



DSCC intervention on Agenda item 12. Draft regulations 44-48

20 February 2020

We support the general comments by Spain and by the African Group, including the new paragraph 47(1)(f) to identify comments received through public consultation on the environmental impact assessment and how they have been addressed. We also support the African Group's reference to including the approach to EIAs outlined in paragraph 47 of the International Guidelines for the Management of Deep-Sea Fisheries in the High Seas endorsed by the UN General Assembly. This would help ensure a coherent, consistent international approach to managing environmental impacts of deep-sea activities in ABNJ.

However, we believe that the EIA process needs to be further and fundamentally redesigned. Pew has provided a paper which explains what needs to be done regarding paragraph 47 and why. We support Costa Rica in stating that the steps in the EIA process and review need to be spelled out as well as Costa Rica's comments on the other DRs addressed in their intervention.

There is as yet no clarity even over who is responsible for overseeing the EIA process and who carries out the EIA, other than stating that the applicant or contractor prepares the EIS. There is no public review included. The EIA process is essentially a shell. Much is written in the passive tense, making it unclear who is doing what. The ISA is the regulator as Spain said, whereas in the present draft, the contractor is responsible for the EIA and the EIS under paragraph 2, with no clarity that the ISA needs to review the documents and the comments. The contractor should not both conduct the EIA and review the EIA or the EIS.

The EIA process would benefit by the detailed discussions taking place in BBNJ such as on screening, scoping and the conduct of the assessment.

DR 47 should include alternative options including the no-action alternative and measures to avoid impacts where possible and should also include a requirement that the EIA clearly demonstrates that a loss of biodiversity will be prevented.

On Draft Regulation 48

There are some good additions here in the member Compilation text, but, like Regulation 47, we believe this will need substantial rewriting. Most importantly, it needs to be the ISA which revises EIS and EMMPs - not the contractor. The contractor should not hold the pen. It is the ISA who is the regulator.

We reiterate our comments that impact assessments for test mining and monitoring of the impacts of test mining should be mandatory prior to an application for a plan of work.

Thank-you