



INTERVENTION ON BEHALF OF THE GROUP OF 77 AND CHINA BY MS. PRIM MASRINUAN, COUNSELLOR, ON ENVIRONMENTAL IMPACT ASSESSMENTS AT THE 2ND PREPCOM MEETING ON CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION (BBNJ) (New York, 30 August 2016)

Mr. Facilitator,

I have the honour to speak on behalf of the Group of 77 and China on the topic of environmental impact assessments. I wish to reassure you of our full support and cooperation in the discussion at this informal working group. We also wish to thank the Chair for his indicative list of questions as well as his overview which are very helpful for guiding today's discussion.

For the Group of 77 and China, the Environmental impact assessments (or EIAs) is one of the important process which is vital to achieve the objective of this new instrument. We consider that such process is of intrinsically preventive nature, to be carried out at an early stage of a project. The EIA is generally considered as part of the protection and preservation of the marine environment. The EIAs requirement already exists for relevant Parties for certain marine activities such as exploration of mineral resources in the Area, deep-seas fishing. Indeed, there is much broader recognition of the requirement for EIAs in general international law but there is an absence of detail on how this obligation should be implemented.

Mr. Facilitator,

The EIAs and related notions mentioned in the Chair's list of questions need to be **defined** by adapting from the existing instruments (such as CBD or Rio Declaration on Environment and Development or Espoo Convention on Environmental Impact Assessment in a transboundary context or the Kiev Protocol to the Espoo Convention on Strategic Environmental Assessments). We consider the EIA as a process to evaluate the environmental impacts including the cumulative impacts of proposed activities that are likely to have a significant adverse impact on environment. We should also consider how the transboundary aspect should also be taken into account as we are in the context of areas beyond national jurisdiction.

Mr. Facilitator,

The **guiding principles and approaches** that we consider necessary in the context of EIAs in areas beyond national jurisdiction are 1) ecosystem approach as important basis for taking into account cumulative impacts of the activities that take place in areas beyond national jurisdiction; 2) science - based approach as any decision making on this issue should be based on the best scientific information available; 3) precautionary approach as the activities in areas beyond national jurisdiction relate to the novel scientific knowledge, once again the decision making should be based on precautionary approach; 4) transparency in decision making; 5) inter- and intra-generational equity as the EIAs aim at predicting environmental impacts and providing ways and means to mitigate those adverse impact; 6) responsibility to protect and preserve marine environment. Furthermore, the EIAs process under the new instrument should not be cumbersome for developing countries, in particular small island developing states and they would be assisted with necessary technical and financial resources, including the development of institutional capacity and transfer of marine technology.

The challenge of designing a new regime of EIAs under the new instrument will also be to consider the relationship with the existing processes under other frameworks of both sectoral and regional nature.

Mr. Facilitator,

The new instrument should address the question of **threshold** of activities that would trigger the requirement to conduct an assessment. It can refer to reasonable grounds to believe that a proposed activities may cause significant and harmful changes to the marine biological diversity in areas beyond national jurisdiction. In addition to this qualitative threshold, we can consider the option to establish list of activities which requires EIA with the possibility to review it. Once an activity requires an assessment, it is to assess the potential effects of the activities. Regarding the procedural elements of an EIA, we can learn and build upon the existing framework such as ISA Regulations on prospecting and exploration of mineral resources in the Area, FAO International Guidelines for the Management of Deep-sea fisheries or Espoo Convention on environmental impact assessment in a transboundary context. The procedure can include the following steps: 1) an EIAs proposal should include some standard description such as the proposed activity, the potential environmental impact of that activity, proposed measures to mitigate the predicted impact; 2) the decision making; 3) the monitoring, review and compliance mechanism should be established taking into consideration the duty of states to keep under surveillance the effects of any activities that pass EIAs. Furthermore, the dissemination of assessment reports should be ensured so as to maintain transparency and monitoring needs.

Mr. Facilitator,

Once again the challenge of putting in place an effective regime of EIAs under the new instrument depends on institutional arrangements. A scientific and technical body, probably of advisory nature should be considered for the implementation of such technical mandate. This body should function on a science-based approach. Furthermore, from the perspective of developing countries, the undertakings in EIAs need financial resources as well as capacity building. The institutional arrangement of the new instrument should reflect on how to channel the capacity building effort as well as the required resources to the developing countries in implementing this part of the new instrument.