

A momentous milestone for the ocean and global biodiversity

On 4 March 2023, countries meeting at the United Nations reached a significant milestone for the ocean and for efforts to stem global biodiversity decline when they agreed a new international treaty to safeguard marine life in areas that lie beyond national jurisdiction.

Commonly known as the high seas, these vast areas cover nearly two-thirds (64%) of the global ocean – almost half the planet's entire surface. They include some of the most ecologically vital, yet critically threatened and least protected areas on Earth; less than 1% are fully or highly protected.

Following two decades of discussions, the implementing agreement to the United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) – or High Seas Treaty – is the world's first cohesive, international and legally binding framework to specifically protect high seas biodiversity.

Often characterised as a lawless wilderness, the high seas have been poorly managed by a range of regulatory bodies with varying mandates and limited effectiveness. The lack of coordination, fragmented coverage, and dearth of clear rules on how to effectively protect these global commons has left them vulnerable to overexploitation and pollution, compounded by the effects of climate change. Whilst UNCLOS established a general obligation on nations to protect the marine environment, there have been major gaps in its provisions and their implementation.

This has now changed.

The High Seas Treaty seeks to fill those gaps by providing a more coherent and holistic framework for the protection of our ocean and the equitable sharing of benefits from its marine genetic resources.

On 19 June 2023 the Treaty text was formally adopted by the negotiating States at the United Nations. Now, countries need to sign and then ratify it, in most cases after taking necessary steps through their own domestic legal processes. The sixtieth country to ratify will start a hundred-and-twenty-day countdown, after which the global Agreement will enter into force and the Treaty will become international law.

The High Seas Alliance is aiming for at least 60 countries to have ratified the High Seas Treaty by the UN Ocean Conference in June 2025, France. This is an ambitious milestone for governments to rally around so that the Treaty and its protective provisions can be implemented as soon as possible.

What will the High Seas Treaty do?

In summary, once it has entered into force, the High Seas Treaty will:

- Set out a legal framework and clear process for establishing networks of marine protected areas in the ocean beyond national jurisdiction. If effectively protected and well-managed, these will help realise the target to protect at least 30% of our ocean by 2030, agreed by countries in December 2022 under the Kunming-Montreal Global Biodiversity Framework.

- Give the international community more transparency and a greater say in decisions regarding activities that could harm high seas ocean biodiversity through its provisions on environmental impact assessments.
- Ensure the fair and equitable sharing of benefits derived from marine genetic resources from the high seas and seabed.
- Enhance and build capacity and ensure the transfer of marine technology to assist countries in the implementation of the agreement. A funding mechanism will be established to support such activities.



the review and recommendations of a newly established Scientific and Technical Body. The Treaty further requires that activities be managed to prevent, mitigate or manage significant adverse effects, and provides for standards and guidelines to be established for EIAs to help harmonise and improve practices, including within existing bodies. The Treaty will also provide support for developing nations' participation in EIAs, so that they can engage effectively in ocean governance.

The BBNJ COP provides a platform that will convene different sectoral bodies, with the aim of encouraging a more coordinated and coherent approach to the conservation and management of the high seas through a cross-sectoral, cumulative impact perspective. These mechanisms, coupled with improved transparency, will help give the international community a greater say in what goes on in these global commons, and will increase its ability to contribute to our knowledge of the ocean environment and the human activities taking place there.

High Seas Treaty: key elements

1. Area-based management tools, including marine protected areas (MPAs)

The High Seas Treaty gives its Conference of the Parties (BBNJ COP) the mandate to establish high seas MPAs and other area-based management tools (ABMTs). Fully and highly protected MPAs provide comprehensive protection from multiple types of human activities and are the most effective tool to maintain the health and resilience of the global ocean.

The Treaty sets out a clear process for a State or groups of States to submit a proposal for an MPA, as well as the steps for consultation and review. MPAs can be established through a three-quarter majority vote if consensus cannot be reached. This is a key factor to ensure the effectiveness of the new Treaty because it prevents decisions being blocked by one or two States. It also provides guidelines for the implementation, monitoring and review of MPAs and is underpinned by an objective to support developing countries in developing, monitoring and managing them through capacity building and technology transfer.

