



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

2024/Factsheet 4

Environmental impact assessments

Introduction

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") was adopted on 19 June 2023. It addresses a package of issues under the overall objective of ensuring the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions of the [United Nations Convention on the Law of the Sea](#) and further international cooperation and coordination.

These issues are:

- I marine genetic resources, including the fair and equitable sharing of benefits;
- II measures such as area-based management tools, including marine protected areas;
- III environmental impact assessments; and
- IV capacity-building and the transfer of marine technology.

This factsheet focuses on **environmental impact assessments ("EIAs")** (Part IV of the BBNJ Agreement).

While the United Nations Convention on the Law of the Sea contains, in its Part XII, obligations relating to the assessment of the impacts of activities on the marine environment, the Agreement provides a framework for the operationalization of the relevant provisions of the Convention by establishing detailed processes, thresholds and other requirements for conducting and reporting assessments. The Agreement also addresses strategic environmental assessments.

EIAs are used to prevent, mitigate and manage the potential adverse impacts of planned activities on the marine environment.

What are environmental impact assessments and strategic environmental assessments?

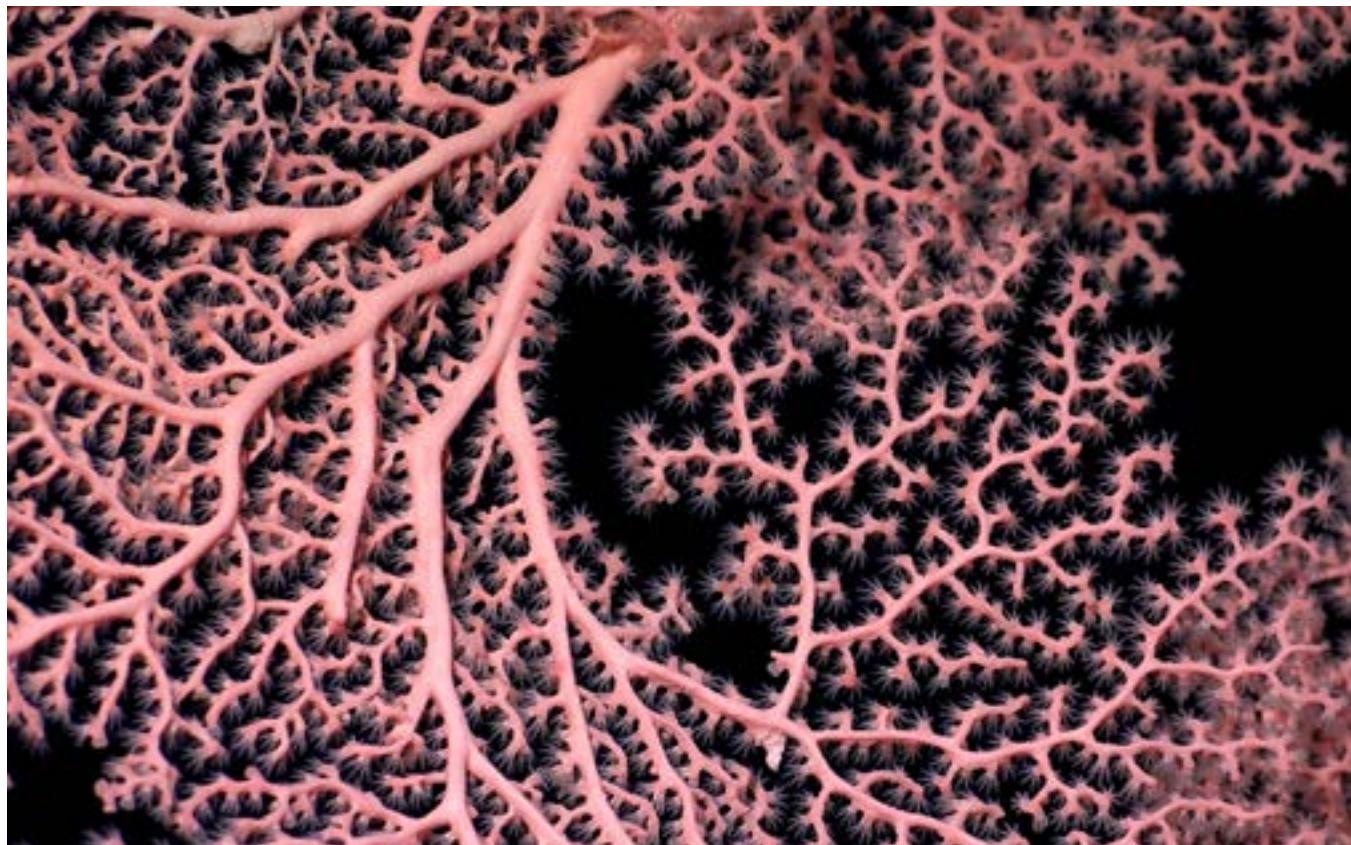
The Agreement defines an **environmental impact assessment** as "a process to identify and evaluate the potential impacts of an activity to inform decision-making."

The Agreement does not define **strategic environmental assessments**, but it does state that they are to be conducted for "plans and programmes" relating to activities. It also refers to such assessments for an area or region.

What are the objectives of the Agreement in relation to environmental impact assessments?

