

ESG Matters

The High Seas Treaty

Free to View
ESG - Global

- ◆ A deal on the conservation and sustainable use of biodiversity of marine areas beyond national jurisdiction has been reached
- ◆ The treaty is key to achieving the global target of 30% marine protected areas by 2030, as agreed to at biodiversity COP15
- ◆ We think the pact shows solid global efforts towards biodiversity conservation; final text is pending adoption

“The ship has reached the shore”: After years of negotiations, UN Member States have finally agreed the High Seas Treaty (HST) under the UN Convention on the Law of the Sea (UNCLOS), aiming to conserve the marine biodiversity of areas beyond national jurisdiction (ABNJ, commonly called the high seas). The treaty fills the gaps in the 30-year old UNCLOS by addressing the set-up of marine protected areas (MPAs), benefit sharing of marine genetic resources (MGRs), the transfer of marine technology, and the specifications for the environmental impact assessment of deep sea activities, such as exploration and mining on the high seas.

Key to the 30x30 target: The high seas comprise two-thirds of the world's ocean. In order to achieve the global target of protecting 30% of marine areas by 2030, at least 24% of the high seas should be designated as protected areas¹. Currently, nearly 99% are unprotected or unregulated. The High Seas Treaty provides a legal mechanism to set up MPAs (despite the unspecified level of protection). For example, we think the activities of distant-water fishing fleets would be limited by MPAs, affecting fish catch and trade in some economies, e.g. Mainland China (Fig. 3).

Solidifying ocean governance: Akin to the Conference on Biological Diversity, a Conference of Parties (COP) to the HST will be established and will meet regularly to monitor the progress of biodiversity conservation on the high seas and the treaty implementation. As the International Seabed Authority (ISA) expects to finalise the Mining Code for the Deep Sea in July, we think international ocean governance will be stronger than ever. Countries are responsible for and authorised to manage marine areas, which would streamline and balance marine conservation and development in the future.

Job not yet complete: The text of the treaty will be formally adopted in a further intergovernmental conference at a date to be announced. The details of some sticky issues, such as modalities for the sharing of monetary benefits from the application of MGRs and area-based management tools, will be decided in the later Conference of the Parties (COP) meeting. In addition to the text adoption, we think investors should look out for the discussion of the regulatory framework for deep sea mining in July. The framework should define the viability of mining on the seabed, which is rich of metals for battery manufacturing, e.g. nickel.

This is a Free to View version of a report with the same title published on 6-Mar-23. Please contact your HSBC representative or email AskResearch@hsbc.com for more information.

Polo Heung
Associate, ESG Research
The Hongkong and Shanghai Banking Corporation Limited

Wai-Shin Chan, CFA
Head, Climate Change Centre; Head, ESG Research
The Hongkong and Shanghai Banking Corporation Limited

Disclosures & Disclaimer

This report must be read with the disclosures and the analyst certifications in the Disclosure appendix, and with the Disclaimer, which forms part of it.

Issuer of report: The Hongkong and Shanghai Banking Corporation Limited

View HSBC Global Research at:
<https://www.research.hsbc.com>

Background of the High Seas Treaty

The High Seas Treaty aims to fill the gap between the Convention on Biological Diversity (CBD) and the UN Convention on the Law of the Sea (UNCLOS). It covers all parts of the seas that are not included in the exclusive economic zone or the territorial seas of a State, and the seabed beyond the limits of national jurisdiction.

Adopted in 1994, the UNCLOS is designed to regulate all aspects of the uses of the ocean, including exclusive economic zones and areas beyond national jurisdiction. However, it does not address marine biodiversity well. For example, the sharing of benefits associated with MGRs or area-based management tools, such as MPAs, were not well-defined or mentioned explicitly in the Convention.

With an aim to elaborate the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction in the UNCLOS, the first session of the High Seas Treaty negotiation was convened in 2018.

Highlights of the High Seas Treaty

Institutional arrangement of the treaty

A Conference of the Parties (COP) and a Scientific and Technical Body (STB) are established under the High Seas Treaty. The COP will meet regularly to monitor, access and review the implementation and the provision of the HST. The regularity will be determined by the COP. The STB will provide recommendations to the COP with relevant scientific and technical expertise.

