

Statement by Japan on ABMT 4.2

4.2 Relationship to measures under relevant instruments, frameworks and bodies 【p22~】

Regarding 4.2, Japan supports the content of paragraph (1). We propose however, This para. (1) should be moved to “General Elements” section as it applies to the new instrument as a whole.

Promotion of coherence and complementarity in measures related to area-based management tools, including marine protected areas 【p22~】

Our delegation recognizes the importance of "coherence" or "complementarity". However, they should be achieved by collaboration and cooperation between existing relevant frameworks and the new instrument. They are all independent and equal to each other. The new instrument should not dictate other international organization on how ABMT must be established and implemented. Also, the new instrument should not be empowered to examine whether an existing ABMT should be recognized or not.

For our delegation, all draft texts in OPTION I seems to have a risk of undermining existing relevant bodies, giving too much power to the new instrument, therefore we cannot support.

Those options in OPTION II para. (2), look better for our delegation. But still we have hesitation to apply the *general principles* or *requirements* of the new instruments to other international organizations and frameworks. we would like to propose modifications on para. (2) to read as follows.

*(2) States parties shall promote coherence and complementarity in measures related to area-based management tools, including marine protected areas, trough consultation, cooperation and sharing knowledge and experiences obtained in establishing area-based management tools, including marine protected areas, under this instrument with existing relevant legal instruments and frameworks, as well as relevant global, regional and sectoral bodies.*"

OPTION II (3) is acceptable for us.

Enhanced cooperation and coordination between relevant legal instruments and frameworks and relevant global, regional and sectoral bodies, with regard to ABMT, including MPA [p24]

Regarding the cooperation and coordination between relevant instruments, frameworks and bodies, as I said earlier Japan believes that the new instrument should not have the authority to supersede the existing frameworks and bodies. Therefore, the new instrument should not dictate how other existing frameworks and bodies should promote coordination between them. In this sense we cannot support those drafts in this section. We prefer “No text.”

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 [p24~25]

In case ABMT is established in the high seas adjacent to the EEZ, depending on the conservation and management measures, the rights of the coastal states such as freedom of navigation may be infringed. Therefore, we understand the need for this provision in respects of the rights of coastal States. On that basis, as for para. (1) we support OPTION II because it is more comprehensive than OPTION I.

Regarding para. (2), because other than the case in which any part of MPA falls under the jurisdiction of a coastal States in future, other form of infringement of right and freedom of the coastal States can occur, we would like to propose the following modifications.

*(2) In cases where an area-based management tool, including a marine protected area established under this Part falls under the national jurisdiction of a coastal State at a future point in time, either wholly or in part, or impedes the rights of the coastal States provided in the Convention, that area shall be amended accordingly or otherwise cease to be in force.*

Relationship between measures under this instrument and those established by adjacent coastal States, including issues of compatibility] [p25]

Regarding compatibility, In our opinion, it is not appropriate that the new instrument requires

coastal States' ABMTs and ABMT established by the new instrument "shall be compatible." The rights of coastal States should not be impaired and also that coastal State is not necessarily a State party to the new instrument. For this reason, Japan cannot support OPTION I. We support OPTION II.