

(Translation)

and approaches, not only limited to MPAs. Second, the conservation and sustainable use of marine biodiversity are the dual objectives of the ABMTs. A reasonable balance should be struck between the two to avoid favoring one over the other. The ABMTs, including MPAs, are not limited to reserve areas

The Chinese delegation considers that, the rule of “due regard” provided in the UNCLOS is the general standard to deal with the relations between the adjacent coastal States as well as the State conducting activities in the areas beyond national jurisdiction. We suppose that, the new international instrument should address the issue of compatibility between measures under the new international instrument and those established by adjacent coastal States in accordance with the rule of “due regard”.

We fully understand the concerns of the relevant adjacent coastal States on this issue. Therefore, we suppose that the new international instrument explicitly provides that, in establishing the measures of ABMTs, including MPAs, the opinions of the adjacent coastal States should be taken into account in appropriate approach.

The main basis for the Chinese delegation to make the above suggestions includes: first, according to the UNCLOS, States shall conduct activities on the high seas or in the Areas with “due regard” for the rights and freedom of other States, including adjacent coastal States. Second, pursuant to the UNCLOS, each State enjoys equal rights in the areas beyond national jurisdiction. The adjacent coastal States do not have any special privileges.

#### **4.2 (c) The manner to respect for the rights of coastal States over all areas under national jurisdiction.**

The new international instrument should explicitly provide that, the ABMTs, including MPAs, shall not undermine the rights of coastal States over all areas under their national jurisdiction in accordance with the UNCLOS, including the rights over the exclusive economic zone, and the continental shelf within and beyond 200 nautical miles. Nor shall they undermine the rights of each State in the areas beyond national jurisdiction in accordance with the UNCLOS.

#### **4.3 Process in relation to area-based management tools, including**

**marine protected areas**

**4.3 (a)-(d) Most appropriate approach for institutional arrangement**

The Chinese delegation proposes that, the new international instrument

When the measures of ABMTs to be adopted under the new international instrument touch upon the mandates of regional or sectoral bodies in aspect of the conservation of marine biodiversity, consultation and coordination may be conducted between the scientific and technical committee and existing bodies, to explore the most appropriate conservation measures.

#### **4.3.1 Identification of areas**

##### **(a) Process**

The Chinese delegation considers that, the identification of areas which may need protection should follow the following procedures:

The State which raises a proposal conducts investigation and collects scientific information in accordance with relevant standards. Then it carries out study on the obtained scientific information and makes comparison with the required standards, to identify the scope of protected areas. The final step is to submit the relevant proposal to the CoP for review.

##### **(b) Standard and criteria**

The Chinese delegation considers that, the identification of relevant protected areas should be based on the best scientific

The Chinese delegation suggests that it is advisable to refer to the approach of setting out the standards and criteria of ABMTs adopted in existing international instruments and not to include specific standards and criteria. Instead, relevant standards and criteria should be formulated by the competent body un8.6 ( ET Q 0(r) 5.4 5 ( ) JT)2.1 (eg2.1 ( ) -8.6 (un8(92.1 (r) 5.4 ( ) 2.1 (ut

limited to States, international organizations, and other stakeholders including non-State entities, such as civil society, industry, scientists and traditional knowledge holders. In order to maintain an open coordination and consultation process, the new international instrument only needs to contain general provisions instead of listing specific stakeholders.

(b) The State which raises a proposal should fully take account of the opinions from States Parties, relevant international organizations and non-State entities. Consultation and coordination should be conducted when necessary.

(c) The new international instrument may establish a scientific and technical committee to evaluate the necessity, scientificity, reasonableness and feasibility of ABMTs. It may also establish a legal committee to provide evaluations and recommendations in legal aspect. The members of the relevant committees are elected from candidates recommended by each State and work in their individual capacity.

### ***(iii) Decision-making***

(a) (i) The new international instrument should adopt a consensus-based decision-making model to determine the ABMT related matters.

(a) (ii) The new international instrument may establish the CoP to give effect to the decisions related to ABMTs.

(b) The decisions related to ABMTs should be made on the basis of extensive consultation and comprehensive consideration of the concerns of States Parties and the mandates of relevant competent international organizations, to enhance cooperation and coordination.

(c) Adjacent coastal States may fully participate in the consultation and assessment in the designation process. But in the decision-making procedure, adjacent coastal States have equal status with other States Parties.