LAKSHMAN KADIRGAMAR INSTITUTE
OF INTERNATIONAL RELATIONS AND STRATEGIC STUDIES

POLICY BRIEFS

2026 / 04

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Beyond Biodiversity, But Not Beyond Responsibility: The Role of the BBNJ Agreement in the Sri Lankan Context

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April 2026

Abstract: *This Policy Brief examines what the BBNJ Agreement, the landmark 2023 treaty on marine biodiversity beyond national jurisdiction, which entered into force on 17th January 2026, actually demands of Sri Lanka as a State Party. Sri Lanka was among the four countries whose ratification instruments triggered the Agreement's entry into force, which also functioned as a gesture of leadership that carried forward tangible obligations alongside its strong diplomatic symbolism. However, the domestic architecture needed to meet those obligations, such as a coherent legal framework and integrated institutional arrangements do not yet exist in a form suited to the task. Drawing on the treaty text, Sri Lanka's existing maritime framework(s), and international experience(s), this paper examines the structural gaps, makes the case for a coordinated national response, and presents a practical roadmap for BBNJ implementation in Sri Lanka.*

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List of Abbreviations

Abbreviation/Acronym	Definition
ABNJ	Areas Beyond National Jurisdiction
ABMT	Area-Based Management Tool
AIMS	Australian Institute of Marine Science
BBNJ	Biodiversity Beyond National Jurisdiction
CB&TT	Capacity Building and Technology Transfer
CEA	Central Environment Authority
CHM	Clearing-House Mechanism
COP	Conference of the Parties
DSI	Digital Sequence Information
EEZ	Exclusive Economic Zone
EIA	Environmental Impact Assessment
FAO	Food and Agriculture Organization
GBIF	Global Biodiversity Information Facility
GBR	Great Barrier Reef
GBRMPA	Great Barrier Reef Marine Park Authority
GIS	Geographic Information System
IEE	Initial Environmental Examination
IORA	Indian Ocean Rim Association
ISBA	International Seabed Authority
IOTC	Indian Ocean Tuna Commission
IUU	Illegal, Unreported, or Unregulated (fishing)
LKI	Lakshman Kadirgamar Institute
MEPA	Marine Environment Protection Authority
MGRs	Marine Genetic Resources
MPA	Marine Protected Area
NARA	National Aquatic Resources Research and Development Agency
NIWA	National Institute of Water and Atmospheric Research (New Zealand)
NPI	Norwegian Polar Institute
PAA	Project Approving Agency
SACEP	South Asia Co-operative Environment Programme
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	United Nations Development Programme

1.0 Introduction

The United Nations Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ) also known as the High-Seas Treaty, was adopted on 19 June 2023, following close to two decades of international negotiations.

The agreement entered into force on 17 January 2026, exactly 120 days after the 60th instrument of ratification was deposited at the United Nations. As of 2026, the Agreement counts 83 parties and 145 signatories, marking a genuinely historic turning point for global ocean governance.

Sri Lanka occupies a distinctive position in this story. As an island nation at the crossroads of the Indian Ocean, it possesses a 200-nautical-mile Exclusive Economic Zone (EEZ) rich in fisheries and biodiversity, with its flagged vessels regularly venturing into the adjacent high seas. More significantly, Sri Lanka was among the four states whose ratification instruments (deposited on 16 September 2025 in New York), triggered the treaty's entry into force. This signaled a quiet act of diplomatic leadership that carried forward real expectations.

The BBNJ Agreement opens genuine doors for Sri Lanka: equitable access to marine genetic resources (MGRs), a voice in designating high-seas marine protected areas, and structured access to technology and capacity building designed specifically for developing states.

Yet, it also places a serious responsibility on Sri Lankan authorities to bridge the often-siloed worlds of government departments, research institutions, and industry in delivering on the obligations of the treaty.

1.1 Research Statement

Sri Lanka's ratification of the BBNJ Agreement is an act of diplomatic leadership, but ratification alone does not constitute implementation. This Policy Brief proceeds from the premise that the credibility of Sri Lanka's ocean governance commitments depends on whether its domestic institutional and legal frameworks can be reorganized and, where necessary, strengthened to meet the substantive obligations the treaty imposes.

The analysis that follows is offered as a constructive contribution to that national effort, identifying both the building blocks already in place and the gaps that must urgently be addressed for effective BBNJ implementation.

1.2 Research Problem

Sri Lanka currently lacks a unified institutional framework to ensure that all domestic actors comply with the BBNJ treaty when operating in areas beyond national jurisdiction (ABNJ) under Sri Lankan jurisdiction or control.

This is not a failure of will, but rather it is a structural gap. Existing laws on maritime zones, the environment, and fisheries are each robust within their own domains, but they were designed for a different era and a different geography. Two examples illustrate the gap clearly.

1) Sri Lanka's Environmental Impact Assessment (EIA) regime requires impact studies for domestic projects, but it contains no provisions for environmental risks arising from activities that a Sri Lankan company undertakes on the high seas.

2) Sri Lankan law regulates access to genetic resources within national territory, but it does not yet specify how Sri Lankan entities should report or share benefits from marine genetic material collected beyond national jurisdiction. Without a tailored mechanism, implementation risks being inconsistent and legally vulnerable.

