



**Statement of Kristina Maria Gjerde
International Council of Environmental Law**

**Intergovernmental conference on an international 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
(UNGA Res. 72/249)**

***Item 6: area-based management tools, including marine protected areas
(4.3.1)***

New York, Wednesday, 27 March 2019

Check against delivery

Madame Facilitator,

Thank you Madame Facilitator. It is a pleasure to see you back again to guide us through this important part of the deliberations.

The International Council of Environmental Law would like to provide both general observations on process and specific comments on identification under this section 4.3.1.

From a general perspective, ICEL suggests that greater attention to the types and functions of ABMTs could help build bridges between the various options in the President's Aid to Negotiations for identifying, designating as well as implementing ABMTs including MPAs. One approach to categorizing ABMTs could be:

- **Global MPAs:** MPAs designated at the global level for the long-term conservation of marine biodiversity and ecosystems pursuant to the new agreement as part of a globally coherent and connected system of MPAs.
- **Sectoral ABMTs:** ABMTs applied at the sectoral level to conserve, sustainably manage, and avoid harm to marine biodiversity in ABNJ from activities managed by such organizations.
- **Regional MPAs:** MPAs designated by competent bodies at the regional level.
- **Other Area-based Management Tools,** both global and sectoral to conserve special biodiversity values.

Such rules, standards, and recommended practices and procedures could build on UNCLOS article 197 which calls for States to cooperate on a global basis and, as appropriate, on a regional basis “in formulating international rules, standards and recommended practices and procedures ... for the protection and preservation of the marine environment, taking into account characteristic regional features.”

With specific reference to paragraph 2, as many before us have said, ICEL also supports OPTION I. OPTION I provides a credible list of criteria for the identification of areas as well as a mechanism to elaborate additional standards and criteria. As many have suggested, this indicative list could be further refined, and as NZ has suggested, could also include Adequacy and Viability. ICEL notes there is already significant experience in applying similar criteria through the CBD EBSA process, the IMO's identifying Particularly Sensitive Sea Areas as well as FAO's Vulnerable Marine Ecosystems. Reference could be made to the [CBD Azores criteria](#) and guidance as it provides more fully fleshed out descriptions of the criteria and guidance for describing areas of ecological or biological significance and designing representative networks of MPAs and the [CCAMLR General framework for the establishment of CCAMLR Marine Protected Areas](#) (see also <https://www.cbd.int/ebsa/about>).



With respect to paragraph 4), ICEL suggests that as indicated above, for OPTION I it could be possible to support both Option A and Option B but for different types of ABMTs. Global MPAs and other global ABMTs could be identified under Option A directly under this agreement whereas sectoral ABMTs and regional MPAs could be identified as per Option B by relevant competent organizations based on global criteria and standards as well as regional criteria as per UNCLOS Article 197. Note that a specific duty to cooperate to pursue the adoption of ABMTs through relevant bodies could help to ensure a proactive approach to their adoption for conservation purposes.

Thank you Madame Facilitator.

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