results of the study show that ratification of the BBNJ Agreement is strategically crucial for Indonesia as an archipelagic and developing country, particularly through the four main pillars of the BBNJ Agreement, namely the regulation of marine genetic resources and benefit sharing, area-based management tools, environmental impact analysis, and capacity building and marine technology transfer. However, ratification also poses legal and institutional challenges, including the need to harmonize national legislation, regulate marine genetic resources and digital sequence information, strengthen inter-ministerial coordination, and adjust law enforcement mechanisms for Indonesian citizens' activities in international waters. Therefore, follow-up measures are needed to strengthen the national legal and institutional framework so that the implementation of the BBNJ Agreement can proceed effectively and in line with Indonesia's national interests.

Keywords: *Biodiversity Beyond National Jurisdiction Agreement; Law of The Sea; National Interest; Ratification.*

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INTRODUCTION

The geographical conditions of the earth show that the ocean area is larger than the land area. Approximately 70% of the earth's area is ocean, and about two-thirds of that area is outside national jurisdiction or Area beyond national jurisdiction (hereinafter referred to as ABNJ)¹. ABNJ consists of the High Seas and the Area. This area is also known as international waters, where no country can claim sovereignty. In other words, ABNJ are

¹ UNEP, "What is the international agreement to protect the high seas and why is it important", <https://www.unep.org/news-and-stories/story/what-international-agreement-protect-high-seas-and-why-it-important>

maritime areas that are not under the exclusive management of any country.² Thus, no single country has sole responsibility for managing and protecting areas beyond national jurisdiction.

The status of ABNJ as international waters has led to a lack of supervision of the exploitation of resources and biodiversity in these areas. ABNJ faces threats from various human activities that impact biodiversity and ecosystems in these areas. The problems faced in ABNJ include: overfishing in the high seas, exploitation of genetic resources, damage to marine habitats on the continental shelf, the impact of climate change, and marine pollution.³ In view of these facts, a solution is needed to ensure the long-term conservation and sustainable use of marine biodiversity in ABNJ.

The existence of the United Nations Convention on the Law of the Sea 1982 (hereinafter referred to as UNCLOS 1982) as an international agreement that regulates various legal aspects related to the division of maritime zones and establishes the rights and obligations of countries around the world in managing and utilising the sea is not sufficient to address issues in ABNJ.⁴ This is because UNCLOS 1982 does not specifically regulate the management and utilisation of marine biodiversity in ABNJ. This is what prompted countries to sign the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction (hereinafter referred to as the BBNJ Agreement) on 19 June 2023. The conditions for the entry into force of the BBNJ Agreement are set out in Article 68, which stipulates that *'This Agreement shall enter into force 120 days after the date of deposit of the sixtieth instrument of ratification, approval, acceptance or accession.'* This means that the BBNJ Agreement will only enter into force 120 days after the date of deposit of the sixtieth instrument of ratification, approval, acceptance, or accession. After going through the ratification process by various countries, the BBNJ Agreement finally reached the minimum requirement of being ratified by the 60th country on 19 September 2025, which marks the official entry into force of this agreement on 17 January 2026.

The BBNJ Agreement serves as an international legal instrument that provides a comprehensive regulatory framework for the protection and management of marine biodiversity in areas beyond national jurisdiction. This agreement has four main pillars: *First*, marine genetic resources (MGRs), including the fair and equitable sharing of benefits. *Second*, area-based management tools (ABMTs), including Marine Protected Areas (MPAs). *Third*, environmental impact assessments (EIAs). *Fourth*, capacity building and transfer of marine technology (CBTMT). For Indonesia, this agreement has legal and strategic significance because it opens opportunities for the country to actively participate in the international legal regime governing the conservation and sustainable use of marine biodiversity beyond national jurisdiction.