The central integration challenge spans regulatory permitting, scientific data management, stakeholder participation, and international coordination. Addressing it effectively is critical both to honouring Sri Lanka's treaty commitments and to capturing the tangible benefits of the BBNJ Agreement, such as capacity building, technology transfer and access to global marine science, that the treaty makes available to developing states that engage in good faith.

1.3 Research Objectives

This policy brief has been built around 4 core research objectives:

1) **To map Sri Lanka's existing legal and institutional framework** against the substantive obligations of the BBNJ Agreement, identifying provisions that can be extended to cover high-seas activities and gaps that require new legislative action.

2) **To diagnose the structural deficiencies** that currently prevent Sri Lanka from implementing the BBNJ Agreement effectively, with particular attention to the absence of explicit ABNJ jurisdiction, institutional fragmentation across NARA, MEPA, the CEA, the Navy, and the Department of Fisheries, and capacity constraints in deep-sea science and treaty-law drafting.

3) **To establish, through comparative case study analysis**, the institutional conditions under which states have successfully translated international marine governance commitments into effective domestic stewardship drawing on Australia's Great Barrier Reef framework, Norway's Svalbard governance model, and New Zealand's Kermādec Ocean Sanctuary experience as instructive precedents.

4) **To produce actionable policy recommendations** structured as a phased three-year roadmap that would allow Sri Lanka to establish a National BBNJ Coordination Council, enact enabling domestic legislation, build an open ABNJ data platform, and engage regional partners through IORA and SACEP, thereby translating ratification into genuine implementation.

1.4 Research Questions

This policy brief is built around five interlinked questions that question the reality of what goes beyond ratification in Sri Lanka.

The questions are as follows:

1) What are the key obligations of the BBNJ Agreement, and what timelines do they impose on Sri Lanka?

2) What does Sri Lanka's existing legal and institutional framework for ocean governance look like, and where are the gaps or overlaps relative to BBNJ obligations?

3) Why is inter-institutional collaboration essential for effective BBNJ implementation?

4) What institutional model could Sri Lanka adopt to coordinate implementation, and how should roles, responsibilities, and workflows be structured?

5) What phased roadmap, with milestones, indicators, and risk mitigations, would give that model operational traction?

1.5 Research Methodology

This policy paper is based on a qualitative analytical review of primary sources and relevant literature. Primary sources include the BBNJ Agreement text, official UN documents (*e.g. the UN Treaty Collection status page, intergovernmental reports*), and Sri Lankan legislation and official statements (*e.g. Sri Lanka's Maritime Zones Act, Fisheries Act, Environmental Acts, and government press releases*).

Secondary sources include recent academic and policy literature on BBNJ implementation and ocean governance, as well as reports by international organizations. The approach involved;

1) Extracting treaty obligations, principles and timelines directly from the certified text.

2) Reviewing Sri Lankan legal instruments for provisions relevant to high seas activities (using government or authoritative law databases).

3) Synthesizing findings on institutional roles from law texts and secondary analyses.

4) Drawing on institutional collaboration theory and examples from similar treaties (e.g. the UN Fish Stocks Agreement) to formulate a conceptual model.

5) Proposing a model and roadmap consistent with treaty provisions and Sri Lanka's governance style.

6) Cross-checking facts with authoritative sources and including citations in text.

2.0 Background to the BBNJ Agreement

The BBNJ Agreement takes its name from its subject matter, "areas beyond national jurisdiction" (ABNJ). These areas encompass the High Seas (*the open ocean beyond any state's territorial reach*) and the Area (*the seabed and its subsoil that lie beyond the continental shelf of any nation*).

Together, ABNJ covers roughly half the planet's surface and some 95% of the ocean's volume. For most of recorded history, and for much of the modern legal era, they have remained largely ungoverned by any binding framework.

In terms of the treaty, its core objective is to ensure the conservation and sustainable use of marine biodiversity in these spaces, as its text puts it, *"for the present and in the long-term, for the benefit of present and future generations."*

It does so by building on the foundational provisions of the United Nations Convention on the Law of the Sea (UNCLOS), while establishing new and legally binding obligations in four critical areas:

1) **Marine Genetic Resources** (MGRs), including the fair and equitable sharing of benefits derived from them.

2) **Area-Based Management Tools** (ABMTs), including the establishment of high-seas Marine Protected Areas (MPAs).

3) **Environmental Impact Assessments** (EIAs) for activities with potential to harm ABNJ.

4) **Capacity Building and the Transfer of Marine Technology** (CB & TT) to support developing states.

The Agreement is the third implementing agreement under UNCLOS, following the 1994 Agreement on deep-seabed mining and the 1995 UN Fish Stocks Agreement. Its architecture is deliberately inclusive, meaning that it establishes a Conference of the Parties (COP), a Clearing-House Mechanism (CHM) for open data sharing, a Scientific and Technical Body, and several committees covering benefit-sharing, capacity building, finance, and compliance.

The first COP is expected to convene within a year of entry into force, with preparatory work currently underway through a dedicated Preparatory Commission, whose third session is scheduled for late March to early April 2026 in New York.

