

High Seas Treaty - The Challenges Ahead

Mains: GS II - Bilateral, Regional and Global Groupings and Agreements involving India and/or affecting India's interests.

Why in News?

The High Seas Treaty was ratified by over 60 countries in September and it will now be enforced in January 2026.

What is the treaty about?

- **High seas treaty** - It is formally referred to as The Biodiversity Beyond National Jurisdiction (BBNJ) agreement.
- It creates an all-inclusive framework to govern and manage common marine biodiversity.
- **Rules** - The treaty sets rules to preserve and use marine biodiversity sustainably and addresses threats from climate change, overfishing and pollution.
- **Background** - In 2004, the UN General Assembly formed an ad-hoc working group to fix the gap in the UN Convention on the Law of the Sea (UNCLOS), 1982, which did not have clear guidelines on protecting BBNJ.
- By 2011, states had agreed to negotiate on four key issues, mainly MGRs, ABMTs, EIAs, and capacity building and technology transfer.
- Following this, four Intergovernmental Conference sessions were held between 2018 and 2023.
- The parties to these discussions finally reached an agreement in March 2023, which led to the adoption of the treaty in June 2023.

What are the tools and mechanism for sustainable governance?

- **Marine Genetic Resources (MGRs)** - It is recognised as the "common heritage of humankind,"
- It includes genetic material from marine plants, animals, and microorganisms that can be used for scientific and commercial purposes, including pharmaceuticals and biotechnology.

- **Area-Based Management Tools (ABMTs)** - The treaty allows for the creation of Marine Protected Areas (MPAs) to conserve biodiversity hotspots and critical ecosystems.
- These zones will be identified using a mix of scientific data and traditional knowledge.
- **Environmental Impact Assessments (EIAs)** - Any activity likely to affect the marine environment, especially with cumulative or transboundary impacts, must undergo a mandatory EIA.
- This ensures preventive measures are taken before potential damage occurs.
- **Capacity Building and Technology Transfer** - Recognising the technological disparity between developed and developing nations, the treaty encourages capacity building to ensure equal participation in ocean research and governance.



What are the major issues?

- **Vagueness in the principles** – The uncertainty over the principles of “common heritage of humankind” and “freedom of the high seas.”
- The “common heritage principle” supports equitable access and benefit-sharing of marine resources for all, while the “freedom on the high seas” stresses on unrestricted rights of states to carry out navigation, resource usage and research activities.
- However, the common heritage principle is only applicable partially, especially when it comes to MGRs.
- This shows a compromise instead of a resolution. It also creates ambiguity in exploration, research and benefit sharing.
- **Use of MGRs** – The governance of MGRs was earlier not defined, raising concerns over “biopiracy” and unfair exploitation by developed countries.
- Developing nations were concerned that they would be excluded from the profits of scientific discoveries from the high seas.
- The treaty now includes a framework on sharing monetary and non-monetary benefits, but with no clear details on how such benefits will be calculated or shared.
- **Unwillingness of big powers** – The treaty is under threat due to non-participation from the U.S., China, and Russia, who are yet to ratify the treaty.
- **Interaction with multilateral institutions** – The treaty must coexist and not ignore existing international institutions, such as the International Seabed Authority (ISA) and Regional Fisheries Management Organisations (RFMOs).
- The BBNJ agreement must also blend with existing international treaties to prevent legal conflicts and lead to more fragmentation of ocean governance.

What next?

- There is a need for dynamic management of MPAs, and regular monitoring.
- To deliver the BBNJ, linking climate-biodiversity with the ocean will be crucial for resilient management.

Reference

[The Hindu| Challenges in High Seas Treaty](#)



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