On the other hand, the BBNJ Agreement is important for Indonesia because, as an archipelagic country, it is geographically flanked by two oceans, namely the Pacific Ocean and the Indian Ocean. With this strategic position, Indonesia has a very rich marine biodiversity but is vulnerable to the effects of marine environmental damage. In addition,

² Dirhamsyah. "Biodiversity Beyond National Jurisdiction (BBNJ): Indonesian Perspective as an Archipelagic State." *IOP Conference Series: Earth and Environmental Science* 789, no. 1 (2021): 1-18. <https://doi.org/10.1088/1755-1315/789/1/012020>.

³ Ardelia Clarissa Noensie, and Putri Widhyastiti Prasetyo. "Examining Indonesia's Preparations for Ratifying the BBNJ Agreement." *Jurist-Diction* 8, no. 2 (2025): 154-172, <https://doi.org/10.20473/jd.v8i2.66972>.

⁴ Simi KK. "Marine Biodiversity Management under the UNCLOS: Scope and Challenges in the era of blue Economy Policy." *GLS Law Journal* 5, no. 2 (2023): 102-112, <https://doi.org/10.69974/gslawjournal.v5i2.109>.

Indonesia's maritime territory borders the South China Sea to the north and the Andaman Sea to the northwest. The maritime areas surrounding Indonesia's waters are vast ABNJ.⁵ Given these geographical and ecological conditions, Indonesia's involvement in the international legal regime related to the protection of marine biodiversity in areas beyond national jurisdiction is a necessity. The Indonesian government has ratified the BBNJ Agreement through Presidential Regulation Number 67 of 2025, followed by the submission of the ratification instrument to the United Nations on 10 June 2025. Therefore, this ratification is a form of the Indonesian government's commitment to protecting and utilising biodiversity in areas beyond national jurisdiction. On the other hand, the ratification of the BBNJ Agreement will have legal consequences for the national legal system.

In the context of national law, the ratification of the BBNJ Agreement has implications for international obligations that require adjustments to norms, policies, and institutions at the national level. This includes the harmonisation of laws and regulations in the fields of marine affairs, the environment, the utilisation of genetic resources, and environmental impact assessment mechanisms for activities that have the potential to affect areas beyond national jurisdiction. Based on this background, this article will analyse how Indonesia's ratification of the BBNJ Agreement will impact Indonesia's national legal system. This analysis can be relevant in identifying normative and institutional challenges that may arise, as well as formulating the necessary legal adjustments so that Indonesia's implementation of the BBNJ Agreement can be carried out in line with national interests and international obligations.

METHODS OF THE RESEARCH

This study uses a normative legal research method by reviewing literature, or what is known as secondary data.⁶ The secondary data used in this study consists of primary legal materials and primary legal materials. Primary legal materials are binding legal materials in the form of legislation and international agreements related to the object of the study. This study also uses secondary legal materials, which are legal materials that provide explanations of primary legal materials, consisting of books, articles, journals, and news related to the impact of the Indonesian government's ratification of the BBNJ Agreement on national law. The research was conducted using a statute approach by examining laws and regulations.⁷ This study will examine laws and regulations and international agreements relating to marine environmental protection in ABNJ. In addition, this study also uses a conceptual approach, which is an approach that begins with perspectives and doctrines in law. The conceptual approach begins with an explanation of the new pillars in the BBNJ Agreement, which will then be analysed in terms of their impact on Indonesia's national interests and the impact on national legal system.

RESULTS AND DISCUSSION

A. The *Biodiversity Beyond National Jurisdiction Agreement* (BBNJ Agreement) as a New Norm in Marine Governance

⁵ M. Ambari, "Perjanjian BBNJ: Peluang Besar untuk Indonesia di Laut Lepas, 2024, <https://mongabay.co.id/2024/01/19/perjanjian-bbnj-peluang-besar-untuk-indonesia-di-laut-lepas/>

⁶ Soerjono Soekanto, and Sri Mamuji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, (Jakarta: Raja Grafindo, 1995), p.15

⁷ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Prenadamedia Group, 2005) p.133