3.0 Legal and Institutional Frameworks Governing Sri Lanka's Maritime Domain

As a maritime nation, Sri Lanka has developed a layered set of laws and institutions governing its ocean space across several decades. With the BBNJ Agreement being a relatively new development, these frameworks contain varying provisions relevant to its implementation. Understanding where they can help and where they fall short is essential to designing an effective national response aligned with the agreement.

3.1 Maritime Zones Law (Act No. 22 of 1976)

Sri Lanka's Maritime Zones Law defines the country's ocean jurisdiction and attendant rights. It vests sovereign rights over natural resources in the EEZ and continental shelf and grants the state authority to regulate scientific research within those zones.

Notably, section 12 of the Act provides that written law in force in Sri Lanka shall apply, where relevant, within the declared maritime zones: a provision that can serve as a legal hook to extend domestic regulations into Sri Lanka's maritime domain, and, by analogy, potentially into ABNJ activities carried out under Sri Lankan jurisdiction or control.

3.2 The National Environment Act (1980)

The National Environment Act (No. 47 of 1980), Sri Lanka's baseline environmental legislation, was substantially strengthened by amendments in 1988 and 2000.

The 1988 amendment introduced the requirement for Initial Environmental Examinations (IEEs) or full Environmental Impact Assessments for prescribed projects, along with mandatory public disclosure and the establishment of Project Approving Agencies (PAAs). The 2000 amendment clarified public participation procedures and strengthened enforcement.

These amendments created a robust domestic EIA regime. Their critical limitation, however,

is that they are anchored explicitly to "projects carried out in Sri Lanka."

They do not, as currently written, apply to activities conducted in ABNJ under Sri Lankan jurisdiction or control. Any Sri Lankan-flagged vessel conducting deep-sea research or bioprospecting on the high seas would not automatically fall within the scope of this regime. Extending EIA obligations to cover such activities would require either new legislation or a significant expansion of existing regulatory guidance.

3.3 Fisheries and Aquatic Resources Act (No. 2 of 1996, as amended 2023)

The Fisheries and Aquatic Resources Act serves as the primary legislative framework for Sri Lanka's fisheries policy. A significant 2023 amendment (Act No. 27 of 2023) explicitly addressed high-seas operations: it criminalized Illegal, Unreported, or Unregulated (IUU) fishing in both Sri Lankan waters and on the high seas and empowered the Director-General to suspend or cancel a vessel's registration for violations in any waters.

The amendment also formalized Sri Lanka's obligation to give full effect to conservation measures adopted by the Indian Ocean Tuna Commission (IOTC), of which Sri Lanka has been a member since 1994, as well as other applicable high-seas instruments.

This amendment represents perhaps the most direct domestic engagement with high-seas governance currently on Sri Lanka's books. Its IUU provisions and IOTC compliance obligations provide a meaningful foundation for extending fisheries-related obligations into the BBNJ framework.

3.4 Marine Pollution Prevention Act (No. 35 of 2008)

The Marine Environment Protection Authority (MEPA), established under this Act, is mandated to protect Sri Lanka's territorial and maritime zones from pollution. Its powers are broad: MEPA can investigate pollution incidents, order clean-ups, and prosecute offences. Crucially, its mandate includes cooperation and coordination with other agencies: a design that makes it a natural institutional model for any future ABNJ oversight mechanism.

MEPA's cross-agency, coordinating role demonstrates that Sri Lanka is not without precedent for tasking a single authority to manage complex, multi-stakeholder maritime challenges.

3.5 Coastal and Biodiversity Laws

Sri Lanka's Coast Conservation Act (No. 57 of 1981, as amended) and its Fauna and Flora Protection Act (No. 22 of 2009, as amended) each contain relevant provisions, though with limited reach into ABNJ. The Coast Conservation Act focuses on nearshore management, while the Fauna and Flora Protection Act creates a domestic framework for access to genetic resources and revenue sharing.

The latter signals Sri Lanka's interest in biodiversity benefit-sharing, but its scope is confined to Sri Lankan flora, fauna, and terrestrial genetic resources, not to marine genetic resources in the high seas.

A further gap worth noting is that Sri Lanka is party to the Convention on Biological Diversity but has not yet acceded to the Nagoya Protocol on access and benefit-sharing. This means Sri Lanka currently lacks the "checkpoint" infrastructure that the Nagoya Protocol requires, a gap that will complicate the country's ability to fully meet the BBNJ's MGR obligations without

additional domestic preparation.

3.6 Research and Data Institutions

The National Aquatic Resources Research and Development Agency (NARA) is Sri Lanka's statutory body for aquatic research, mandated to coordinate work in oceanography, hydrography, and data collection across coastal and offshore waters. Its board includes representatives from the Sri Lanka Navy and the Survey Department, reflecting an institutional culture of cross-government engagement with marine data.

NARA is the natural candidate to anchor the scientific dimensions of BBNJ implementation: managing a national ABNJ database, providing baseline data for EIAs, and engaging academic and international partners.

No equivalent legal entity exists for high-seas governance specifically, which means that effective BBNJ implementation will require NARA, MEPA, the Central Environment Authority (CEA), the Department of Fisheries, and others to work in a coordinated fashion that the current legislative framework does not formally require.

