



## IUCN Briefing for negotiators

# AREA-BASED MANAGEMENT TOOLS, INCLUDING MARINE PROTECTED AREAS, PART III

**Key messages:** Global MPAs require ambitious and comprehensive management, focused on the primary objective of long term conservation. The goal of enhancing cooperation and coordination is best supported by clear obligations to conserve and use biodiversity sustainably. To enable timely action, the COP will need a clear mandate to establish MPAs and other ABMTs and adopt conservation measures that are binding on themselves as States Parties. Requiring States Parties to promote area-based measures to enhance conservation and sustainable use through relevant international frameworks and bodies (IFBs) can stimulate coherence, while the envisaged consultation processes can provide an important safeguard that States, IFBs and other stakeholder views will be given due consideration.

## 1. Global MPAs should have a conservation-focused definition and objective (Article 1)

**Why?** To be effective, global MPAs should be managed for the primary objective of long-term conservation and should not be time-bound or limited. The primary conservation objective is necessary to ensure that site-specific management measures contribute to robust comprehensive protection in the face of rising pressures from climate change and human use. Broader-purpose single sector as well as cross-sectoral ABMTs remain vital: e.g., making sector-specific uses more sustainable, conserving mobile species, separating conflicting uses or supporting regional-scale planning.

**How?** By amending definitions in Article 1 Use of Terms for “marine protected area” and “area-based management tools”

**1.10.** “Marine protected area” means a geographically defined marine area that is designated and managed to achieve ~~specific~~ [long-term biodiversity] conservation and sustainable use objectives [and that affords higher protection than the surrounding areas].

**1.3.** “Area-based management tool” means a **management measure** ~~tool~~, including a marine protected area, for a [geographically defined area through which one or several sectors or activities are managed **to enhance** with the aim of achieving particular conservation and sustainable use **of marine biodiversity**. objectives [and affording higher protection than that provided in the surrounding areas]

## 2. Clear obligations to conserve and use biodiversity sustainably are needed to support cooperative outcomes (Articles 14 and 15)

**Why?** Effective implementation of biodiversity and ocean health obligations under UNCLOS and other relevant instruments requires a clear set of obligations for States Parties to i) conserve marine biodiversity in ABNJ; ii) ensure biodiversity use and impacts are sustainable; iii) establish MPAs and other types of ABMTs; and iv) support capacity building and technology transfer for this purpose. Enhanced mechanisms for cooperation and coordination will be needed, however cooperation is a

means to an end, and should not be the only goal of Part III.

**How?** The multiple objectives of ABMTs in Article 14 should be embraced and slightly amended. To enhance large-scale in situ conservation and seascape planning, an additional objective could be added akin to the Convention on Biological Diversity Article 8(d) to promote the protection of ecosystems, habitats and species within and beyond MPAs. Article 15 on international cooperation and coordination should be strengthened and clarified to recognize both the power of the COP and relevant international frameworks and bodies (IFBs) to adopt ABMTs.

#### **Article 14. Objectives**

~~14.(c) Conserve and sustainably use areas~~ **to promote the protection of ecosystems and natural habitats and ensure the maintenance of viable populations of species in natural surroundings**, including by establishing a comprehensive system of area-based management tools, including marine protected areas;}

14(d) Establish a system of ecologically representative marine protected areas that are **well** connected, ~~and~~ effectively **protected**, and equitably managed;

14(e) **Protect, maintain, and rehabilitate** and restore biodiversity and ecosystems, including with a view to enhancing their productivity and health and building resilience to stressors, including those related to climate change, ocean acidification and marine pollution;}

**14(i) ibis. Build and support the capacity of States Parties to develop, implement, monitor and manage, including to enforce, any area-based management tools, including marine protected areas (cf. Article 42(f)).**

#### **Article 15. International cooperation and coordination**

15.1 ~~[To further international cooperation and coordination with respect to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction,]~~ States Parties shall **conserve and sustainably use marine biodiversity in ABNJ, establish area-based management tools, including marine protected areas, advance complementary measures in other international frameworks and bodies; and support capacity building and technology transfer for this purpose. To this end, States Parties shall cooperate to promote coherence and complementarity** in the establishment of area-based management tools, including marine protected areas, through:

15.1 ~~(b-a)~~ The process in relation to area-based management tools, including marine protected areas, set out in this Part, ~~including by:~~ and

15.1 (b) ~~(a)~~ Relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, ~~without prejudice to their respective mandates,~~ in accordance with **the objectives of** this Part;}

15.3 ~~States~~ **The Conference of the Parties shall make arrangements for establish** consultation and coordination **mechanisms** as necessary to enhance international cooperation and coordination with and among relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies **and other stakeholders** with regard to area-based management tools, including marine protected areas, as well as coordination among associated conservation and ~~[management]~~ ~~[sustainable use]~~ measures adopted under such instruments and frameworks and by such bodies.

### **3. The powers of the Conference of Parties need to be clear, strong, and non-consensus based to ensure timely action (Article 19)**

**Why?** To enable timely action, the COP will need a clear mandate under Article 19 to establish MPAs and other ABMTs and adopt conservation measures that are binding on themselves as States Parties. The

consultation process outlined in Article 18 provides an important safeguard to States, international frameworks and bodies (IFBs) and other stakeholders that their views will be given due consideration.

Moreover, recognizing the inherent power of States Parties to adopt more stringent measures (binding on themselves pursuant to an international agreement) is an essential safeguard in case a relevant competent organization is unable to act in a timely or effective fashion. And although consensus-based decision-making is the optimal objective, a pragmatic mechanism for majority-voting is needed to ensure timely progress towards biodiversity conservation. This should be reflected in the provisions on the powers of the Conference of the Parties in Article 48.3(bis) to avoid uncertainty and delay.

**How?** Article 19 Decision making:

**Article 19** 1. The Conference of the Parties ~~shall~~ ~~may~~ take decisions on matters related to area-based management tools, including marine protected areas, with respect to:

~~At 4.~~ (ii) The establishment of area-based management tools, including marine protected areas, **the adoption of a management plan, research plan** and related conservation and ~~management~~ ~~sustainable use~~ measures ~~to be adopted~~ to achieve the specified objectives, **following consultations pursuant to Article 18**, taking into account existing measures under relevant legal instruments and frameworks and relevant global, regional and sectoral bodies, as appropriate.

## For more information, see:

[BBNJ IGC4 Knowledge Series | IUCN](#) (all resources are compiled here)

[WCC Resolution 128](#) "Acting for the conservation and sustainable use of marine biological diversity in the ocean beyond national jurisdiction" 2021 IUCN Congress in Marseille, France.

IUCN Workshop Report, 2021. [Key Messages: Area Based Management Tools in Marine Areas Beyond National Jurisdiction: TIME TO BE BOLD, VISIONARY AND PRAGMATIC FOR THE BENEFIT OF HUMANKIND AND THE OCEAN](#)

IUCN Workshop Report, 2019. [Summary version : Area-Based Management Tools in Marine Areas Beyond National Jurisdiction: Building ambition, broadening participation and planning ahead](#)

[IUCN comments on revised draft text February 2020](#)

Ortuño Crespo, G, Mossop, J., Dunn D, Gjerde, K. Hazen, E., Reygondeau, G., Warner, R. Tittensor, D., Halpin P., (2020). [“Beyond static spatial management: scientific and legal considerations for dynamic management in the high seas”](#) 122 Marine Policy 104102

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