The debate over the theory of ocean ownership has been going on since ancient times and remains a complex issue. In Ancient Roman times, there were two main principles regarding ocean ownership, namely *Res Communis Omnium* and *Res Nullius*. *Res Communis Omnium* stated that the ocean belonged to all of humanity and therefore could not be owned by any one country. Meanwhile, *Res Nullius* stated that the sea belonged to no one, so countries could claim ownership of the sea or control it *de facto*.⁸ Then, in the 17th century, two new principles of maritime ownership emerged, namely *Mare Liberum* and *Mare Clausum*. *Mare Liberum*, proposed by Hugo Grotius, held that the sea was a free domain that could not be owned by any state. On the other hand, *Mare Clausum*, developed by John Shelden, states that countries can control the sea.⁹

The establishment of UNCLOS 1982 on 10 December 1982 ended the debate on the theory of maritime ownership. UNCLOS 1982 comprehensively establishes rules regarding the rights and obligations of all countries in maritime areas through a compromise between *Mare Liberum* and *Mare Clausum*.¹⁰ The application of the compromise between the two theories is evident in UNCLOS 1982, which divides maritime areas into two categories: areas under national jurisdiction and areas outside national jurisdiction. Areas under national jurisdiction include: internal waters, territorial seas, contiguous zones, EEZs, and continental shelves. Meanwhile, areas outside national jurisdiction consist of the high seas and the Area. In areas under national jurisdiction, states have sovereignty and sovereign rights. Meanwhile, in areas outside national jurisdiction, states do not have sovereignty.¹¹ The statement that ABNJ countries do not have sovereignty reflects that the high seas are part of the sea that is not included in the exclusive economic zone, territorial sea, internal waters, or archipelagic waters of an archipelagic state. In this area, the principle of 'freedom of the high seas' applies, which means that every country has freedom of navigation, aviation, laying of submarine cables and pipelines, construction of artificial islands or installations, fishing, and scientific research. States may not claim sovereignty over this area of the sea. Furthermore, the second area outside national jurisdiction is The Area, which consists of the seabed and subsoil beyond the limits of national jurisdiction. The principle of the *Common Heritage of Humankind* (CHH) applies to The Area, which means that no state may exercise its sovereignty over The Area.

In ABNJ, there is a wide variety of biodiversity, both identified and unidentified by humans. Newly discovered marine genetic resources on the deep seabed have shown potential for use in pharmaceuticals and cosmetics.¹² This has encouraged countries to exploit these resources for commercial purposes.¹³ On the one hand, optimal utilisation of marine resources has the potential to improve human welfare. However, on the other hand, increased exploitation may increase the risk to the sustainability of marine ecosystems, particularly through a decline in marine biodiversity (Achmad Gusman Siswadi, 2022, 203).¹⁴

⁸ Henan Hu, "The doctrine of occupation: An analysis of its invalidity under the framework of international legal positivism." *Chinese Journal of International Law* 15, no. 1 (2016): 75-138, <https://doi.org/10.1093/chinesejil/jmw008>

⁹ Ivan Dihanov, "Mare liberum vs. mare clausum: freedom of navigation in the context of the European Union restrictive measures." *Annales Scientia Politica* 13, no. 2 (2024): 36-42.

¹⁰ Gulardi Nurbintoro and Haryo Budi Nugroho, "Biodiversity Beyond National Jurisdiction: Current Debate and Indonesia's Interest", *Indonesia Law Review* 6, no.3 (2016): 284-305, <https://doi.org/10.15742/ilrev.v6n3.213>.

¹¹ Dhiana Puspitawati, dkk, "Pengaturan Aktifitas Marine Bioprospecting Wilayah Laut di Luar Yurisdiksi Nasional", *Jatiswara* 38, no. 3 (2023): 265-276, <https://doi.org/10.29303/jtsw.v38i3.541>.

¹² Mar Campins Eritja, "Bio-Prospecting in the Arctic: An Overview of the Interaction Between the Rights of Indigenous Peoples and Access and Benefit Sharing," *Boston College Environmental Affairs Law Review* 44, no. 2 (2017), p. 223.