The Department of Coast Conservation and Coastal Resource Management holds some research functions, but its mandate is largely confined to the coastal zone.

4.0 Sri Lanka's Current Position on ABNJ Management

Sri Lanka's political engagement with the BBNJ Agreement has been genuinely proactive. The country actively participated in the intergovernmental negotiations from their inception in 2018, and its decision to ratify in September 2025, ahead of many larger economies reflects a consistent commitment to ocean governance leadership.

The Ministry of Foreign Affairs framed ratification in terms of both contribution and benefit: the Agreement would enable Sri Lanka to "work collectively with other nations to protect biodiversity, build climate resilience, and advance the Sustainable Development Goals," while also creating opportunities to share in the benefits of MGRs and Digital Sequence Information (DSI), and to receive capacity building. These statements set meaningful public expectations that Sri Lanka will deliver on its commitments, not merely sign them.

At the same time, and with every respect to the goodwill behind them, public pledges are not implementation plans. The credibility of Sri Lanka's ocean leadership role depends, ultimately, on whether the machinery of government can translate those pledges into functioning domestic arrangements. That is precisely where the challenge lies.

5.0 ABNJ Governance Gaps and Challenges

Despite the strength of Sri Lanka's political commitment, three structural deficiencies in the current framework deserve candid acknowledgment.

1) **Absence of explicit legal coverage.** No existing domestic law explicitly authorises Sri Lanka to regulate national activities in ABNJ. There is currently no mechanism to require the reporting of MGRs collected in the high seas, nor any domestic obligation binding Sri Lankan companies to benefit-sharing arrangements. This is not a minor gap, but is the foundational legal architecture that the entire BBNJ implementation framework requires.

2) **Institutional fragmentation.** NARA, MEPA, the CEA, the Navy, and the Coast Guard each operate competently within their own domains. But marine data and regulatory authority remain dispersed across these agencies, with no formal mechanism for integration. The risk, as experience in other countries demonstrates, is not incompetence but incoherence: inconsistent interpretations, duplicated effort, and data that lives in silos rather than feeding a shared national picture.

3) **Capacity constraints.** Deep-sea research, treaty-law drafting, and high-seas monitoring require specialized skills and resources that remain limited in Sri Lanka. A vivid illustration of the challenge is the UNDP's 2025 Mapping the Future initiative, which consolidated data from 35 separate government agencies to create a first-of-its-kind Geographic Information System (GIS) unit within the National Planning Department. The fact that such an initiative was novel speaks volumes about how far the country still needs to travel to achieve the kind of integrated data infrastructure that the BBNJ's Clearing-House Mechanism will demand.

The three deficiencies identified in this chapter are not independent problems requiring three separate solutions. Rather, they are symptoms of a single underlying condition: a governance architecture designed for a different era of ocean management, one in which the high seas were regarded as beyond both reach and responsibility.

Closing these gaps requires not piecemeal amendment(s) but a deliberate act of institutional redesign, pursued with the same seriousness of purpose that Sri Lanka brought to the act of ratification itself.

6.0 Making a Case for Institutional Collaboration

The BBNJ Agreement is, by its nature, a treaty that resists administrative compartmentalisation. Its obligations do not sit neatly within any single ministry's portfolio. They span foreign affairs, environmental regulation, fisheries management, scientific research, and finance, which also require all of these to speak with one coherent voice.

This reality makes institutional collaboration not a policy preference but a treaty-driven necessity. There are five interconnected reasons why this matters.

1) The treaty explicitly mandates cooperation. Article 5 of the BBNJ Agreement requires that it be interpreted and applied in a manner that does not undermine relevant global and regional bodies. In practice, this means that Sri Lanka's position in one forum, for example, the International Seabed Authority must not contradict its stance in the BBNJ process. Only a unified, inter-agency approach to treaty governance can ensure that kind of coherence.

2) Data sharing is a treaty obligation, not a technical nicety. Articles 47–51 establish the BBNJ Clearing-House Mechanism and require parties to upload data on MGR activities, EIAs, and area-based management tools. Sri Lanka's ability to comply depends entirely on timely, structured data flows from multiple agencies. Without a formal integration mechanism, Sri Lanka's CHM contributions will be incomplete, and the country will be in de facto non-compliance.

3) Cross-cutting obligations require multiple agencies to act in concert. Consider a straightforward scenario: a Sri Lankan research vessel plans a deep-sea expedition in

ABNJ. It will need an EIA requiring environmental agency review, a CHM notification requiring data coordination, and possibly a fisheries permit requiring Fisheries Department sign-off. No single agency can cover all three. Multi-agency coordination is not a bureaucratic preference; it is the only operationally coherent response.

4) Pooled capacity multiplies impact. Sri Lanka's fiscal and technical constraints are real. A coordinated approach such as one legal drafting team for multiple thematic regulations, a shared ABNJ data platform, a single national capacity-building programme is both more efficient and more attractive to the bilateral and multilateral partners whose support Sri Lanka will need. The treaty offers concrete capacity-building mechanisms for developing states; a consolidated national plan is far more likely to unlock that support than a series of disconnected requests.