The BBNJ COP will also have the legal authority to adopt emergency measures, such as responding to natural or human-caused emergencies in cases when the threat cannot be immediately addressed by other bodies.

2. Environmental impact assessments (EIAs)

New activities on the high seas will be subject to detailed, modern EIAs and must consider “cumulative impacts” of multiple human activities affecting the same ecosystem, including the “consequences of climate change, ocean acidification and related impacts”. These assessments will be open to public comment and consultation and subject to

3. Fair and equitable sharing of benefits from marine genetic resources (MGRs)

The new Treaty aims to balance the freedom of marine scientific research with fair and equitable sharing of benefits of MGRs found in areas beyond national jurisdiction. MGRs are the genetic material of any plant, animal or microbe and have attracted substantial interest from science and industry to develop new drugs and cosmetics, for example. Under the Treaty, MGRs include their digital version (Digital Sequence Information (DSI)) and derivatives.

The Treaty contains obligations to share both non-monetary benefits – for example, access to samples and increased scientific cooperation – and monetary benefits for both MGRs and DSI. It establishes a financial mechanism into which monetary benefits will be paid, as well as a guaranteed funding stream drawn from national contributions. This will provide a reliable initial funding stream to improve the capacity of developing States.

An Access and Benefit-Sharing Committee will be established to ensure representation and guidance on future monetary benefit sharing and a Finance Committee will be established to review and recommend improvements to the Treaty's resource mobilisation and financial mechanism. The Treaty also imposes robust notification requirements prior to the collection, use and commercialisation of genetic resources.



4. Capacity-building and technology transfer

A core part of the Treaty is to provide funding to support developing States in increasing their marine scientific and technological capacity, as well as the transfer of marine technology on fair terms so that they can achieve the objectives of the Treaty.

The Treaty foresees capacity building to be a country-driven process and provides a non-exhaustive list of types of capacity building, including: sharing of data; research facilities and collaboration; institutional capacity; national regulatory frameworks; tools for monitoring and compliance; information dissemination and awareness-raising; respecting relevant traditional knowledge of Indigenous Peoples and local communities; development and strengthening of relevant infrastructure, including equipment and personnel; and tools for the effective monitoring, control and surveillance of activities relevant to the biological diversity of areas beyond national jurisdiction.

A Capacity Building and Transfer of Marine Technology Committee will be established to monitor and provide guidance on the implementation of this aspect of the Treaty.

5. Finance

Adequate funding to ensure the adoption and implementation of the Treaty has been a key issue, particularly efforts to ensure the capacity needs of developing States are met. The Treaty provides for several different sources of funding. As with similar international agreements, the Institutions established through the Treaty will be funded through assessed contributions of the Parties. A voluntary trust fund will be set up to facilitate participation of developing States. Monetary benefits derived from MGRs and DSI will flow into a “special fund” which, in addition to a trust fund set up by the Global Environment Facility (GEF), will be used to finance capacity building activities and implementation. The special fund is also open to voluntary contributions by States, as well as private enterprises and donors.



Relationship of the Treaty with other bodies

The new Treaty will be applied in a manner that “does not undermine” existing organisations such as regional fisheries management organisations (RFMOs), the International Maritime Organisation (IMO) and the International Seabed Authority (ISA). Additionally, it provides for its Parties to cooperate with relevant bodies and to promote the Treaty’s objectives when participating within them, including adopting relevant measures to support MPAs.

If existing bodies have their own qualifying EIA regulations, these bodies will not be obliged to conduct impact assessments for any ongoing activities they oversee. While this raises concern that these assessments will not be as rigorous as those conducted under the Treaty, the new global norms established, together with the standards and guidelines to be developed, will create pressure to modernise and strengthen the assessment and management of fishing, shipping and other activities that have contributed to the overall decline in ocean health and resilience.

