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Making protected areas in the high seas count

More than 15 years in the making, the High Seas Treaty—the legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction—was agreed upon by UN member states in March. Vast in scope, the treaty applies to about two-thirds of the ocean and includes a provision to conserve biodiversity by using legal tools to design, implement, and manage marine protected areas (MPAs) in areas beyond national jurisdiction. MPAs can be a valuable step toward conservation goals, but their effectiveness depends on their ability to limit human activities within their borders. Because the High Seas Treaty could not directly address the legal fragmentation of ocean governance, participating states will have to work together through multiple regulatory frameworks to implement MPAs coherently.

The main drivers of marine biodiversity erosion are fishing and sea use change (1), but the High Seas Treaty does not guarantee that future MPAs will directly regulate high seas fisheries or mining of the international seabed. Article 4 stipulates that the Treaty should not undermine the legal frameworks already put in place by global, regional, subregional or sectoral bodies (2). Hence, a siloed status quo is a troubling possibility: Regional Fisheries Management Organizations (RFMOs), as recognized by the UN Food and Agriculture Organization, could continue to manage high seas fisheries, and mining of the international seabed could remain within the scope of the UN International Seabed Authority.

The power to ensure that the High Seas Treaty realizes its full potential and becomes a tool of coherence rather than fragmentation rests with states. Poorly designed MPAs undermined by sectoral squabbling would be a frustration to conservationists and states alike. A multi-sectoral approach that builds on the best elements of multilateralism in the High Seas Treaty negotiations will require that countries seek coherence across the relevant regional and sectoral bodies to ensure that MPAs in the high seas effectively conserve biodiversity (3). For instance, countries conducting fishing in an area of the high seas proposed to be part of an MPA should agree to implement and enforce, through the relevant RFMOs, fishing regulations consistent with the MPA objective of biodiversity conservation. Not doing so carries the risk that MPAs will not protect against existing threats to biodiversity or that MPAs will only be designated in areas with limited conservation value (4).

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