

China's proposal on COP Rules of Procedure

(As of 2 September)

Option 1:

Rule 39 bis Application of article 18 of the Agreement

1. The establishment of area-based management tools, including marine protected areas, shall not include any areas within national jurisdiction and shall not be relied upon as a basis for asserting or denying any claims to sovereignty, sovereign rights or jurisdiction, including in respect of any disputes relating thereto.

2. Notwithstanding other rules of the present rules of procedure, in cases where a State sends a written notification to the secretariat indicating, by reference to article 18 of the Agreement, its objection to a proposal for the establishment of any area-based management tools, including marine protected areas, the Conference of the Parties shall not consider for decision such a proposal, and in no case shall such a proposal be interpreted as recognition or non-recognition of any claims to sovereignty, sovereign rights or jurisdiction.

Option 2:

Rule 39bis alt. Application of Article 18 of the Agreement

In accordance with Article 18 of the Agreement, a State may communicate in writing to the Secretariat its objection to a proposal for the establishment of any area-based management tools, including marine protected areas, indicating that the proposal includes areas within its national jurisdiction or involves a claim to or a dispute on sovereignty, sovereign rights or jurisdiction. In such a case, the proposal shall not be advanced any further. The Conference of the Parties may take note of the proposal but shall not decide on such a proposal until the withdrawal of the objection is communicated to the Secretariat by the objecting State.

[Apart from article 18 of the BBNJ Agreement, in the *Report of the 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 at its fifth session*(A/CONF.232/2023/5), adopted on 20 June 2023 by the IGC, the President, on 4 March 2023, announced that the draft text of the agreement had been finalized and note the following: “...*In relation to article 18, entitled ‘Area of application’, in part III, the understanding was that the phrase ‘the Conference of the Parties shall not consider for decision’ means that the Conference of the Parties can look at a proposal but shall not decide on such proposals*” (para. 19.b), and the President, on 19 June 2023, recalled: “*In relation to article 18, entitled ‘Area of application’, in part III, the understanding was that the phrase ‘the Conference of the Parties shall not consider for decision’ means that the Conference of the Parties can look at a proposal but shall not decide on such proposals*”.]