



HSA STATEMENT

High Seas Alliance, Environmental Impact Assessments, Cluster 5.4, 5.5, 5.6

September 11th 2018

Thank you Mr Facilitator,

I will be brief and skip sections including some already addressed by other delegations, and our longer remarks will be on Papersmart.

On 5.4 a and b EIA Process: We believe the agreement need not specify a high level of detail, but instead should focus on those procedural steps necessary to ensure the completeness, transparency, and scientific integrity of assessments in ABNJ.

These include screening, scoping, a draft assessment, review and consultation by stakeholders and affected States and organizations, the taking into account of comments, decision-making procedures, and monitoring, review and reporting.

They also include procedures under which a State Party may request a review of an EIA (or a decision not to prepare one) by the Scientific Committee established under the instrument.

To answer your question, we believe there must be a clear link between assessment and decisions on whether an activity can proceed and if so under what conditions.

They also include decision-making procedures that ensure that if it is assessed that a proposed activity may have significant adverse effects, the activity is managed to prevent such impacts or not authorized to proceed; provisions for monitoring, review and regular reporting on the actual vs anticipated effects of the activity, and provisions for bonding, adjustment or termination of an activity or redress, reparation and compensation.

5.4(c) Internationalized portions of the process: The High Seas Alliance recommends that the Instrument establish a Scientific Committee charged with, among other things, developing detailed guidelines for EIAs, reviewing, through the Scientific Committee, EIAs (including the decision regarding whether or not to prepare an EIA) for consistency with requirements of the Instrument when requested to do so by any State, and making recommendations to the COP.

c. developing and managing a pool of experts capable of conducting and reviewing EIAs for States seeking assistance.

5.5 Content of EIAs The question of how much detail to include in the agreement should focus on the minimum requirements necessary to ensure the completeness, transparency and scientific integrity of assessments in BBNJ. These include assessment of the impact of the activity and its reasonable alternatives, using the best available scientific information and traditional knowledge; cumulative impact assessment; proposed management measures to avoid significant adverse impacts, and proposed monitoring, enforcement and reporting to the COP.

5.5(c) Impact assessment should be effects based, rather than activity based. Any activity with the potential to affect the ocean or seabed beyond national jurisdiction should be subject to the instrument's EIA requirements. Otherwise there will be the potential for forum shopping and wide variability in EIA practice.

Otherwise there will be the potential for forum shopping and wide variability in EIA practice. An activity based approach may provide a loophole which may be widely regretted in years to go, if it allows an activity with widespread effects in ABNJ to escape assessment if it is released, say, 1 km inside the EEZ. By analogy, in national jurisdictions, we have already seen some activities exploit similar loopholes in national legislation to avoid assessment in one zone, say within 12 mile zones by situating themselves just outside the 12 mile zone, where the effects will be overwhelmingly felt within the 12 mile zone, for instance.

5.6 Monitoring, reporting and review: The sponsoring State should be required to monitor and report on an annual basis to the COP, adjacent coastal states and communities, relevant international bodies and the public. The Scientific Committee should be charged with reviewing reports and making recommendations to the COP on monitoring and reporting, and on any further actions required to address impacts.

5.7 SEAs: The agreement should require the preparation of strategic environmental assessment under which policies, measures or programs that may have more than a minor or transitory effect on ABNJ are assessed. SEAs should be carried out in cooperation with competent regional and sectoral organizations that have measures, decisions, programs or plans with effects on the relevant area of ABNJ

Finally, on your questions:

How will implementing agreement relate to global and sectoral bodies?

First, as indicated in our remarks earlier, we believe the most robust standards applying to EIA in ABNJ should apply to all activities. So I think this answers your question: it is important that the higher substantive as well as procedural standards apply across ABNJ.

Under this approach, for example, activities such as seabed mining, some types of marine scientific research and other activities that have significant adverse effects on vulnerable marine ecosystems must be assessed and managed to avoid such effects or not allowed to proceed. This is essential to avoid undermining the many years of work that RFMOS and many member states in this room have devoted to assessing and managing bottom fishing to avoid significant adverse effects on vulnerable marine ecosystems from other causes.

Second, EIA requirements must apply not only to the high seas, but to all areas beyond national jurisdiction, including the Area, which is part of ABNJ. It is important that there are no exceptions to scope of conservation and sustainable use of marine biodiversity in ABNJ. The minimum standards and procedures to be developed under the Instrument should be applicable across the ABNJ.

Activities such as mining and bottom fishing impact on the seabed, and sometimes also the water column. For example, some proposals for seabed mining may entail significant discharges of sediment into the water column, not only on the seabed but even in the twilight zone, much closer to the surface than to the seafloor. Secondly, activities involving the deep seabed will be bioprospecting for marine genetic resources and marine scientific research as well as fishing and mining. It is also not difficult to conceive of a new activity, such as a geoengineering proposal, which could have significant adverse effects on the deep seabed.

We can see the BBNJ instrument providing helpful assistance, in bottom fishing, seabed mining and other activities affecting the seabed. To give one example: the ISA is still developing EIA requirements under the exploitation regulations being developed, and for instance we can see a role for the BBNJ COP minimum standards, procedural requirements and other provisions for enhancing this process. Likewise, the ISA has competence and can control seabed mining activities through REMPs and EIAs, but not other activities such as fishing and new and emerging activities. Both SEAs, where they address all impacts and all activities, and EIAs, through cumulative impact assessments, will need to address all activities and impacts in ABNJ.

Thank you.