



## HSA BRIEFING

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### **High Seas Alliance recommendations for Marine Protected Areas under the new international legally binding instrument**

March 2018

The High Seas Alliance (HSA) supports a strong process under the international legally binding instrument (ILBI) for the designation, effective management and enforcement of a network of protected areas, including in particular marine reserves in areas beyond national jurisdiction (ABNJ). Highly protected marine reserves are necessary to reverse marine biodiversity loss, restore degraded marine ecosystems, safeguard food security and increase ocean resilience against the cumulative impacts of human activities and climate change. Marine reserves are considered the most cost-effective option in terms of management, monitoring and enforcement compared to other types of marine protected areas (MPAs).

The process set up by the new ILBI will allow the international community to meet its long-standing commitments under the Convention on Biological Diversity (CBD) and the Sustainable Development Goal (SDG) 14 (5) to protect 10% of marine and coastal waters by 2020 and, following recent scientific recommendations, the IUCN goal of setting aside at least 30% of the ocean as highly protected MPAs by 2030. Protecting large areas in ABNJ is essential to meeting these targets.

The HSA proposes the following framework, in advance of the intergovernmental conference (IGC), and in order to progress the conversation from the Preparatory Committee on Area Based Management Tools (ABMTs), including MPAs. These initial recommendations will be expanded upon throughout the ILBI negotiation process.

#### **1. Definition of Marine Protected Areas**

A geographically defined marine area designated under the new instrument where human activities are regulated, managed or prohibited in order to afford comprehensive protection to achieve long-term biodiversity conservation and build ecosystem resilience.

#### **2. Objective**

The objective of the new instrument with respect to ABMTs, including MPAs, is the protection,<sup>1</sup> maintenance, and restoration of ocean health and resilience through a global network of MPAs including, in particular,

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<sup>1</sup> Where "protection" also includes prevention of damage to or degradation of the marine environment.

marine reserves. The global network of MPAs should ensure protection of key ecosystem processes, habitats and species including but not limited to those which are:

1. vulnerable to impacts, including from climate change, ocean acidification, anthropogenic ocean noise pollution, and other cumulative effects, such as unique, fragile/sensitive, rare or highly biodiverse habitats and features;
2. essential for the survival, function, or recovery of rare or endangered marine species (e.g., breeding or spawning grounds);
3. natural carbon stores; or
4. important scientific reference areas.

### 3. Process in relation to MPAs

#### Identification of areas

Proponents identify potential MPAs that meet the objective (as defined in 2, above). In addition, the committee established under the new instrument for scientific/technical review should be tasked by the Conference of the Parties (CoP) to conduct a regular review of the effectiveness and ecological coherence of the global MPA network in order to identify gaps and recommend amendments and/or areas that should be part of the network.

#### Designation process

##### (i) Proposal

**Proponents:** States Parties, with the option for Observers to the ILBI, including Intergovernmental Organizations and Civil Society, to co-sponsor.

**Elements of the proposal:** MPA Proposals should be formulated on the basis of the best available scientific information, follow an ecosystem approach and the precautionary principle, and should, at a minimum, include the following elements:

- a. spatial boundaries of the proposed area;
- b. description of the characteristics and biodiversity and/or scientific values of the area and the sensitivity of the species/habitats concerned;
- c. the specific conservation objective(s) of the area and the necessary level of protection to achieve such objective(s);
- d. description of current and potential impacts of activities that are causing or may be expected to cause damage to the proposed area, either individually or in combination with other threats;
- e. priority elements of a proposed management plan to achieve the conservation objectives, including activities that should be restricted, prohibited, or managed in the MPA or parts thereof;
- f. a plan for the continuous monitoring and research of ecological processes, habitats and population dynamics as well as impact of human activities; and
- g. identification of relevant competent bodies that have been and should be consulted.

##### (ii) Consultation and assessment of the proposal

**Step 1.** A proposal developed by proponent(s) identified in 3(i) is submitted to the ILBI for time-bound public consultation with competent organizations and frameworks with jurisdiction over activities within the boundaries of the MPA, relevant intergovernmental organizations, civil society, and other stakeholders.