The implementation of the HST shall be funded through a new mechanism that shall include the following:

- ◆ A voluntary trust fund established by the COP
- ◆ A special fund contributed by developed Parties and private entities
- ◆ The Global Environment Facility trust fund

Sharing of the benefits from activities with respect to MGRs

The benefit sharing of MGRs was the stickiest topic throughout the treaty negotiations. Developed and developing countries were divided on this aspect.

The HST establishes a special fund that aims to channel capital from developed economies to developing economies. Developed Parties shall make annual contributions to the special fund. The rate of the annual contribution would be decided by the COP along with the modalities for the sharing of monetary benefits.

We think investors should watch the development of the modalities as it may include payments or contributions related to the commercialisation of products derived from MGRs. In this case, we think the pharmaceutical, cosmetics and food industries might be affected at some point as marine biotechnology is widely used in research and development of new products.

Figure 1: Example of benefits arising from the use of MGRs on the high seas

Monetary benefits	Non-monetary benefits
Annual contribution by developed Parties to the special fund	Access to sample collection and digital sequence information
	Transfer of marine technology
	Capacity building
	Technical and scientific cooperation

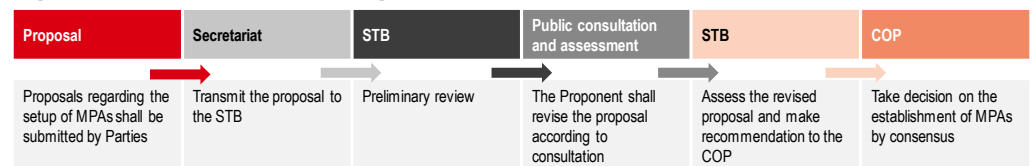
Source: HST, HSBC

Area-based management tools

Comprising two-thirds of the global ocean, at least 24% of the high seas should be protected to reach the global 30x30 target¹. In light of this, the HST lists a process of setting up MPAs on the high seas (Figure 2).

We think the guidance and framework for the setting up of MPAs should be beneficial to the biodiversity headline target. However, the HST does not stipulate any threshold or criteria for MPAs, such as bottom trawling bans or the restriction of high-speed vessels. The conservation measures will be drafted by the MPA proponents. We think that might weaken the effectiveness of MPAs for marine conservation.

Figure 2: Process of establishing MPAs



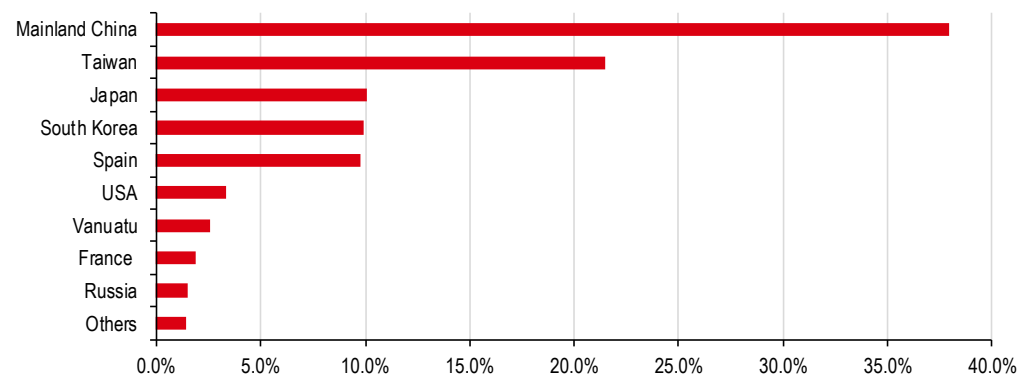
Source: HST, HSBC

Box 1: Distant-water fishing

Distant-water fishing (DWF) is a common practice of the fishing industry. DWF fleets usually operate on the high seas that are far from territorial waters and exclusive economic zones of their origin countries. Given loose conservation rules on the high seas, DWF is often linked to illegal, unreported and unregulated (IUU) fishing, with negative impacts on the marine environment.