¹³ Gulardi Nurbintoro and Haryo Budi Nugroho, *Op. Cit*, p. 283

¹⁴ Achmad Gusman Siswadi, "Sumber Daya Genetik Laut di Luar Wilayah Yurisdiksi Nasional: Perkembangan Terkini dan Arah Selanjutnya", *Bina Hukum Lingkungan* 6, no. 2 (2022): 203-223, <https://doi.org/10.24970/bhl.v6i2.258>.

The application of the principles of *freedom of the high seas* and *common heritage of humankind* implies that no country can exercise its sovereignty in this area, making it vulnerable to the negative impacts of human activities in the ABNJ without strict supervision by countries.

The BBNJ Agreement was formed as a solution to the problem of biodiversity vulnerability in the ABNJ region. The main objective of the BBNJ Agreement is the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, both now and in the long term. There are four main pillars regulated in the BBNJ Agreement to support efforts to manage and utilise ABNJ marine biodiversity sustainably, namely: a) marine genetic resources (MGRs), including the fair and equitable sharing of benefits (Part II BBNJ Agreement); b) area-based management tools (ABMTs), including Marine Protected Areas (MPAs) (Part III BBNJ Agreement); c) environmental impact assessments (EIAs) (Part IV BBNJ Agreement); d) capacity building and transfer of marine technology (CBTMT) (Part V BBNJ Agreement).

These four pillars are interrelated and serve to achieve the goals of conservation and sustainable use of global marine resources. *The first pillar*, Marine Genetic Resources (MGRs) including Access and Benefit-Sharing (ABS), regulates the utilisation of marine genetic resources beyond national jurisdiction and the fair and equitable sharing of benefits, both economic and non-economic, emphasising the principle of fair and equitable sharing of benefits. *The second pillar*, Area-Based Management Tools (ABMTs), including Marine Protected Areas (MPAs), focuses on the establishment and management of marine conservation areas based on scientific data to protect ecosystems and species in the high seas from overexploitation. *The third pillar*, Environmental Impact Assessments (EIAs), requires environmental impact assessments for any activities in the high seas that have the potential to cause damage, as a manifestation of the application of the principles of precaution and prevention in international environmental law. Meanwhile, *the fourth pillar*, Capacity-Building and the Transfer of Marine Technology, emphasises the importance of capacity building and the transfer of marine technology to developing countries to ensure equal participation in the conservation and utilisation of marine resources.

Thus, the existence of the BBNJ Agreement is a significant development in the dynamics of international law of the sea. This agreement serves as a complementary instrument to UNCLOS 1982, which aims to address legal gaps related to the regulation and protection of marine biodiversity in the ABNJ. In addition, the BBNJ Agreement is important in strengthening the principles of sustainability and global equity in the utilisation of marine resources. Prior to this agreement, the international legal regime of the sea did not provide an effective mechanism to ensure the conservation and benefit-sharing of marine genetic resources in the high seas and international seabed. Therefore, the BBNJ Agreement serves as a legal instrument that embodies the principle of the common heritage of humankind and ensures the implementation of the principle of fair and equitable sharing of benefits between developed and developing countries.¹⁵

B. The Importance of Ratifying the BBNJ Agreement for Indonesia's National Interests

The BBNJ is important for Indonesia not only because of its status as an archipelagic state, but also because of its position as a developing country. As an archipelagic state with vast

¹⁵ Joel P. N. Talaperu; Triesanto R Simanjuntak; and Novriest U W Nau. "Kepentingan Nasional Indonesia dalam Meratifikasi Perjanjian Biodiversity Beyond National Jurisdiction (BBNJ)", *Saintara: Jurnal Ilmiah Ilmu-Ilmu Maritim*, 2, no. 2 (2024): 1-11, <https://doi.org/10.52475/saintara.v8i2.299>.

waters and high marine biodiversity, Indonesia has a major interest in global efforts to strike a balance between economic development and the preservation of its rich marine ecosystems.¹⁶ On the other hand, as a developing country, Indonesia still needs support in terms of technology, capacity, and resources for marine management. Therefore, BBNJ is highly relevant to Indonesia because this agreement pays great attention to the fate of archipelagic and developing countries in the sustainable management and utilisation of marine biodiversity in ABNJ.