**1a.** The Proposal is publicly distributed by the Secretariat (website, email to member states, etc.) and enters the time-bound “public consultation” period.

**1b.** All comments, including those of competent organizations consulted under Step 1, are made public on a website as they are received.

**1c.** Proponent(s) respond to public consultation and, if appropriate, revise(s) the proposal within a specific time frame.

**Step 2.** The (updated) proposal is submitted to the committee established under the new instrument for scientific/technical review.

**2a.** If, after taking into account all inputs gathered during the public consultation, the response by any of the competent organizations that have been consulted in accordance with Step 1 is considered inadequate, including with regards to appropriate measures for protection, or if any of such competent organizations does not respond, the committee established under the new instrument for scientific and technical review can recommend more effective measures for adoption by the CoP.

**Step 3.** After the proposal has been reviewed by the committee established under the new instrument for scientific/technical review the proposal, along with the scientific review and recommendations, public comments, and responses to public comments, is forwarded to the CoP for a decision.

During the consultation period, States should refrain from authorizing or permitting activities under their jurisdiction or control that might undermine the proposed protected area.

### **(iii) Decision-making**

1. Parties, acting via a CoP, will designate the MPA, including:
  - a. spatial boundaries;
  - b. conservation objectives and the necessary level of protection to achieve such objectives, including the designation of no-take areas;
  - c. a management plan that specifies activities to be prohibited, along with associated management measures for vessels/nationals/activities under their jurisdiction or control, to address the impact of activities on marine biodiversity in the area; and
  - d. a plan for monitoring, research and review.
2. At the same time, the CoP will recommend that other competent organizations adopt complementary measures to meet the objective(s) of the area.
3. Decisions shall be taken by (qualified) majority voting, if consensus is not possible.

## **4. Implementation**

1. Parties will have the primary responsibility to implement as soon as possible, and ensure full compliance with, the MPA and associated management measures by their nationals, vessels, and activities under their jurisdiction or control.
2. Parties shall also use their best efforts to ensure the adoption of appropriate complementary measures by competent regional or global organizations to which they are members.
3. Parties shall, individually or collectively, request non-Parties whose activities, vessels, or nationals operate

in the newly designated MPA to become Parties to the ILBI or to cooperate fully in the implementation of its associated management measures, and shall also take measures consistent with international law to deter activities by non-Parties that undermine the effective implementation of the ILBI.

4. Nothing shall affect the rights of Parties to apply additional or more stringent conservation measures to their vessels, nationals, or activities under their jurisdiction or control.

## 5. Relationship to existing measures

### Existing MPAs/sectoral ABMTs

The ILBI should establish a procedure, to be initiated by a Party, or a regional or sectoral organization, to establish complementary measures for sectoral ABMTs and MPAs that already exist in an area, or for the global recognition of existing MPAs that occur in ABNJ, provided they are consistent with the objectives and meet the MPA requirements under the ILBI.

## 6. Monitoring, reporting and review

### Monitoring

There should be regular monitoring and assessment of MPAs and associated management measures to ensure they are meeting their objectives. Such scientific monitoring could be delegated to appropriate regional bodies when applicable as long as they meet the standards set by the ILBI.

States shall ensure that the vessels/nationals/activities under their jurisdiction and control are effectively monitored so as to ensure compliance with the MPA and associated management measures.

### Reporting

Parties should report back annually to the CoP on the implementation of the MPA and its associated management measures. The CoP should request competent sectoral/regional organizations to also report on progress in meeting the objectives of the MPAs. These reports should be made public.

### Assessment and review

The committee established under the new instrument for scientific/technical review should undertake a regular review of the effectiveness of the MPA network in order to identify gaps and recommend additions or amendments.

Upon advice by the committee established under the new instrument for scientific/technical review, the CoP should review the effectiveness of the measures adopted pursuant to the management plan and progress in meeting the objective(s) of the protected area in order to inform any required adaptation to the management plan.

Through the United Nations, States from around the world are now entering into formal negotiations for a treaty to protect the biodiversity in areas beyond national jurisdiction – the high seas. As set out in UN Resolution 72/249, the Intergovernmental Conference will convene four meetings from September 2018 through early 2020.