5) Legitimacy and diplomatic credibility. The BBNJ Agreement mandates public consultations for EIAs and area-based management proposals. A single, coordinated lead body ensures that these processes are transparent and participatory, reducing the risk of conflict or legal challenge. International counterparts such as other states, UN bodies, scientific institutions will judge Sri Lanka's performance by its ability to coordinate internally. Inter-agency unity directly affects Sri Lanka's standing as a credible partner in ocean governance.

6.1 Australia and the Great Barrier Reef

Australia's governance of the **Great Barrier Reef (GBR)** offers perhaps the most instructive international precedent for Sri Lanka's BBNJ implementation challenge. The Great Barrier Reef Marine Park, established under the Great Barrier Reef Marine Park Act 1975, covers approximately 344,400 square kilometers, making it one of the world's largest marine protected areas. This area is jointly managed by the Great Barrier Reef Marine Park Authority (GBRMPA) and the Queensland State Government through a formal intergovernmental agreement. When observing Australia's governance of the GBR, the lessons for Sri Lanka are both specific and actionable.

1) Australia created a dedicated statutory authority known as the GBRMPA with an explicit, legislated mandate for integrated marine governance, rather than distributing responsibilities across multiple line agencies. This single-authority model eliminated the coordination failures that characterize fragmented governance and provided a clear point of accountability for both domestic and international stakeholders.

2) The GBR governance framework is underpinned by a comprehensive zoning plan that separates areas for different uses: scientific research, sustainable fishing, tourism, and high-protection no-take zones. This spatial planning approach is directly relevant to Sri Lanka's BBNJ obligations under the ABMTs pillar, which requires states to propose and manage high-seas MPAs. Sri Lanka currently has no equivalent framework for spatial planning in ABNJ.

3) Australia invested heavily in the scientific underpinnings of GBR governance. The Australian Institute of Marine Science (AIMS), established in 1972, provides the continuous biological, chemical, and physical monitoring data that feeds management decisions. Sri Lanka's NARA is a functional equivalent, but it would require substantially expanded resources and a formalized data-sharing mandate to play the same role for BBNJ implementation.

The cautionary dimension of the Australian example is equally instructive. Despite its sophisticated governance architecture, the GBR has faced persistent criticism from UNESCO and international scientists for failing to prevent ongoing coral bleaching driven by climate change and agricultural runoff.

In 2021, UNESCO considered adding the GBR to its list of World Heritage in Danger, citing inadequate government action. Australia's responded with a thirty-year GBR Blueprint for Investment and accelerated water quality programmes, thereby demonstrating that governance frameworks must be adaptive, adequately resourced, and subject to genuine scientific oversight, not merely formally correct.

For Sri Lanka, the Australian model offers this essential synthesis: a dedicated, legislatively empowered coordination authority; integrated spatial planning; robust scientific monitoring; and genuine adaptive management. These are the institutional features that transform a signed treaty into an effective stewardship regime.

The BBNJ Agreement does not require Sri Lanka to replicate the GBR framework, but it does demand an equivalent level of institutional seriousness.

6.2 New Zealand and the Kermādec Ocean Sanctuary

New Zealand's long-running effort to establish the **Kermādec Ocean Sanctuary** offers a cautionary illustration of what happens when a government's international commitments outpace the domestic legislative process required to give them effect.

In 2015, the New Zealand Government announced plans to create one of the world's largest fully protected marine sanctuaries in the Kermādec region, approximately 1,000 kilometres northeast of the North Island, covering some 620,000 square kilometres of ocean. The announcement was internationally acclaimed, generating considerable diplomatic goodwill and positioning New Zealand as a leader in high-seas conservation ahead of the BBNJ negotiations then underway.

The enabling legislation, the Kermādec Ocean Sanctuary Bill was introduced in Parliament in 2016, which stalled almost immediately. The Māori iwi of Ngāti Kuri successfully argued that their customary fishing rights in the Kermādec region, recognized under the Fisheries Act and the Treaty of Waitangi settlement framework, had not been adequately consulted upon before the government made its international announcement. As of 2026, the sanctuary has still not been enacted into law, more than a decade after the government's public pledge. The international credibility New Zealand gained from its announcement has been gradually eroded by its inability to deliver the legislative follow-through, and the unresolved domestic conflict has complicated New Zealand's participation in BBNJ discussions on area-based management tools.

The Kermādec case exposes three failure modes that Sri Lanka must actively guard against.

1) First, the sequencing failure: New Zealand made its international commitment before completing the domestic stakeholder consultations that its own legal framework required. Sri Lanka's BBNJ Implementation Act must be preceded by structured consultations with fishing communities, the Navy, the private sector, and civil society not after parliamentary tabling.

2) Second, the rights-recognition failure: the iwi challenge succeeded in part because indigenous and customary resource rights were not mapped and reconciled with the proposed sanctuary boundaries before the announcement. While Sri Lanka's legal context differs, the fishing communities of the Northern and Eastern coastal districts hold analogous customary interests in adjacent high-seas areas that must be engaged before any area-based management proposal is tabled at the BBNJ COP.

