



Thursday 31 March Day 4

7. Environmental Impact Assessments

Greenpeace, Pew, WWF, NRDC, on behalf of the High Seas Alliance

Thank you Mr. Chair,

Good morning Excellencies and Delegates,

This intervention is being given by Greenpeace on behalf of The Pew Charitable Trust, WWF, NRDC and the High Seas Alliance.

Mr Chair, the International Tribunal for the Law of the Sea (ITLOS) in the *Seabed Mining Advisory Opinion* said at para 145 that (and I quote) "It should be stressed that the obligation to conduct an environmental impact assessment is a direct obligation under the Convention and a general obligation under customary international law."

And as a number of delegations have observed, article 206 specifically requires EIAs to be undertaken in the stated circumstances.

But in the view of the International Court of Justice, general international law does not (and I quote again) "specify the scope and content of an environmental impact assessment" (That was stated in paragraph 205 of the Judgment in the *Pulp Mills on the River Uruguay* case).

That is why it is important that this Instrument does specify the scope and content of an EIA.

Mr Chair, as we have been hearing today and yesterday afternoon, evaluating potentially harmful activities on the high seas is necessary to protect biodiversity, and EIAs and strategic environmental assessments are powerful tools for identifying and preventing negative environmental impacts.

Despite States' obligation to conduct impact assessments under UNCLOS and international law, there is no global coordination mechanism to require an EIA for activities in areas beyond national jurisdiction, and no guidance, standards, and principles by which to evaluate them.

Therefore, we believe that first, the new instrument should establish a framework for States to conduct prior EIAs, including cumulative impact assessments, for activities under their jurisdiction or control that may have a potential adverse impact on the marine environment or marine biodiversity in ABNJ;

Second, the new instrument should only permit an activity to take place after having ascertained that it will not cause significant adverse effects and that measures are in place to ensure that identified potential adverse effects are prevented;

And third, it should require SEAs for programmes, plans or policies that may have a potential adverse impact on the marine environment or marine biodiversity in ABNJ, and for specific areas where required, including cumulative and synergistic impacts, and provide for strategic environmental management plans to be implemented where necessary.

To this end, a new Instrument should designate certain activities that require an EIA, set minimum requirements for an EIA, and put into place minimum standards for how EIAs are conducted including public participation and enhanced coordination procedures. It should also have a mechanism to ensure where the proposed activity is not in compliance with clearly designated criteria, either it should not either not be allowed to go forward, or if it is to go forward, there should be a mechanism for controls and conditions to prevent significant adverse effects, including effective control and enforcement mechanisms.

Finally, we believe that it should ensure that dispute resolution procedures already established under the Convention remain available to States where needed. These procedures must likewise apply to strategic environmental assessments and strategic environmental management plans.