



**Permanent Mission of the Federated States of Micronesia to the UN**

300 East 42 Street, Suite 1600  
New York, N.Y. 10017

Telephone: (212) 697-8370

Facsimile: (212) 697-8295

e-mail: fsmun@fsmgov.org

<http://www.fsmgov.org/>

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**Preparatory Committee established by General Assembly resolution 69/292: Development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction - First session**

**Agenda item 6: Informal working group on Environmental Impact Assessment**

**Statement by the delegation of the  
Federated States of Micronesia  
[Statement #5]**

**New York, 30 March 2017**

**Check against delivery**

Thank you, Mr. Facilitator, for giving me the floor. And, good morning to you and colleagues.

Before we concluded yesterday, you indicated that when we resume today, you would recall the first cluster of issues and then move on. So, if my understanding is correct, then I will briefly touch upon the first cluster of issues (bullets 2, 3, 5 and 6) and so on.

First: Micronesia is inclined to support your observation yesterday regarding the activity-based approach, meaning that the EIA provision of this international instrument should apply to activities in the area beyond national jurisdiction, irrespective of whether those activities might also have some impacts upon the national jurisdiction. This is important for Micronesia because of the fragile condition of the small landmasses in its national jurisdiction and their extreme vulnerability to environmental disasters arising from the activities in the ocean.

Second: activities in the national jurisdiction that might have impacts beyond national jurisdiction should not be covered in this instrument. But rather, those activities are governed by national procedures and regulation because said activities would fall under state sovereignty. If this international instrument were to include EIA for those activities within the national jurisdiction because of their ABNJ impacts, then there is a danger that this international instrument will conflict national regulation, and there is the possibility for the state sovereignty being undermined. Surely, under existing regime, states already have legal obligation under the “no-harm” principle confirmed by international case law such as *Trail Smelter* arbitration in 1941 and the Corfu Channel decision of the ICJ.

Third: With respect to triggers, this is rather a difficult issue, and I am speaking from the perspective of Micronesia that is usually considered as small nation because of its tiny landmasses, but it also has massive maritime space. Once an activity is proposed in the area beyond national jurisdiction, its impacts upon the environment will be fully understood through

the outcome of an EIA process. An EIA will inform the states on whether the impacts will be confined to the ABNJ or will have transboundary implications. An EIA will also inform the states on the extent of the impact—for instance, whether these impacts will create any disturbance in the biodiversity within the national jurisdiction. And, an EIA will also provide information with which to anticipate on what type of mitigation or alternative measures that need to be considered in light of the perceived impacts or risks of adverse consequences to the environment. Because of the uncertainty of the impacts upon biodiversity that an activity will cause to the marine environment as a whole, and in view of the fragility of island nation, which will be the first to feel the environmental effects caused by activities in the ocean, Micronesia is proposing the most robust procedure for EIA. In due course, we will share more specific details of this proposal once we have the opportunity to consult.

As a final point: Micronesia is of the view that states should be informed of the outcome of the EIA. And, for coastal states adjacent to the location of a proposed activity in the ABNJ, they must be accorded not only this information on the EIA but also meaningful opportunity to provide input and comments during EIA process. This is important for Micronesia because of the strong cultural dimensions that Micronesian and people of the Pacific Islands attach to the Ocean whose customary, cultural values and heritage as navigators depend upon the quality of the marine environment and the sustainability of the biodiversity of Ocean resources.

Thank you.