As the world's largest archipelagic country with more than 17,000 islands, a coastline stretching 54,000 kilometres, and an Exclusive Economic Zone (EEZ) covering 6 million square kilometres, Indonesia plays a vital role in the management and conservation of global marine biodiversity.¹⁷ With its vast maritime territory rich in resources supporting the national and global economy, Indonesia is a key player in addressing environmental threats occurring in areas beyond national jurisdiction, which cover two-thirds of the world's oceans. Therefore, Indonesia has a great responsibility to protect the sea and all its biodiversity. Indonesian waters are home to many marine species found nowhere else in the world. Various studies have revealed the abundant natural resource potential of areas beyond national jurisdiction, such as the Indian Ocean, which is an important habitat and spawning ground for southern bluefin tuna. However, due to excessive human exploitation, the population of this species has declined sharply in recent years.¹⁸ This fact highlights that the protection of marine biodiversity, particularly migratory species of strategic value, cannot rely solely on national legal regimes but requires regulation. This is because the sea forms a single interconnected entity, meaning that damage in one area can affect other areas. Therefore, the efforts that need to be made must be collective and involve various interested parties.¹⁹ In this context, the ratification of the BBNJ Agreement is an important instrument for Indonesia to secure its national interests through four interrelated pillars.

The first pillar is access and benefit-sharing (ABS) of Marine Genetic Resources (MGRs). This pillar is based on the importance of biodiversity beyond national jurisdiction, being enjoyed and benefiting not only a handful of countries, but also the entire global community.²⁰ Therefore, the existence of this pillar provides an important opportunity for developing countries such as Indonesia to obtain benefits in areas beyond national jurisdiction, the mechanism for which has been unclear until now.

As an archipelagic country, Indonesia has biodiversity in areas outside its national jurisdiction that has significant economic value, including as a source of discoveries in the medical world. The utilization of biodiversity in Indonesia is an asset aligned with the concept of sustainable development.²¹ Through the regulation of access and fair benefit sharing, Indonesia has the potential to obtain financial and non-financial benefits – such as

¹⁶ Erna Wati, "Indonesia's Role in Protecting High Seas Biodiversity: Challenges and Opportunities in Light of the Biodiversity Beyond National Jurisdiction Treaty", *Jurnal Hukum Ius Quia Iustum*, 32, no. 1 (2025): 239-262; doi <https://doi.org/10.20885/iustum.vol32.iss1.art10>.

¹⁷ *Ibid* p. 240

¹⁸ *Ibid*, p.4

¹⁹ M. Ridwan and Agussalim Burhanuddin, "Biodiversity Beyond National Jurisdiction (BBNJ) dalam Perspektif Kepentingan Nasional Indonesia", *Aufklarung: Jurnal Pendidikan, Sosial, dan Humaniora* 3, no. 4 (2023): 43-53. <http://pijarpemikiran.com/index.php/Aufklarung/article/view/607>

²⁰ United Nation General Assembly Resolution No. A/Res/69/292 dan United Nation General Assembly Resolu tion No. A/Res/72/249.

²¹ Igor Yoso Kahago Pubian and Arie Afriansyah, "Antisipasi Indonesia Dalam Pembentukan Kesepakatan Internasional Mengenai Pemanfaatan Keanekaragaman Hayati Di Wilayah Luar Yurisdiksi Nasional", *Jurnal IUS Kajian Hukum dan Keadilan* 9, no. 2 (2021): 375-402, doi: <http://dx.doi.org/10.29303/ius.v9i2.854>.

technology transfer, increased research capacity, and access to scientific data—from the utilization of MGRs in areas beyond national jurisdiction. This scheme is important for reducing the gap between developed and developing countries in mastery of marine biotechnology, which developed countries have so far dominated.²²