The Agreement sets out a number of objectives in relation to EIAs, namely to:

- Operationalize the provisions of the United Nations Convention on the Law of the Sea on EIAs for areas beyond national jurisdiction by establishing processes, thresholds and other requirements for conducting and reporting assessments by Parties to the Agreement;
- Ensure that relevant activities are assessed and conducted to prevent, mitigate and manage significant adverse impacts for the purpose of protecting and preserving the marine environment;



- Support the consideration of cumulative impacts (defined in the Agreement as “the combined and incremental impacts resulting from different activities, including known past and present and reasonably foreseeable activities, or from the repetition of similar activities over time, and the consequences of climate change, ocean acidification and related impacts”) and impacts in areas within national jurisdiction;
- Provide for strategic environmental assessments;
- Achieve a coherent EIA framework for activities in areas beyond national jurisdiction; and
- Build and strengthen the capacity of Parties, particularly developing States Parties, to prepare, conduct and evaluate EIAs and strategic environmental assessments.

Obligation to conduct environmental impact assessments

The Agreement requires that Parties ensure that the potential impacts on the marine environment of planned activities under their jurisdiction or control that take place in areas beyond national jurisdiction are assessed before they are authorized.

It also requires that when a Party determines that a planned activity to be conducted in marine areas within national jurisdiction may cause substantial pollution of or significant and harmful changes to the marine environment in areas beyond national jurisdiction, that Party shall ensure that an EIA is conducted in accordance with the Agreement or under the Party's national process. A Party conducting such an EIA under its national process must ensure that the activity is monitored and make relevant information, as well as EIA reports and any monitoring reports, available through the Clearing-House Mechanism established under the Agreement.

What are the thresholds and factors for conducting environmental impact assessments?

The Agreement requires a Party to conduct a screening of a planned activity under its jurisdiction or control when that activity may have **more than a minor or transitory effect** on the marine environment, or when the effects of the activity are unknown or poorly understood. If, based

on this screening, the Party has reasonable grounds for believing that the activity may cause **substantial pollution of or significant and harmful changes** to the marine environment, an EIA shall be conducted in accordance with the Agreement. The Agreement requires that a list of non-exhaustive factors, including potential cumulative impacts and potential impacts in areas within national jurisdiction, be considered when determining if this threshold is met.

What is the process for environmental impact assessments?

Parties are required to ensure that the process for conducting an EIA includes the following steps:

(a) screening; (b) scoping; (c) impact assessment and evaluation; and (d) prevention, mitigation and management of potential adverse effects.



Who will make decisions?

The determination on whether an EIA is required for a planned activity, and the decision on whether a planned activity is allowed to proceed following an EIA, will be taken by the Party that has jurisdiction or control over that planned activity.



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However, if a Party determines, after a screening, that an EIA is not required, the Agreement provides for a so-called **“call-in” mechanism** that allows other Parties to register their views on the potential impacts of the planned activity with the Party that made the determination, and with the Scientific and Technical Body established under the Agreement. Similarly, other Parties may register their concerns in relation to an authorized activity with the Party that authorized it, and with the Scientific and Technical Body. In both cases, the Scientific and Technical Body may make recommendations.

Relationship with other relevant instruments, frameworks and bodies

The Agreement requires the Conference of the Parties to develop a mechanism for the Scientific and Technical Body to collaborate with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies (“IFBs”).

Of note, it is not necessary to conduct a screening or an EIA under the Agreement if the Party with jurisdiction or control over the planned activity determines that the potential impacts of the planned activity or category of activity have been assessed in accordance with the requirements of other relevant IFBs and that:

- the assessment already undertaken is equivalent to the one required under the Agreement and the results of the assessment are taken into account; or
- the regulations or standards of the relevant IFBs arising from the assessment were designed to prevent, mitigate or manage potential impacts below the threshold for EIAs under the Agreement and they have been complied with.

Monitoring, reporting and review

The Agreement sets out a mechanism for ensuring the monitoring, reporting and review of authorized activities and their impacts.

Monitoring, reporting and review

Parties are required to keep under surveillance the impacts of any activities in areas beyond national jurisdiction that they permit or in which they engage

Parties will periodically report on the impacts of the authorized activity and the results of the monitoring

Parties are required to ensure that the impacts of the authorized activity monitored are reviewed

Monitoring reports will be made public

Other elements regarding environmental impact assessments under the Agreement

Parties are required to ensure **timely public notification** of a planned activity **and opportunities for participation** by all States, in particular adjacent coastal States and any other States adjacent to the activity when they are potentially most affected States, and stakeholders in the EIA process.

Where a planned activity affects areas of the high seas that are entirely surrounded by the exclusive economic zones of States, Parties are required to undertake **targeted and proactive consultations**, including prior notification, with surrounding States.

The Agreement requires that Parties ensure the **preparation of an EIA report** for any EIA undertaken under the Agreement, and lists the information that must be included, at a minimum, in such an EIA report.

All States, in particular adjacent coastal States and any other States adjacent to the activity when they are potentially most affected States, and stakeholders must be kept **informed and may be consulted in the monitoring, reporting and review processes**.

The Scientific and Technical Body will develop **standards and/or guidelines** for consideration and adoption by the Conference of the Parties on a number of aspects related to EIAs.

Parties are required to **consider conducting strategic environmental assessments** for plans and programmes relating to activities under their jurisdiction or control, to be conducted in areas beyond national jurisdiction. The Conference of the Parties may conduct a strategic environmental assessment of an area or region.

Contact

For further information on the BBNJ Agreement, including with respect to capacity-building and technical assistance available to States in becoming parties to the Agreement and in relation to its implementation, contact the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations:

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Disclaimer

The present factsheet is intended to promote a better understanding of the BBNJ Agreement and does not purport to be exhaustive. It should be read in conjunction with the full text of the Agreement, the certified true copy of which is available on the website of the United Nations Treaty Collection (<https://treaties.un.org/>)



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