



Environmental Impact Assessment in areas beyond national jurisdiction

Challenges and opportunities for SIDS

Healthy Oceans, Resilient Islands: SIDS capacity development aspects in the BBNJ process

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What is EIA?

*“**appropriate procedures** requiring environmental impact assessment of its **proposed projects** that are likely to have **significant adverse effects** on biological diversity with a view to **avoiding or minimizing such effects** and, where appropriate, allow for **public participation** in such procedures”*



Process (simplified)

- **Screening:** Determines whether particular activities or projects will be subject to an EIA
- **Scoping:** Determines the focus, depth and terms of reference for the EIA
- **Assessment/evaluation** of impacts
- **Notification:** Stakeholders are notified/consulted
- **Reporting:** Statement of effects and supporting documentation (Environmental Impact Statement or EIS)
- **Decision making**

Trends

- Use of EIA widespread and growing
- Many barriers to good EIA; poor quality EIA common
- EIA threatened by economic imperatives
- Development of marine-specific processes
- Strategic Environmental Assessment (SEA)

Outcomes

Outcomes are mixed:

- Mainstreaming the environment



- Awareness and dialogue



- Changing decisions?



Good practice

- Focus on the **environment**, impacts, biodiversity
- Ensure **transparency**
- Include a **review** mechanism
- Involve **stakeholders**/consider their interests
- Include the ability to:
 - Impose conditions to **mitigate** adverse impacts; or
 - **Disallow** the activity where there is the potential for substantial harm.

A photograph of a sea turtle resting on a rock at sunset. The turtle is dark with white stripes on its shell and flippers. The sun is low on the horizon, casting a warm orange glow over the water. The text is overlaid on the upper half of the image.

*“States have the **obligation to protect and preserve** the marine environment.”*

- UNCLOS, Art. 192

Current status of EIA in ABNJ (i)

- Obligation under UNCLOS Article 206:
 - “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, as far as practicable, **assess the potential effects of such activities on the marine environment** and shall **communicate reports** of the results of such assessments”

Current status of EIA in ABNJ (ii)

- **Sectoral provisions**
 - Part XI Agreement (1994)
 - London Convention/Protocol (1972)
 - Fish Stocks Agreement (1995), UNGA res.61/105, 64/72
- **Regional provisions**
- **International agreements**
 - Madrid Protocol (1991)
 - Espoo Convention (1991)

Potential contribution of a new agreement

- Reaffirm obligation; renew focus & impetus
- Bring coherence to global EIA system
- Set out a clear & uniform process
- Cover activities outside sectoral regimes
- Cumulative assessment
- Transboundary EIA
- Strategic Environmental Assessment