The second pillar is area-based management tools (ABMTs). ABMTs are a set of marine management mechanisms that focus on the geographical regulation of marine space to achieve specific objectives, such as biodiversity conservation, control of human activities, and sustainable use of marine resources.²³ ABMTs play an important role in ensuring that marine resources are used responsibly while balancing the ecosystem. A concrete form of ABMTs is Marine Protected Areas (MPAs) – in Indonesian called as Marine Protected Areas (KKL). MPAs are geographically defined marine areas that are managed to achieve specific objectives for long-term biodiversity conservation and may allow for sustainable use if it is appropriate and does not conflict with those conservation objectives.²⁴

ABMT can be a starting point. Indonesia is known as a country that actively seeks to establish marine conservation areas, including the ambition to establish conservation areas covering 30 percent of its waters by 2030.²⁵ With the ratification of the BBNJ Agreement by the Indonesian government, it can be interpreted that Indonesia's steps to establish MPAs outside its territorial waters can be accelerated. This agreement will be the first step towards better and more sustainable governance of marine biodiversity beyond national jurisdiction in the future.²⁶ With these MPAs, Indonesia can expand the reach of its marine conservation policies to the global level, while protecting ecosystems that are ecologically connected to Indonesia's Exclusive Economic Zone (EEZ).

The third pillar is environmental impact assessments (EIAs), which are processes for identifying and evaluating the potential environmental impacts of an activity for decision-making.²⁷ This pillar is important because the oceans are physically and biologically interconnected, and damage in one area can affect another. Environmental impact assessments are important because of the lack of scientific knowledge about biodiversity in areas outside national jurisdiction. This gap in scientific knowledge hinders humanity's ability to utilize these areas properly.²⁸ The EIA pillar provides preventive benefits for Indonesia in dealing with high-risk activities in the high seas, such as deep-sea mining and large-scale bioprospecting, which have the potential to cause transboundary impacts that could harm the national marine ecosystem, even if carried out outside the country's jurisdiction.²⁹ On the other hand, the EIA mechanism provides Indonesia with a legal instrument to protect long-term ecological interests, particularly those related to the sustainability of fish stocks and the health of regional marine ecosystems.

²² Achmad Gusman Siswandi *Op. Cit.*, p. 204

²³ Article 1 BBNJ Agreement

²⁴ Article 1 paragraph 9 BBNJ Agreement

²⁵ Ichwan Susanto, "Pemerintah Luncurkan Panduan Baru untuk Selamatkan 30 persen laut Indonesia, 2025, https://www.kompas.id/artikel/en-pemerintah-luncurkan-panduan-baru-untuk-selamatkan-30-persen-laut-indonesia?open_from=Artikel_Terkait

²⁶ Achmad Sahri, "Perjanjian BBNJ, Momentum Kawasan Konservasi Laut di Laut Lepas", 2023, <https://www.kompas.id/artikel/en-perjanjian-bbnj-momentum-kawasan-konservasi-laut-di-laut-lepas>

²⁷ Article 1 paragraph 7 BBNJ Agreement

²⁸ Robin Warner, "An International Instrument on Conservation and Sustainable Use of Biodiversity in Marine Areas beyond National Jurisdiction: Exploring Different Elements to Consider", https://www.iucn.org/sites/dev/files/import/downloads/paper_viii_options_for_environmental_impact_assessment_elements.pdf

²⁹ M. Ambari, *Op.Cit.*

The last pillar is capacity building and technology transfer. This pillar ensures that all countries have access to the tools and technology to participate in marine governance.³⁰ This is emphasized in Part V of BBNJ Agreement that regulated the parties are required to give full recognition to the special requirements of developing States Parties to the Agreement, particularly the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States, coastal African States, archipelagic States and developing middle-income countries.

The existence of this pillar is intended to address capacity gaps and assist developing countries. For Indonesia, the existence of this pillar can strengthen cooperation and coordination to carry out various activities in ABNJ through capacity building and technology transfer to protect the marine environment in the ABNJ region. The capacity building for communities, institutions, governments, and marine technology transfer form the basis for the conservation and sustainable and equitable use of the marine environment and biodiversity.³¹ Therefore, this increase in capacity and technology transfer will enable the Indonesian government to participate and advance the country's knowledge and capabilities to achieve sustainable protection and utilization.

