

## **New Zealand intervention in EIA informal working group covering item 5.4**

In relation to 5.4(a) and (b), New Zealand agrees with the points made by the EU, Canada and the US.

In relation to 5.4(c), New Zealand agrees with many others including the EU, Australia and Canada that following an EIA states would decide whether an activity could proceed, based on criteria laid out in the implementing agreement. We would not support decision making being made by the BBNJ COP or other international body, for several reasons. First, this would be inconsistent with UNCLOS Article 206 which places this obligation on states. Secondly, we have significant concerns about delays and inefficiencies if decisions were made by an international body. For example, New Zealand relies on two submarine cables for its telecommunications, and could not wait for a year for a COP to meet and decide a cable repair could proceed following review of an EIA for such an activity.

We have listened carefully to the concerns of SIDS and others about capacity to undertake EIAs being a rationale for internationalising EIA conduct and decision-making, and would support exploring how the agreement could address these capacity concerns. We also consider that, particularly in a fisheries context, EIA could be conducted regionally, and note Fiji made a similar point, which might assist with capacity concerns.

We would support review of draft EIAs for major projects by a BBNJ COP or scientific body, provided decision-making remains with the state with jurisdiction over the proposed activity, as we consider this could help ensure consistent application of standards and provide useful guidance to states.

On 5.4(d), New Zealand agrees with the Pacific SIDS, Australia and AOSIS on the importance of involving adjacent coastal states for EIA. At a minimum, adjacent coastal states, interested stakeholders, relevant holders of traditional knowledge, and those with existing interests in an area should be consulted as part of the EIA process with a requirement on states to have regard to these views.