

BBNJ Resumed IGC-5
Area-based management tools, including marine protected areas
Oral report of the Facilitator
24 February 2023

1. During the informal informals on area-based management tools (ABMTs), including marine protected areas (MPAs), held on Thursday, 23 February 2023, we heard briefings from the facilitators of the small groups to summarize the outcomes held on Wednesday, 22 February on Article 19, paragraphs 2 and 3 on recognition and on Article 19bis, paragraphs 4 through 6 on the objection process. This was followed by an exchange of views on these paragraphs. Finally, we had an exchange of views on some of the outstanding paragraphs, including the definition of “Marine protected area” in Article 1, Article 14(e) related to the listing of developing State Parties, and Article 17 on proposals, related to relevant stakeholders, and how to describe precaution (paragraphs 2 and 3, respectively).
2. It was apparent in these latter exchanges that some paragraphs were also the subject of discussions in other clusters, and I encouraged delegations to keep abreast of those discussions so that we stay current on the status of outstanding issues.
3. Regarding **Article 19, paragraphs 2 and 3**, on recognition, some delegations continued to have a fundamental conceptual concern and expressed reservations on these paragraphs and questioned the need for their inclusion in the Agreement. Whereas other delegations were in favour of including a provision and were willing to work on text that would allow consideration and possible elaboration by future meetings of the Conference of the Parties (COP).
4. Further, there was general comfort with additional text that encouraged cooperation and coordination between the COP and relevant global, regional, subregional and sectoral bodies (IFBs), including an exchange of information on ABMTs established by those bodies. Delegations are continuing to work on this bridging text.
5. With regard to **Article 19bis, paragraphs 4, 5 and 6**, most delegations indicated their support and flexibility for the direction the text was taking in the small group, although some still expressed caution and stressed the importance of finding balance in an opt-out process. However, we heard some constructive proposals to address concerns and we appear to be moving closer to agreement. This is, of course, without prejudice to those delegations who indicated their position in support of consensus-based decision-making, as opposed to voting.
6. With regard to the definition of “Marine protected area” in **Article 1**, there remain divided views on whether to include a reference to “long-term biodiversity”, with some

delegations indicating a priority to maintain the term “long-term” in relation to conservation objectives in the definition.

7. With regard to **Article 17**, paragraph 3 related to precaution, a number of delegations reminded the room of the protracted deliberations in August that had ended with a general movement towards “precautionary approach” rather than the more descriptive formulations. Like the other more cross-cutting issues or terms, the room recognized the need to circle back as these issues will evolve.

8. Moving forward, for today, we will continue the discussions in the small group this morning with a focus on the objection process, paragraphs 4 to 9 of Article 19 bis, and decision-making in paragraphs 1, 4 and 5 of Article 19. This afternoon, during our last Informal informal for this week, I will ask for reporting in from the informal consultations, including Article 20 ante on Emergency measures, which is progressing nicely with very few outstanding issues, however, of note, the issue of threshold is one of those outstanding issues. Then, we will conduct a final review of the whole of Part III in preparation for the revised consolidated text that is intended for this weekend.