

BBNJ IGC 4 Agenda item 6. Informal informals on Environmental Impact Assessments, 16 March 2022, WWF International STATEMENT

Distinguished delegates,

WWF wishes to share a few thoughts and suggestions we hope will be useful for delegates on this part IV.

The text of Part IV – Environmental Impact Assessments (EIA) needs to reflect the UNCLOS obligation to subject all activities to assessment – no exemptions for any categories of use, no exemption for any areas, no exemptions for little activities. This is the Law of the Sea.

- **The EIA regime needs to focus on how to effectively and efficiently assess the large number of small activities, especially of individual merchant ships or fishing vessels** that, cumulatively, have substantial and highly significant impacts:
 - i. **There needs to be two threshold tests:** for the first threshold test, (i) states need to assess all activities of all vessels over which they have jurisdiction or control; if it passes the threshold test, that activity should be allowed to proceed on the basis of prevailing conditions for that activity, use and area;
 - ii. **If preliminary assessment of the activity by the responsible state indicates likely impacts above the threshold, the State would need to refer further assessment of that activity to the relevant competent sectoral body**, where one exists, or to the BBNJ COP by default, for a second threshold test to determine the level of assessment warranted given the range and severity of likely threats identified.

The competent sectoral body would then be expected to assess all individual activities from multiple States that fit into a convenient category; e.g., all fishing vessels in a particular fishery, all merchant ships on a particular international shipping route; all fishing vessels of a particular type; all activity in a particularly sensitive area. There are obvious synergies involved.

Importantly, the responsible State is not surrendering its responsibility but merely sharing the load with other States in the same situation with the same responsibility. This would be a key expression of an 'enhanced cooperation' regime. This is what WWF means by 'cooperative assessment' (some have used the term 'international assessment').

If a particular situation was particularly complex, **States or competent sectoral bodies could request the BBNJ COP to conduct a cross-sectoral and/or trans-jurisdictional assessment** in cooperation with any coastal states having responsibilities for activities in waters within national jurisdiction.

There needs to be a reciprocal obligation on the part of coastal States conducting assessments in national waters and flag states or bodies doing so in ABNJ to ensure the full suite of trans-jurisdictional issues are included in assessment consultation arrangements.

To avoid contributing to the 'flag of convenience' problem by creating an incentive for irresponsible owners to seek out irresponsible states to conduct inadequate assessments, the BBNJ COP needs to have procedural oversight with call-in powers if such loopholes are identified.

Procedural details for all kinds of assessments should be provided by way of **guidelines to be adopted and maintained by the BBNJ COP. This would then allow best practice standards to be readily identified for use by everyone both large and small**, including the ISA in assessing any activities for which it has responsibility pursuant to its own arrangements.

WWF's Summary report on **Strategic Environmental Assessments**, as well as full report and link to SEA webinar for States can be found [here](#).

WWF's 'IGC4 Shadow Outcome' brief can be found [here](#). WWF's BBNJ Library of documents for IGC4 is [here](#).

Thank you.