3) Third, the institutional failure: New Zealand lacked a single coordinating body empowered to manage the cross-government complexity of the sanctuary process. The Ministry for the Environment, the Ministry for Primary Industries, the Office of Treaty Settlements, and the Foreign Ministry all had stakes in the outcome, with no designated lead to resolve the conflicts between them.

The positive dimension of the New Zealand case is that it clarifies the precise institutional gap that a National BBNJ Coordination Council is designed to fill. Had such a body existed in New Zealand with a clear mandate to reconcile domestic stakeholder interests before any international commitment was made, the Kermādec impasse might have been avoided entirely, or at least resolved far more rapidly.

In Sri Lanka's case, the lesson is direct: the Coordination Council recommended in Chapter VIII of this Brief must not merely coordinate implementation after treaty commitments are made. It must function as a pre-commitment filter, ensuring that domestic 1legal, communal, and institutional conditions are in place before Sri Lanka tables any proposal for area-based management tools in the BBNJ process.

6.3 Norway and the Svalbard Archipelago

Norway's governance of the waters surrounding the **Svalbard Archipelago** provides a third instructive model, one that is particularly relevant to the challenge of extending domestic jurisdiction into spaces that are shared with the international community. The **Svalbard Treaty** of 1920 grants Norway full sovereignty over the archipelago while simultaneously guaranteeing equal rights of access and commercial activity to nationals of all signatory states.

This dual obligation, which includes sovereign authority coupled with an international openness mandate mirror, in structural terms, the tension Sri Lanka faces as it seeks to assert domestic regulatory control over high-seas activities conducted by Sri Lankan-flagged vessels while respecting the BBNJ Agreement's open-access principles for all states.

Norway resolved this tension through a layered domestic legislation process, most notably the *Svalbard Environmental Protection Act of 2001*, which established stringent environmental standards across approximately 65% of the archipelago's land area. Critically, the Act does not confine its ambitions to the terrestrial domain: it explicitly extends environmental obligations into the surrounding marine areas, including rules on vessel discharges, wildlife disturbance, and the collection of biological specimens.

Norway also established the **Norwegian Environment Agency** as the principal regulatory body responsible for monitoring compliance and coordinating scientific data. The agency also functions as a single institutional lead that prevents the fragmentation of authority across competing ministries.

In tandem, the Norwegian Polar Institute provides the continuous baseline scientific monitoring

(oceanographic surveys, ecosystem health assessments, biodiversity inventories), that feeds directly into regulatory decision-making and into Norway's reporting obligations to international bodies.

Crucially, this scientific function is embedded in law, not left to discretionary funding cycles. The Institute's data are publicly accessible through an open-data portal that interfaces with international repositories, a model directly analogous to the BBNJ Clearing-House Mechanism that Sri Lanka will be obliged to contribute to.

The cautionary note from the Norwegian case is equally pertinent. Norway's governance of Svalbard has attracted ongoing diplomatic friction, particularly from Russia, which disputes the maritime jurisdiction Norway asserts around the archipelago. This scenario further demonstrates that even technically sound and well-resourced governance frameworks can generate geopolitical tension when neighbouring states perceive their interests to be affected.

For Sri Lanka, operating in a region where India, the Maldives, and other Indian Ocean states all have stakes in high-seas governance, this is a direct warning: regulatory action in ABNJ, however well-intentioned, must be accompanied by proactive bilateral and regional diplomacy. Unilateral frameworks, even legally impeccable ones, can fracture the regional relationships that small island states depend upon, unless carefully navigated through.

The Norwegian model offers Sri Lanka three transferable lessons, namely;

1) Enabling legislation must explicitly name the marine and high-seas domain rather than allowing courts or agencies to infer jurisdiction by analogy.

2) Second, a single statutory scientific authority with a mandatory open-data mandate is a more durable foundation for international reporting obligations than voluntary inter-agency cooperation.

3) Third, diplomatic engagement with neighbouring states must precede, not follow, the domestic regulatory architecture (a sequencing discipline that Sri Lanka's proposed National BBNJ Coordination Council should build into its operational calendar from the outset.

6.4 Synthesis: What the Three Cases Tell Sri Lanka

Taken together, the three cases; Australia and the Great Barrier Reef, Norway and Svalbard, and New Zealand's Kermādec process, converge on a set of institutional conditions that distinguish effective ocean governance from its failure modes.

The table overleaf maps these conditions against Sri Lanka's current position, identifying both assets and gaps.

Governance Condition	Australia (GBR)	Norway (Svalbard)	New Zealand (Kermādec)	Sri Lanka (Current)
Single statutory lead authority	✓ GBRMPA	✓ Env. Agency	✗ Fragmented	✗ Not yet
Explicit marine/ABNJ legislation	✓ GBRMP Act	✓ Env. Protection Act	✗ Stalled (Bill)	✗ Gap
Statutory scientific monitoring body	✓ AIMS	✓ NPI	~ NIWA (limited)	~ NARA (needs mandate)
Pre-commitment stakeholder consultation	~ Partial	✓ Strong	✗ Absent (fatal)	✗ Must be built
Open data / CHM-ready infrastructure	~ Improving	✓ NPI open portal	~ Partial (NIWA)	✗ Not yet built
Regional diplomacy before domestic action	~ Bilateral only	✗ Ongoing friction	✗ Absent (fatal)	✗ Priority action

Table 1: Comparative governance conditions across three case studies. ✓ = present; ✗ = absent; ~ = partial.

