**Submission of proposals related to the Further revised draft text of an agreement 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**

1. **Name(s) of Delegation(s) and/or Group(s) making the proposal in the order that they should be listed in any conference room papers or other documents:**

Australia

1. **Please indicate the relevant part of the Further revised draft text (as reflected in A/CONF.232/2022/5) that this proposal relates to, using the drop-down menu below.**

PART III MEASURES SUCH AS AREA-BASED MANAGEMENT TOOLS, INCLUDING MARINE PROTECTED AREAS

1. **Please indicate the relevant article of the Further revised draft text (as reflected in A/CONF.232/2022/5) that this proposal relates to (if applicable) or indicate if this is a proposal for an additional article**

Addition to Article 19 proposed by European Union and its Member States in the 25 July 2022 compilation of textual proposals

1. **Kindly provide the amendments to the article that are being proposed in the text box below, using the “track changes” function in Microsoft Word. Please only reproduce the parts of the article that are being amended or deleted - examples are attached for reference.**

1. As a general rule, the Decisions under this part shall be taken by consensus.   
  
2. If no consensus is reached, Decisions under this part shall be taken by a [three quarter] [two-thirds] majority of the representatives present and voting, before which the Conference of the Parties shall decide, by a two third majority, present and voting that every effort to reach agreement by consensus has been exhausted.   
  
3. Decisions shall enter into force ninety days after the meeting of the Conference of the Parties at which it was adopted, and shall be binding on all Parties, except for those Parties which make an objection in accordance with paragraph 4 of this Article.  
  
4. During the period of ninety days provided for in paragraph 3 of this Article, any Party may by notification in writing to the Depositary make an objection with respect to the Decision. Such an objection may be withdrawn at any time by written notification to the Depositary and thereupon the Decision shall, in its entirety, enter into force for that Party ninety days after that reservation/objection is withdrawn.

[4bis. A Party shall, at the time it makes an objection under paragraph 4, specify in detail the grounds for the objection, adopt alternative measures that are equivalent in effect to the Decision to which it has objected and have the same date of application, and advise the Secretariat of the terms of such alternative measures.]

5. An objection to a Decision made in accordance with paragraph 4 shall be renewed every two years by written notification to the Depositary. If no such renewal is received, the objection will be considered automatically withdrawn and thereupon the Decision shall enter into force for that Party ninety days after that objection is automatically withdrawn.   
  
5bis. A party that has made an objection to all or part of a Decision in accordance with paragraph 4 shall, notwithstanding the objection, [act in accordance with the objectives of the Decision] [not undermine the effectiveness of the Decision] and shall [endeavour to ensure, so far as is reasonable and practicable, that it acts consistently with the Decision] [demonstrate alternative additional measures to fulfil the objectives of the Decision] [take alternative measures that do not undermine the effectiveness of the Decision and are equivalent to achieve its purposes] for such time as the objection remains in force.

6. Decisions of the Conference of the Parties, and objections to these, shall be made publicly available by the secretariat and shall be transmitted to all States and relevant legal instruments and frameworks, including the relevant global, regional and sectoral bodies

1. **Rationale for the proposal, if any.**

This proposal modifies the proposal by the European Union and its Member States in the 25 July 2022 compilation of textual proposals and takes into account suggestions from Maldives, CARICOM, PSIDS and others. The suggested paragraph 4bis (in square brackets) is based on text in the SPRFMO Convention and is based on a suggestion by the Maldives. Australia is pleased to make this opt-out proposal in the spirit of constructive engagement. While Australia to date has not supported opt-out, we see merit in working towards a compromise solution that will increase the likelihood of broad ratification of the treaty. Australia believes in an ambitious BBNJ treaty that strives to protect our oceans and its precious biodiversity. This proposal aims to identify a possible compromise solution between a ‘no opt out’ and ‘blanket opt out’ approach. It provides for the option to opt out of all or part of an ABMT and retains the option of a two year renewal requirement. The proposed text maintains the integrity of the ABMT regime, by ensuring that States that opt out must not undermine the conservation and/or sustainable use objectives of the ABMT.