

EiA Working Group 30 March afternoon - NRDC, Greenpeace and HSA

Thank you Mr Facilitator

This intervention is for NRDC and on behalf of HSA. We have already commented on lists and transparency and will not touch on those again. We also associate ourselves with IUCN's intervention on this topic.

Decision-Making

Following an EIA, a decision must be made as to whether and under what conditions the activity can proceed, as is done under the **Madrid Protocol** and the **Espoo Convention**, taking into account the comments and the consultations generated while compiling the EIA.

The State with jurisdiction or control over the activity could be responsible for taking the decision to permit it, but to ensure that the best available science is incorporated into each decision, a **scientific body** under the Instrument should review the adequacy of the EIA and potentially decide, or make recommendations regarding whether, and/or under what conditions, the activity may proceed. Again, we view independent review as essential to avoid "EIAs of convenience," which would seriously undermine conservation, as well as the efforts of states that play by the rules. Such a scientific body could also be useful in assisting in the development of EIAs for States that lack the capacity to do so.

Alternatively, a **governing body** could be given responsibility for taking such a decision, based on the advice of a scientific body. This international level of decision-making may be especially necessary in cases where cumulative impacts of a number of activities conducted by different sectors, and/or transboundary impacts of activities are assessed, and as IUCN suggested, where proposed activities may to cause a significant level of harm and or a high level of uncertainty.

Where a sectoral or regional organization already has the authority to adopt a decision on an EIA and/or an SEA, such decisions should reflect, at minimum, the requirements, principles and standards adopted pursuant to the Instrument.

Monitoring, Review and Compliance and Liability

The Instrument should make provisions for monitoring, review and compliance. This could involve, as in the Madrid Protocol, monitoring of key environmental indicators, reporting provisions, adjustment or termination of an activity or redress, reparation and compensation on the basis of the monitoring results, and bonding provisions. These would also raise the need for emergency response provisions in case of unanticipated consequences or other serious harm

We associate ourselves with those emphasising the need for liability provisions including Trinidad & Tobago for CARICOM. If a State causes damage to ABNJ by an activity it should bear responsibility for that and liability and redress procedures will be necessary.

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