The comparative picture is both challenging and encouraging for Sri Lanka. Challenging, because the gaps identified in the final column are real and will require sustained political and institutional effort to close. Encouraging, because none of the conditions identified as absent are beyond Sri Lanka's reach.

Norway built its Svalbard framework from a comparable starting point of fragmented marine governance. Australia's GBRMPA was created to solve precisely the coordination failures that Sri Lanka currently exhibits. While the New Zealand case demonstrates that the cost of not building these conditions before making international commitments is not merely domestic embarrassment, but rather measurable diplomatic damage and delayed conservation outcomes. Sri Lanka has time to sequence its steps correctly.

The window, however, is not unlimited: the first BBNJ Conference of the Parties is expected within the year, and the decisions made there will set the practical shape of the treaty's obligations for years to come.

7.0 Risk Analysis and Mitigation

Implementing the BBNJ Agreement will involve navigating genuine uncertainties. The risks outlined below are foreseeable challenges that require deliberate mitigation strategies, and should be reviewed periodically by any national coordination body established for this purpose.

Risk	Description	Mitigation Strategy
Institutional silos	Agencies may resist sharing data or authority, leading to gaps in implementation.	Legal mandates in implementing legislation; cross-sector reporting under a national coordination council; inter-agency MoUs as progress indicators.
Legislative delays	A prolonged parliamentary timeline would leave a regulatory vacuum.	Cabinet directive to treat BBNJ obligations as binding; apply existing pollution prevention provisions as precautionary measures in the interim.
Data sensitivities	Private companies and security agencies may hesitate to share data for the CHM.	Draw on treaty Article 32 provisions for redaction of commercially sensitive information; develop a clear national data-sharing policy based on NARA's existing practices.
Fiscal constraints	Sri Lanka faces genuine budgetary pressures.	Prioritize and sequence actions; pursue treaty-supported financial assistance; embed BBNJ requirements within existing climate, fisheries, and ocean-monitoring programmes to attract co-financing.
Regional dynamics	Uncoordinated measures could generate diplomatic friction with India, the Maldives, and other neighbours.	Engage bilaterally and through IORA and SACEP before tabling any ABNJ proposals; build regional alignment proactively.
Enforcement beyond jurisdiction	The high seas lie beyond direct coastal control.	Focus on control points: require Sri Lankan-flagged vessels to report ABNJ activities; use Port State Measures under the 2009 FAO Agreement; cooperate with INTERPOL and regional partners.

Table 2: Risk Analysis & Mitigation strategies for BBNJ implementation.

8.0 Policy Recommendations and Suggested Action Plan

The following recommendations are presented as an integrated, phased action plan. They are sequenced to build institutional capacity progressively, starting with structural foundations in Year 1, moving to operational systems in Year 2, and achieving full compliance readiness by Year 3.

8.1 Establishing a National BBNJ Coordination Council (Year 1)

Sri Lanka should potentially seek to establish, by Cabinet directive within six months and by statute within eighteen months, a National BBNJ Coordination Council comprising representatives from the Ministry of Foreign Affairs, the Ministry of Environment, the Ministry of Fisheries, NARA, MEPA, the CEA, the Sri Lanka Navy, and the Coast Guard. The Council should be chaired by the Ministry of Foreign Affairs given the treaty's primarily international character, and should meet quarterly at minimum, with a permanent secretariat housed within an existing agency such as NARA is the natural candidate, pending dedicated resourcing.

The Australian GBRMPA model is instructive here: a dedicated statutory authority with an explicit mandate eliminates the coordination failures that plague distributed governance. Sri Lanka need not create an entirely new agency, but it does need to designate a clear lead.

8.2 Invest in Human Capacity (Year 1)

Sri Lanka should identify, within the first year, at least five officials across the relevant agencies to receive specialized training in BBNJ treaty law, high-seas EIA methodology, and marine genetic resource management. The treaty's CB&TT provisions should be actively used to secure such training. A standing academic partnership with a university faculty offering marine law or ocean science should be formalized, with NARA as the lead institutional partner.

8.3 Develop a National BBNJ Implementation Plan (Year 1)

The Coordination Council, once established, should produce within its first year of operation a National BBNJ Implementation Plan setting out: specific legislative milestones with responsible agencies and deadlines; a CHM data upload schedule; a capacity-building programme with named beneficiaries; and an annual review mechanism tied to the treaty's compliance framework. This plan should be publicly available and tabled in Parliament to ensure democratic accountability.

8.4 Enact Enabling Domestic Legislation (Year 2)

Sri Lanka should draft and table a BBNJ Implementation Act that: explicitly extends domestic regulatory jurisdiction to Sri Lankan entities operating in ABNJ; establishes a mandatory MGR reporting and benefit-sharing regime consistent with Part II of the BBNJ Agreement; amends the National Environment Act to require EIAs for Sri Lankan-flagged activities on the high seas; and designates the Coordination Council as the competent authority for BBNJ matters.