The ratification of the BBNJ Agreement provides strategic, ecological, and institutional benefits for Indonesia. The four pillars of BBNJ complement each other in strengthening Indonesia's national interests, ranging from equitable access to genetic resources and the protection of marine ecosystems to the prevention of transboundary environmental impacts and capacity building. In the context of increasingly complex global marine governance, ratification of the BBNJ Agreement is a strategic step to ensure that Indonesia is not only an object but also an active subject in shaping a fair and sustainable international maritime legal regime.

C. The Implementation Challenges for Indonesia

Article 2 (b) Vienna Convention 1969 provides a definition "Ratification", "acceptance", "approval" and "accession" mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty. In Indonesia, the ratification of an international agreement is regulated in Law Number 24 of 2000 concerning International Agreements (Law 24/2000). Ratification is a legal act that binds a party to an international agreement, in addition to accession, acceptance, and approval. The form of ratification can be in the form of a Law or Presidential Regulation, as stipulated in Article 9 paragraph (2) of Law 24/2000 and Constitutional Court Decision Number 13/PUU-XVI/2018. The Indonesian government has ratified the BBNJ Agreement in the form of a Presidential Regulation, namely Presidential Regulation No. 67 of 2025.

This ratification process is not only an administrative step, but also a way of signifying the acceptance of an international agreement into the legal system of the country that has agreed to the international agreement.³² In other words, ratification of the BBNJ Agreement is a legal recognition that the international norms in the BBNJ Agreement will become part of Indonesia's national legal provisions. Therefore, ratification of the BBNJ Agreement will oblige Indonesia to harmonize its national legislation so that it does not conflict with its

³⁰ Dirhamsyah *Op. Cit.*, p. 8

³¹ Igor Yoso Kahago Pubian *Op. Cit.*, p.389

³² Fera Wulandari Fajrin, Kandi Kirana Larasati, and Fitriani Jamaluddin. "Inkonsistensi Politik Hukum dalam Ratifikasi Perjanjian Internasional di Indonesia", *Risalah Hukum* 21, no. 1 (2025): 62-77, p. 66

agreed international obligations. This is in line with the principle of *pacta sunt servanda* in international law as stipulated in Article 26 of the 1969 Vienna Convention on the Law of Treaties, which emphasizes that every treaty in force is binding on the parties and must be performed in good faith.

This can be interpreted to mean that the process of ratifying international agreements requires transformation into national law. This transformation process involves how a country translates the contents of an international agreement into national law, as it is usually followed by changes to the provisions applicable in a state.³³ In this context, Indonesia must ensure that national legal instruments relating to marine environmental protection, biodiversity conservation, and marine resource utilization are in line with the principles and provisions set out in the BBNJ Agreement.

Indonesia has been actively involved in establishing a comprehensive legal and regulatory framework to protect its marine environment and manage its resources sustainably³⁴. The Indonesian government has implemented various laws and policies to protect biodiversity, fisheries, and seabed exploration, ensuring these activities are carried out in accordance with environmental sustainability principles. However, the ratification of the BBNJ Agreement certainly has implications for Indonesia's obligation to harmonize national legislation in accordance with the principles set out in the BBNJ Agreement.

This ratification affirms Indonesia's position as an archipelagic country actively promoting marine conservation and sustainable resource use. However, this step also requires national legal readiness so that its implementation is not merely symbolic.³⁵ Derivative regulations and institutional mechanisms are needed after the ratification of the BBNJ so that Indonesia does not simply become an observer amid the exploitation of high-value marine resources outside its national jurisdiction. However, it also provides an opportunity to regulate the sustainable use of marine resources, prevent destructive exploitation, and support the restoration of disturbed marine ecosystems.³⁶ One of the challenges faced by Indonesia concerns the regulation of marine genetic resources and the sharing of benefits from digital sequence information (DSI), which is genetic data accessible without physical sampling. Although the economic value is considerable, without a clear legal basis, there is a risk of losing economic benefits and biological data sovereignty. The BBNJ also requires coordination across ministries, and there is potential for conflict between marine conservation policies and Indonesia's plans to participate in international deep-sea mining activities currently being prepared by the Ministry of Energy and Mineral Resources (ESDM). Therefore, ratification of the BBNJ Agreement requires the Indonesian government to immediately establish a national legal framework in line with the provisions of the BBNJ Agreement.