Putting the Treaty into practice

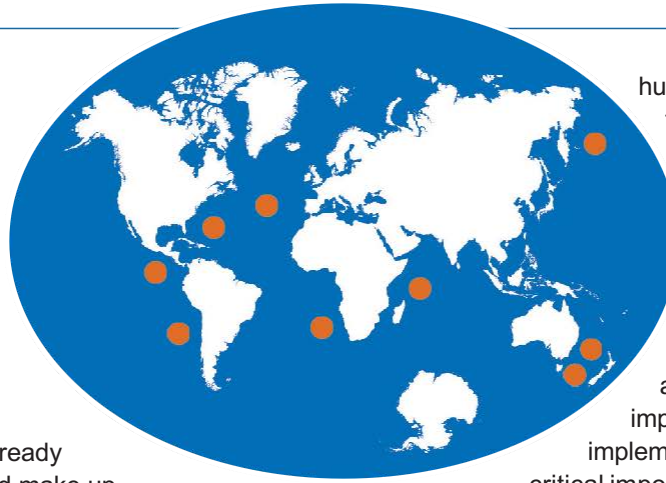
Establishing High Seas Treaty Institutions

Work will start on setting up the institutions and the mechanisms required to oversee and implement the High Seas Treaty. These include:

- A **Conference of the Parties (COP)**, which will serve as the primary decision-making body. The first High Seas COP will be convened within a year of the Treaty entering into force.
- A **Secretariat**, which will provide administrative and logistical support, circulate information, and facilitate cooperation and coordination with other international bodies. The location of the Secretariat has yet to be decided.
- A **Clearing-House Mechanism** managed by the Secretariat, which will serve as a centralised, open-access platform for parties to access and provide information, including on MGRs, EIAs, the establishment of high seas MPAs and capacity building.
- A **Scientific and Technical Body** of expert members from different geographies with multidisciplinary expertise, including traditional knowledge, will advise the COP. These will be nominated by Parties and elected by the COP.
- An **Implementation and Compliance Committee** that is facilitative in nature and will function in a manner that is transparent, non-adversarial and non-punitive.
- An **Access and Benefit-Sharing Committee**.
- A **Finance Committee** with a financial mechanism that, in addition to the core budget for the running of the institutions, has a voluntary trust fund, a special fund and a GEF trust fund.

Identifying proposed high seas MPAs

To ensure the high seas are given the protection they need as soon as possible, it is essential to accelerate the process to identify new high seas MPAs so that several proposals are ready for approval by the first COP.



human activities that contribute to the overall decline in ocean health, such as overfishing and other industrial activities, is also improved. The Treaty's new EIA provisions provide a roadmap for strengthening the assessment and management of both new and existing activities to prevent significant impacts. Widespread, rapid implementation of these provisions is of critical importance.

The High Seas Alliance has already identified eight areas that could make up the first generation of high seas MPAs:

- Salas y Gomez and Nazca Ridges in the waters of the southeast Pacific
- The Thermal Dome in the Eastern Pacific
- Emperor Seamounts in the North Pacific
- Walvis Ridge that runs from the coast of Namibia to the mid-Atlantic Ridge
- Sargasso Sea in the Atlantic Ocean
- South Tasman Sea/Lord Howe Rise between Australia and New Zealand
- The Lost City in the mid-Atlantic ridge
- Saya de Malha Bank in the Indian Ocean

The planet is set to benefit hugely from this new and critical piece of ocean governance. It is, therefore, essential that countries swiftly ratify the Treaty so that it can come into force and be implemented as soon as possible to help safeguard ocean health for future generations.

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Strengthening the assessment and management of industrial activities outside protected areas

It will take time to establish high seas MPAs and, even when the target to protect at least 30% of our ocean has been achieved, most of the high seas will remain outside protected areas. Thus, it is vital that the management of

The High Seas Alliance (HSA) is a partnership of 50+ organisations from around the globe. It is committed to working with States and others towards the adoption, ratification and implementation of a comprehensive Treaty to protect the world's ocean beyond national jurisdiction.