In the interim, a Cabinet paper directing all relevant agencies to apply existing frameworks (Marine Pollution Prevention Act, the Fisheries Act, and the Maritime Zones Law), to high-seas activities under Sri Lankan jurisdiction or control would provide a short-term legal foundation pending full legislation.

8.5 Build an Open ABNJ Data Platform (Between Year 1 - 2)

NARA should be mandated and resourced to establish a national ABNJ data repository that can interface with the BBNJ Clearing-House Mechanism. Drawing on the model provided by the UNDP's 2025 GIS initiative, this platform should aggregate data from NARA, MEPA, the Fisheries Department, the Navy, and academic partners.

Data classification policies should also be developed in parallel, drawing on Article 32 of the treaty to address commercial sensitivities.

8.6 Engage Regional Partners (Year 2 - 3)

Sri Lanka should use its chair of the Indian Ocean Rim Association (IORA) and its membership of the South Asia Co-operative Environment Programme (SACEP) to build regional alignment on BBNJ implementation. Bilateral consultations with India, the Maldives, and Bangladesh should be initiated before Sri Lanka tables any proposal for area-based management tools in the BBNJ process. This proactive engagement will reduce the risk of diplomatic friction and may generate co-financing and shared-capacity opportunities.

Each of the 6 recommendations above are calibrated to what Sri Lanka can potentially achieve within its fiscal constraints, its existing institutional base, and the timeline that the BBNJ process imposes. What they demand, collectively, is coordination, which also means the willingness of multiple agencies, ministries, and stakeholders to do so before the first Conference of the Parties sets expectations that Sri Lanka will be measured against.

The phased structure of the roadmap is deliberate. Year 1 is about foundations: the Cabinet directive, the legislative drafting mandate, the data platform scoping, and the regional consultations that the New Zealand case demonstrates must precede, not follow, any international commitment.

Years 2 and 3 are about operationalization such as turning frameworks into functioning systems and training into embedded institutional knowledge. The risk, as the comparative cases make clear, is not in being too ambitious but in being too slow. Australia's GBRMPA took years to reach its full effectiveness; Norway's Polar Institute required sustained investment before its open-data mandate meant anything in practice. Sri Lanka has the advantage of learning from those trajectories rather than replicating them from scratch.

If these recommendations are implemented with the discipline the roadmap requires, Sri Lanka will emerge from this process not merely compliant with the BBNJ Agreement but genuinely capable of contributing to the Clearing-House Mechanism, of proposing and managing area-based measures in the Indian Ocean, and of positioning itself as the kind of developing state partner that the treaty was specifically designed to empower.

Conclusion

The BBNJ Agreement marks a new chapter in humanity’s relationship with the ocean. For too long, the high seas have been governed by the logic of open access and minimal accountability. This treaty changes that. It asks states to look beyond their jurisdictional limits and accept responsibility for what happens in the commons beyond.

For Sri Lanka, that challenge is both practical and philosophical. Practically, it demands that the country build the legal architecture, institutional arrangements, and data infrastructure that the treaty requires. Philosophically, it invites Sri Lanka to affirm through its actions that being beyond jurisdiction does not mean being beyond responsibility.

This Policy Brief has shown that Sri Lanka already possesses many of the building blocks it needs. Its existing laws, while not designed for ABNJ, contain provisions that can be extended and adapted. Its institutions, while fragmented, house genuine expertise that can be coordinated. Its political will, while not yet matched by operational capacity, is real and publicly stated.

The comparative lessons from Australia’s governance of the Great Barrier Reef, Norway’s Svalbard framework and New Zealand’s Kermādec experience are collectively salutary: sophisticated governance architecture, dedicated statutory authority, and robust scientific monitoring can together transform political commitment into effective stewardship. However, this will only be possible if they are backed by adequate resources, genuine adaptive management, and proactive stakeholder engagement.

Sri Lanka does not need to replicate any of these models wholesale; it needs to match their collective level of institutional seriousness. The task now is integration: bringing together the

skills and mandates of multiple ministries, agencies, and stakeholders through a coherent national platform, grounded in treaty obligations and driven by a genuine sense of shared purpose.

By potentially establishing a coordination council, enacting enabling laws, building open data systems, and engaging regional partners, Sri Lanka can transform the BBNJ Agreement from a set of international obligations into a driver of national capacity and ocean stewardship.

The ocean around Sri Lanka has sustained this island for millennia. This Agreement is, among other things, an obligation to ensure that it can continue to do so for generations to come.

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Acknowledgements

I would like to express my sincere thanks to the following individuals for their invaluable support and input towards the completion of this policy brief:

- Dr. Nishara Mendis – Executive Director, Lakshman Kadirgamar Institute
- Rear Admiral (Retd) Y. N. Jayarathna
- Cdr. (Retd) Roshan Kulathunga
- Mr. Nisal Pathiraja – Founder, Sannasa Historical Research Collective
- Mr. Ghazali Hussain – Attorney-at-Law
- Ms. Sulochana Wijayasinghe – Attorney-at-Law
- Ms. Madhuka Rukmalgama
- Mr. Vinura Gamage

Their insights and constructive feedback have significantly contributed to strengthening this study. Any errors or omissions remain my own.