With the adoption of the High Seas Treaty, we expect to see an increase in marine protected areas (MPAs) on the high seas, which could limit or even restrict commercial fishing activities in those areas. We think global production, supply chains and the trading volume of fish products could be affected. With tightening environmental rules and the phasing out of IUU fishing subsidies², there should be more incentives for the fishing industry to shift operations to aquaculture, in our view. The OCED and the UN Food and Agriculture Organization estimates that production from aquaculture is expected to surpass capture fisheries by 2027³.

Figure 3: Proportion of global fishing effort by distant-water fishing fleets (2016-17)



Source: Stimson Center⁴, Global Fishing Watch, HSBC

¹ Visalli et al., (2020), Data-driven approach for highlighting priority areas for protection in marine areas beyond national jurisdiction

² The Guardian, First WTO deal on fishing subsidies hailed as historic despite 'big holes', 21 June 2022

³ OECD/FAO, OECD-FAO Agricultural Outlook OECD Agriculture statistics (database)

⁴ Stimson Center, Shining a Light: The Need, 1 November 2019

Environmental Impact Assessment

The HST requires the Parties to conduct environmental impact assessments (EIA) when the planned activities on the high seas (such as deep sea exploration) may have negative or unknown effects on the marine environment. In the EIA report, the project coordinating Party has to provide a description of: 1) the **planned activities**; 2) **potential impacts**; 3) **prevention, mitigation and management measures**; 4) the consideration of **reasonable alternative** to the planned activity; and 5) **follow-up actions**.

The STB shall review and may make comments for the final EIA report. However, the STB is not responsible for determining whether the project may proceed but the “Party under whose jurisdiction or control a planned activity falls”. In our view, the regulation on the activities authorisation process is not vigorous enough as the decision-making process does not involve an independent third party. A self-regulatory practice may reduce the robustness of the rules.

What to look out for

The text of the High Seas Treaty will be formally adopted at a further intergovernmental conference at a date to be announced. The historic agreement shows that global efforts towards protecting marine biodiversity have not been overshadowed by geopolitical tension. We expect to see more financial support from developed economies and international collaboration in the near future.

The details of the HST implementation will be determined at the Conference of Parties, which should convene its first meeting within a year after the entry into force of the HST (once 60 countries have ratified it). Additionally, investors should keep an eye on the meeting of the International Seabed Authority in **July**, which is expected to finalise the **regulatory framework for deep sea mining**.

Disclosure appendix

The following analyst(s), who is(are) primarily responsible for this document, certifies(y) that the opinion(s), views or forecasts expressed herein accurately reflect their personal view(s) and that no part of their compensation was, is or will be directly or indirectly related to the specific recommendation(s) or views contained in this research report: Polo Heung and Wai-Shin Chan, CFA

This document has been issued by the Research Department of HSBC.

HSBC and its affiliates will from time to time sell to and buy from customers the securities/instruments, both equity and debt (including derivatives) of companies covered in HSBC Research on a principal or agency basis or act as a market maker or liquidity provider in the securities/instruments mentioned in this report.

Analysts, economists, and strategists are paid in part by reference to the profitability of HSBC which includes investment banking, sales & trading, and principal trading revenues.

Whether, or in what time frame, an update of this analysis will be published is not determined in advance.

For disclosures in respect of any company mentioned in this report, please see the most recently published report on that company available at www.hsbcnet.com/research.

Additional disclosures

- 1 This report is dated as at 06 March 2023.
- 2 All market data included in this report are dated as at close 06 March 2023, unless a different date and/or a specific time of day is indicated in the report.
- 3 HSBC has procedures in place to identify and manage any potential conflicts of interest that arise in connection with its Research business. HSBC's analysts and its other staff who are involved in the preparation and dissemination of Research operate and have a management reporting line independent of HSBC's Investment Banking business. Information Barrier procedures are in place between the Investment Banking, Principal Trading, and Research businesses to ensure that any confidential and/or price sensitive information is handled in an appropriate manner.
- 4 You are not permitted to use, for reference, any data in this document for the purpose of (i) determining the interest payable, or other sums due, under loan agreements or under other financial contracts or instruments, (ii) determining the price at which a financial instrument may be bought or sold or traded or redeemed, or the value of a financial instrument, and/or (iii) measuring the performance of a financial instrument or of an investment fund.