Discussion of EIA to date

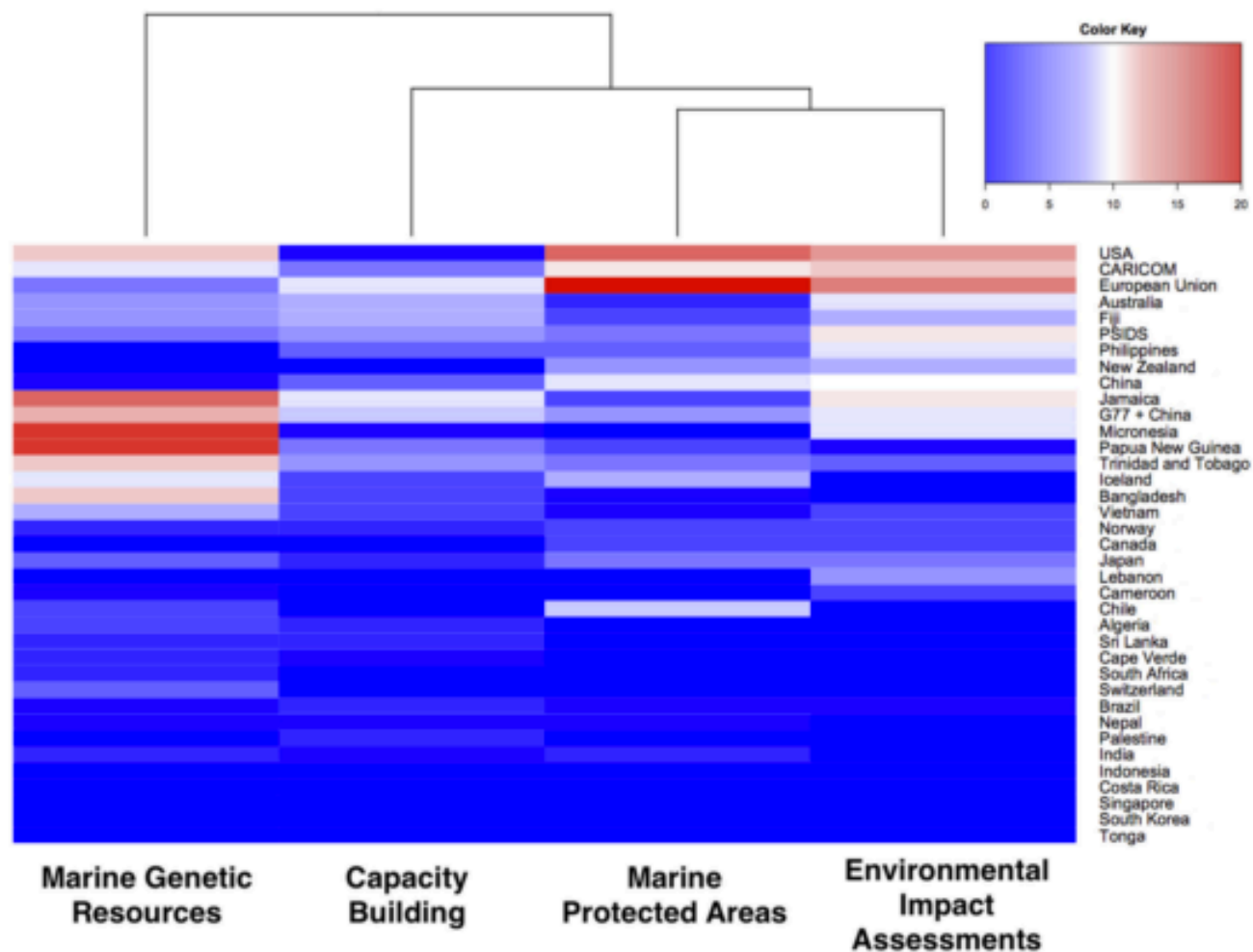


FIGURE 5 | Overall frequency with which package elements were identified by States and Groups in official statements during first meeting of the preparatory committee on biodiversity in areas beyond national jurisdiction, with overarching cluster analysis.

Blasiak et al. (2016)

Challenges for EIA in ABNJ

- Marine EIA is complex
 - Research more difficult/costly at sea
 - Highly variable & poorly understood environment
- Compounded by a number of factors in ABNJ:
 - **Geographical:** depth, pressure, temperatures, productivity
 - **Practical:** less data, remoteness, high cost, dispersed stakeholders
 - **Governance:** unclear and fragmented EIA provisions, no cumulative assessment/SEA

Challenges for SIDS

- States/proponents likely to be subject to new obligations
- Few States have capacity to carry out/oversee EIA in ABNJ
- High capacity development needs
- Potential “race to the bottom”/“EIA of convenience”

Opportunities for SIDS (i)

- Building a strong agreement to maximise participation
 - E.g. consultation, transparency, information sharing
- EIA as a lever for CB&TT
- Funding for EIA/potential for a new financing mechanism
 - E.g. financial/technical support in developing/
reviewing EIA
- Joint EIAs
- "Twinning"

Opportunities for SIDS (ii)

- SIDS can be a strong voice for environment/EIA
- Advocating/participating in new global body/bodies
- Leveraging regional frameworks
- Strategic Environmental Assessments



Thank you!



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