



Interventions of Delegation of Australia on Area-based Management Tools

BBNJ meeting, New York, 25 March to 5 April 2019

4.2 Relationship to measures under relevant instruments, frameworks and bodies

Australia considers it important the agreement recognise the mandate of competent regional, sectoral and global bodies to take measures to manage conservation and sustainable use of marine biodiversity. We support an overarching provision to this effect. We are open to discussion on where such a provision is placed and note in this regard Canada's comments on reducing duplication.

Promotion of coherence and complementarity in measures related to area-based management tools, including marine protected areas

In relation to OPTIONS I and II, we agree with the comments of the Federated States of Micronesia on behalf of PSIDS, that these are not mutually exclusive, and that there may be merit in elements of both.

In relation to OPTION I, paragraph (2):

- we strongly support this instrument promoting coherence between other bodies and legal instruments. But we have questions about how the elements are currently expressed.
- We are not entirely clear what Option A means. But to the extent it would suggest that this body is the only body responsible for ABMTs or that it sits above other agreements, we would not agree.
- We support the intent behind Option B – that this instrument should promote a representative network of MPAs. But the wording needs further refinement to ensure that it is not seeking to establish a global legal hierarchy.

In relation to paragraph (3):

- We support the intent behind Option A, that measures can be established where there is no competent global, regional or sectoral body. This fills an important gap.
- It does not mean, of course, that this agreement has no role in fostering coherence between organisations and other instruments.
- For that reason, we would not rule out some elements of Option B, but we would want to better understand what complementary measures would mean.

In relation to paragraph (4), we are not persuaded by the word 'recognition' or that there is a need for a formal process of 'recognition' governed by this instrument, in the sense of creating a hierarchy between organisations. We are sceptical of any need for the Options under this part. So for that reason we do not support Options A, B or C as drafted. That said, we would be open to some way of ensuring an appropriate linkage between ABMTs under this agreement and ABMTs under other agreements to foster coherence and common standards.

It follows that, because we are not inclined to support a process of 'recognition', we do not support paragraph (5) as it is currently drafted. That said, we certainly do agree with the proposition that existing measures are not rendered in any way illegitimate by not coming under this agreement.



We do not support OPTION II, paragraph (2) as it is currently drafted. But we support the idea that this instrument should encourage members to work in other bodies to promote appropriate ABMTs and coherence and complementarity, and that this be reflected in text. We will reflect further on aspects of Option D, particularly in relation to global guidelines, standards and objectives.

In relation to paragraph (3), we support a redrafted version of this provision which recognises that states may come together regionally to take AMBTs, if that is more appropriate for the regional context than acting through a global mechanism. I would emphasise that this does not come at the expense of a global process.

Enhanced cooperation and coordination between relevant legal instruments and frameworks and relevant global, regional and sectoral bodies, with regard to area-based management tools, including marine protected areas, without prejudice to their respective mandates

In relation to paragraph (1), we support the general thrust though note it would need to be reframed to put the general obligation on states to cooperate to promote greater cooperation and coordination between relevant global, regional and sectoral bodies.

In relation to paragraph (2), we would need more detail on what a mechanism might involve before being in a position to support any of OPTIONS I to IV at this stage.

Respect for the rights of coastal States over all areas under their national jurisdiction, including the continental shelf within and beyond 200 nautical miles and the exclusive economic zone

Regarding paragraph (1), we don't consider it necessary to restate principles with respect to coastal state rights and other in this part and consider it can be referenced in a general provision. And we think some form of redrafted OPTION II may be useful.

In relation to paragraph (2), we agree a measure within national jurisdiction is not within scope, but the precise drafting will require further thought.

Relationship between measures under this instrument and those established by adjacent coastal States, including issues of compatibility

In relation to OPTION I, we join others in thinking that the concept of compatibility in this agreement, and how it relates to the UN Fish Stocks notion of compatibility, requires more work.

We could consider, though, a provision which underlines the desirability of ensuring that measures established in ABNJ do not undermine appropriate biodiversity conservation measures taken in national jurisdiction.

In relation to Option II, it may be that consultation requirements should be addressed in other parts regarding the establishment of ABMTs.