



Protecting half the planet: A new High Seas biodiversity treaty in 2020

Following over a decade of negotiations at the United Nations, in September 2018 formal negotiations commenced at the United Nations to develop a new treaty under the UN Convention on the Law of the Sea (UNCLOS) for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction (ABNJ).¹ This is the first global treaty process related to the ocean in over two decades, and the only one targeted specifically at the protection of marine biodiversity in ABNJ. This is a once-in-a-generation opportunity to turn the tide, not just for the ocean but for the planet, and the clock is ticking.

Bolstering UNCLOS for the 21st century

UNCLOS is recognized as the constitution for global ocean governance. However, UNCLOS lacks specific requirements needed to ensure effective implementation of its general obligations to protect the marine environment and its living resources. To address this, two 'implementing agreements' have been developed to elaborate upon UNCLOS' general requirements; one on fishing and another on seabed mining.² The new treaty will be the third such implementing agreement.

The new treaty will establish a global framework to conserve and manage biodiversity of the High Seas, which constitutes almost two-thirds of the global ocean, covers nearly half of the planet, and is a global common. This area faces increasing threats from multiple sources, including chemical, noise and plastic pollution, overfishing and destructive fishing practices, and a host of new and emerging uses, all of which are compounded by the growing impacts of climate change and ocean acidification.

In addition to addressing these threats, the new treaty will address marine genetic resources in ABNJ, including questions on the sharing of benefits, as well as capacity building and the transfer of marine technology.

Modernizing High Seas governance

As a global common, only a global treaty negotiated under UN auspices can address the outdated, highly fragmented and poorly implemented legal and institutional framework that is currently failing to protect the High Seas from the multiple threats it faces in the 21st century. At present, there is no global mechanism to establish fully protected High Seas marine protected areas (MPAs), nor are there uniform requirements governing the conduct of environmental impact assessments (EIAs) and strategic environmental assessments (SEAs), under which human activities and their individual and cumulative impacts can be assessed and managed in a comprehensive manner.

Fully protected MPAs are essential tools to help maximize the resilience of the ocean in the face of climate changes, acidification pollution and increasing industrialization of the ocean. Scientists are calling for bold action to enhance ocean resilience by fully protecting at least 30 percent of the global ocean by 2030 ('30x30'). Because the High Seas comprises almost two-thirds of the world's ocean area, the goal of fully protecting 30 percent of the ocean can only be accomplished through a global treaty that enables fully protected MPAs in the High Seas. To date, efforts to establish

MPAs on the High Seas have faced huge obstacles, largely due to the lack of a global MPA framework. Regional fisheries management organizations (RFMOs) are only able to regulate the specific fisheries within their remit and in their convention areas; they do not have the mandate to set up broader MPAs or to control other threats such as pollution, mining, shipping or even other types of fishing. Today, less than 1 percent of the High Seas is highly protected.³

For those areas of the ocean that are not fully protected as MPAs, it is critical that the individual and cumulative impacts of human activities be assessed and managed in a way that maintains the integrity of the ocean environment. Uniform standards for EIAs and SEAs are essential, along with robust institutional mechanisms to coordinate, oversee and review EIAs, and to assess whether proposed activities are consistent with the conservation objectives of the agreement.

In addition to MPAs and EIAs, there are other gaps in the current ocean governance regime that need to be addressed in the new treaty:

- there is no global institutional mechanism for the operationalization of modern principles of environmental management, such as the precautionary principle, ecosystem-based management, and cross-sectoral management, including global cross-sectoral monitoring,

- control and surveillance, and an enforcement/compliance mechanism for human activities in ABNJ;
- there is no framework for access to, and benefit sharing of, marine genetic resources in ABNJ;
- there is no framework for global coordination and cooperation among existing regional and global competent organizations; and
- the provisions in UNCLOS on technology sharing and capacity building are not adequately addressed and implementation mechanisms are needed.

The path to a treaty

In December 2017, UN Resolution 72/249 established an intergovernmental conference (IGC) to negotiate the new treaty through a series of four two-week sessions. Three of the four sessions took place in 2018 and 2019; the fourth and final session will take place from 23 March–3 April, 2020.

With only one more session remaining – a mere two weeks of negotiating time – we are at a critical juncture. High ambition and political will are pivotal to ensuring that the new treaty moves beyond the current status quo and enables real legal protection for nearly half the planet. After nearly two decades of discussions and negotiations, we must urgently bring this treaty to adoption by the end of 2020.



High Seas Alliance: who we are

The High Seas Alliance (HSA) is a partnership of 40+ organizations from around the globe and is committed to working with States and others towards the adoption and ratification of a comprehensive treaty to protect the world's ocean beyond national jurisdiction. Since 2011, our members have been working together and as individual organizations to (i) facilitate international cooperation to improve ocean governance and (ii) ensure the protection and preservation of the marine environment, including through the establishment of fully protected High Seas MPAs through a new legally binding treaty under UNCLOS.

FOOTNOTES

1. ABNJ includes the High Seas as well as the deep seabed, known as 'the Area'.
2. Namely, the Agreement Relating to the Implementation of Part XI of the Convention, which establishes 'the Area' and concerns deep seabed mining, and the 1995 UN Fish Stocks Agreement on straddling and highly migratory fish stocks.
3. One fully protected High Seas MPA has been established, in Antarctica. See <http://www.mpatlas.org/map/mpas/>