Other legal implications relate to the expansion of national jurisdiction. Although the BBNJ does not change national sovereignty or jurisdiction as stipulated in UNCLOS 1982,

³³ Hikmahanto Juwana, "Kewajiban Negara dalam Proses Ratifikasi Perjanjian Internasional: Memastikan Keselarasan dengan Konstitusi dan Mentransformasikan ke Hukum Nasional", *Undang: Jurnal Hukum* 2, no. 1 (2019): 1-32, <https://doi.org/10.22437/ujh.2.1.1-32>, p. 4

³⁴ Erna Wati, *Op. Cit.*, p. 247

³⁵ Firyalfatin, "Ratifikasi BBNJ Efektif 2026, Indonesia Dituntut Siapkan Regulasi Pengelolaan Laut", <https://www.hukumonline.com/berita/a/ratifikasi-bbnj-efektif-2026--indonesia-dituntut-siapkan-regulasi-pengelolaan-laut-lt68f224d38d8b6/?page=1>

³⁶ DFW, "Ratifikasi Perjanjian Internasional tentang Konservasi dan Penggunaan Berkelanjutan Keanekaragaman Hayati Laut di Luar Yurisdiksi Nasional oleh Indonesia" <https://dfw.or.id/ratifikasi-perjanjian-internasional-tentang-konservasi-dan-penggunaan-berkelanjutan-keanekaragaman-hayati-laut-di-luar-yurisdiksi-nasional-oleh-indonesia/>

this agreement expands the responsibility of the state in terms of supervising and regulating the activities of its citizens or national legal entities outside the national jurisdiction. Thus, Indonesia needs to adopt extraterritorial legal provisions to supervise exploration activities, marine biotechnology research, and the utilization of marine genetic resources by Indonesian entities in the high seas. It requires updating marine environmental criminal law and law enforcement mechanisms to regulate cross-border activities that affect the global marine environment.

CONCLUSION

The ratification of the BBNJ Agreement is strategically important because it aligns with Indonesia's national interests as an archipelagic country with high marine biodiversity and a geographic position directly facing the high seas. Through the four main pillars of the BBNJ Agreement – marine genetic resources, area-based management tools, environmental impact assessments, and capacity building and transfer of marine technology. Indonesia has the opportunity to strengthen the protection of marine ecosystems, secure long-term ecological interests, and enhance its bargaining position in global marine governance. This ratification also opens opportunities for Indonesia to obtain more equitable economic and non-economic benefits, including through benefit-sharing mechanisms, access to scientific data, and strengthening national capacity in marine research and technology. However, ratification of the BBNJ Agreement is not without implementation challenges at the national level. The legal consequences of ratification require harmonizing and adjusting national laws and regulations to align with agreed international obligations. The main challenges include the regulation of marine genetic resources and digital sequence information (DSI), the need for coordination across ministries and institutions, potential policy conflicts between marine conservation and economic exploitation agendas, such as seabed mining, and the expansion of state responsibility for the activities of citizens and national legal entities in areas beyond national jurisdiction. Without a clear national legal framework and effective institutional mechanisms, the implementation of the BBNJ Agreement risks being symbolic and suboptimal in protecting Indonesia's national interests. Therefore, the ratification of the BBNJ Agreement must be followed by concrete steps, including establishing derivative regulations, strengthening institutional coordination, and increasing national legal and technical capacity. These efforts are prerequisites for Indonesia not only to play a normative role but also to be an active and influential actor in the international maritime legal regime. With consistent and integrated implementation, the BBNJ Agreement can be a strategic instrument for Indonesia to balance global marine conservation interests with sustainable national development interests.

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