

## **Talking Points on Environmental Impact Assessments for Pacific Small Island Developing States**

### **5. Environmental impact assessments**

#### **5.1 Obligation to conduct environmental impact assessments**

PREFERENCE(S):

(1) OPTION I: State parties shall assess the potential effects of planned activities under their jurisdiction or control in areas beyond national jurisdiction in accordance with their obligation under the articles 204 to 206 of the Convention

(2) OPTION I & II: States parties shall require any proponent of an activity falling within its jurisdiction or control to conduct an environmental impact assessment for an activity intended to be carried out in areas beyond national jurisdiction when that activity meets the threshold requirement for an environmental impact assessment, in line with article 206 of the Convention.

State parties shall require any proponent of an activity falling within its jurisdiction or control to conduct an EIA for an activity intended to be carried out in ABNJ when that activity meets the threshold requirement for an EIA, in line with article 206 of the Convention

(a) For the purposes of this instrument, planned activities under a State's jurisdiction or control shall be those activities over which it has effective control or exercises jurisdiction in the form of licensing or funding of the activities.

(3) OPTION II: The requirement in this instrument to conduct an environmental impact assessment applies to all activities with impacts in areas beyond national jurisdiction.

*With regards to section 5.1 paragraph 1 on the obligation to conduct environmental impact assessments; the PSIDS is of the view that an EIA should be carried out on any activity that affects in ABNJ. We view that it is important that the instrument has a specific paragraph that explicitly states this. As such PSIDS sees option I covers this position. The PSIDS also sees that the operationalization of article 206 specifically to the ABNJ is what we are seeking in this instrument under this sub-section. Furthermore, we believe that Option I clearly specifies that the EIA should be carried out in within national jurisdiction where it could potentially impact the ABNJ as well as planned activities in ABNJ.*

*On section 5.1 paragraph 2, we can merge OPTIONS I and II, in the sense that we support language that obligates States Parties to take legal, administrative or other measures to implement this Part on EIAs, including, but not limited to, by requiring the sort of action by proponents as outlined in OPTION II*

*On paragraph 3 under section 5.1 the PSIDS view that under this instrument, the obligation to conduct an EIA should apply to all activities with the potential to have impacts in ABNJ as outlined in Option II.*

*Thank you, Mr. Facilitator*

## **5.2 Relationship to EIA processes under relevant instruments, frameworks and bodies**

### **PREFERENCE(S):**

(2) OPTION I: The environmental impact assessment process set out in this Part shall not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies.

(3) OPTION I: The bodies set forth in Part [...] shall consult and/or coordinate with relevant global, regional and sectoral bodies with a mandate to regulate activities in areas beyond national jurisdiction or to protect the marine environment in accordance with the following procedures: [...]

(a) Such procedures shall include the establishment of an ad hoc interagency working group or the participation of representatives of those organizations' scientific and technical bodies in meetings of the scientific/technical body set forth in Part [...]

(4) OPTION I: Option A: Minimum global standards and/or guidelines for the conduct of environmental impact assessments shall be developed through the scientific/technical body set forth in Part [...] and/or through consultation or collaboration with relevant global, regional and sectoral bodies.

(5) OPTIO

*On paragraph 3 the PSIDS supports the only option that is stated here.*

*With regards to paragraph 4 the PSIDS prefer OPTION I Option A and again in particular we support the consultation with relevant global, regional and sectoral bodies.*

*On paragraph 5, the PSIDS supports that where existing frameworks cover the obligation to conduct an EIA need not be duplicated as long as the threshold as outlined in sub-paragraph (a) Option C are met and that the EIA already conducted is comparably comprehensive including with regard to elements such as assessment of cumulative impacts as well as climate change and ocean acidification impacts*

### **5.3 Activities for which an EIA is required**

#### ***[The thresholds and criteria for EIAs]***

PREFERENCE(S):

OPTION II:

(1) When States parties have reasonable grounds for believing that planned activities under their jurisdiction or control are likely to have more than a minor or transitory effect on the marine environment, they shall assess the potential effects of such activities on the marine environment.

(2) When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall conduct a full environmental impact assessment on the potential effects of such activities on the marine environment and shall communicate the results of such assessments in the manner provided in this Part.

#### **[List of activities that require or not require an EIA]**

(1) OPTION I: An indicative non-exhaustive list of activities that require or do not require an

*Thank you, Mr. Facilitator. The Pacific SIDS aligns with the views expressed by Palestine on behalf of the Group of 77 and China*

(a) Screening to determine whether an environmental impact assessment is required

Option B: States parties shall be responsible for determining whether an environmental impact assessment is required in accordance with the requirements in this instrument. If the State party determines that an environmental impact assessment is not required for the

i. Affected parties

Option 1: carried out by the body set forth in Part [...]

(i) Decision-making

(i) Option B: The body set forth in Part [...] shall be responsible for determining whether an activity may proceed in accordance with the following procedural requirements:

Option 2: The complete environmental impact assessment shall first be submitted to the scientific/technical body set forth in [od fo ] ng Š tedyò ha

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*With regards to sub-paragraph (f)(ii) the Pacific SIDS supports that notification and consultation shall be required at each stage of the EIA process. The PSIDS agrees that time-bound opportunity to submit comments during the scoping and on draft EIA documents in Option B as is common practice and in particular we would support that adjacent coastal states are consulted as outlined in Option C.*

*With regards to Public Notification and consultation. The PSIDS agrees that it should be transparent and inclusive and targeted and proactive consulting with adjacent small island developing states as mentioned in part (iii) under sub-paragraph (f). Furthermore, state parties shall have regard to the comments received during the consultation process when considering in particular transboundary impacts as outlined in part d. under (iv) under sub-paragraph (f). Finally, in part (h) under sub-paragraph (f), the Pacific SIDS supports that the consideration and review of the reports should be carried out by the body as set out in Option 1 under Option A.*

*With regards to decision-making, the Pacific SIDS supports Option 2 under Option B under (i) in*

(d) **Option A:** A description of the potential effects of the planned activities on the marine environment, including cumulative impacts and any transboundary impacts;

(f) **Option A:** A description of any socioeconomic impacts;

(h) **Option E:** A description of the measures for avoiding, preventing, mitigating and, where necessary and possible, redressing any substantial pollution of or significant and harmful changes to the marine environment.

(3) **Option A**

## **5.6 Monitoring, reporting and review**

### **OPTION I:**

(1) **Option A:** Based on and consistent with articles 204 to

*Under sub-paragraph (2) we support Option A: States parties shall submit periodic reports of monitoring and review of planned activities conducted under their jurisdiction or control to the*

*allows for competent regional organizations, which may analyse the reports and highlight cases of non-compliance, the lack of information or other shortcomings as we support the utilization of competent regional organizations that can also carry out this work.*

*With regards to Compliance, the PSIDS supports option II in which reports shall be reviewed by a compliance committee, shall report to the decision-making body and in the case of non-compliance the decision-making body/forum shall take adequate measures. In our view, this*