Disclaimer

Issuer of report
The Hongkong and Shanghai Banking Corporation
Limited

This document has been issued by The Hongkong and Shanghai Banking Corporation Limited, which has based this document on information obtained from sources it believes to be reliable but which it has not independently verified. Neither The Hongkong and Shanghai Banking Corporation Limited nor any member of its group companies ("HSBC") make any guarantee, representation or warranty nor accept any responsibility or liability as to the accuracy or completeness of this document and is not responsible for errors of transmission of factual or analytical data, nor is HSBC liable for damages arising out of any person's reliance on this information. The information and opinions contained within the report are based upon publicly available information at the time of publication, represent the present judgment of HSBC and are subject to change without notice.

This document is not and should not be construed as an offer to sell or solicitation of an offer to purchase or subscribe for any investment or other investment products mentioned in it and/or to participate in any trading strategy. It does not constitute a prospectus or other offering document. Information in this document is general and should not be construed as personal advice, given it has been prepared without taking account of the objectives, financial situation or needs of any particular investor. Accordingly, investors should, before acting on it, consider the appropriateness of the information, having regard to their objectives, financial situation and needs. If necessary, seek professional investment and tax advice.

The decision and responsibility on whether or not to purchase, subscribe or sell (as applicable) must be taken by the investor. In no event will any member of the HSBC group be liable to the recipient for any direct or indirect or any other damages of any kind arising from or in connection with reliance on any information and materials herein.

Past performance is not necessarily a guide to future performance. The value of any investment or income may go down as well as up and you may not get back the full amount invested. Where an investment is denominated in a currency other than the local currency of the recipient of the research report, changes in the exchange rates may have an adverse effect on the value, price or income of that investment. In case of investments for which there is no recognised market it may be difficult for investors to sell their investments or to obtain reliable information about its value or the extent of the risk to which it is exposed. Some of the statements contained in this document may be considered forward looking statements which provide current expectations or forecasts of future events. Such forward looking statements are not guarantees of future performance or events and involve risks and uncertainties. Actual results may differ materially from those described in such forward-looking statements as a result of various factors.

This document is for information purposes only and may not be redistributed or passed on, directly or indirectly, to any other person, in whole or in part, for any purpose. The distribution of this document in other jurisdictions may be restricted by law, and persons into whose possession this document comes should inform themselves about, and observe, any such restrictions. By accepting this report, you agree to be bound by the foregoing instructions. If this report is received by a customer of an affiliate of HSBC, its provision to the recipient is subject to the terms of business in place between the recipient and such affiliate. The document is intended to be distributed in its entirety. Unless governing law permits otherwise, you must contact a HSBC Group member in your home jurisdiction if you wish to use HSBC Group services in effecting a transaction in any investment mentioned in this document.

Certain investment products mentioned in this document may not be eligible for sale in some states or countries, and they may not be suitable for all types of investors. Investors should consult with their HSBC representative regarding the suitability of the investment products mentioned in this document.

HSBC and/or its officers, directors and employees may have positions in any securities in companies mentioned in this document. HSBC may act as market maker or may have assumed an underwriting commitment in the securities of companies discussed in this document (or in related investments), may sell or buy securities and may also perform or seek to perform investment banking or underwriting services for or relating to those companies and may also be represented on the supervisory board or any other committee of those companies.

From time to time research analysts conduct site visits of covered issuers. HSBC policies prohibit research analysts from accepting payment or reimbursement for travel expenses from the issuer for such visits.

The Hongkong and Shanghai Banking Corporation Limited is regulated by the Hong Kong Monetary Authority.

© Copyright 2023, The Hongkong and Shanghai Banking Corporation Limited, ALL RIGHTS RESERVED. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, on any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of insert issuing entity name. MCI (P) 017/01/2023, MCI (P) 027/10/2022

[1209295]