

Friday 7 April 2017 Day 10 afternoon Cross cutting NRDC on behalf of High Seas Alliance

This intervention is being given by NRDC on behalf of the High Seas Alliance. We also support the IUCN intervention.

Thank you for your expert guidance Mr Chair, and for your comprehensive oral report.

1. On the institutional framework, we welcome the interventions of Jamaica for CARICOM and other delegations that have emphasised the need for the compliance committee. It is important to include other core bodies as well as the COP, including the Scientific Committee and the Secretariat. We also suggest including provisions that would permit the COP to establish subsidiary bodies as needed.
2. On reviews, we recall that the Fish Stocks Agreement did not include provision for regular review. As a result, the parties have had to resort to repeatedly suspending and reconvening the review conference. We therefore recommend provision of a regular review conference, along the lines provided by Article 154 of the Part XI Agreement for regular reviews. The ISA is currently undergoing review under this provision, with a report due to the Assembly this August. On monitoring, we suggest that the compliance committee be empowered to establish monitoring procedures for all elements of the package. This is particularly important with regard to ensure effective implementation of MPAs and their conservation measures and EIA provisions. Such procedures should facilitate information sharing and joint operations between existing MCS systems operated by other international and regional agreements.
3. On compliance mechanisms, we have previously drawn the attention of delegates to the Espoo Implementation Committee and the Aarhus Compliance Committee as well as the need to mainstream dispute resolution and good governance throughout the Agreement. Non-punitive, fact-finding and participatory compliance go hand in hand with enhanced coordination mechanisms and good governance. However these would also need to be joined by compulsory dispute resolution mechanisms, which we address below, in the event that disputes cannot be resolved by other means.
4. We agree with Algeria for the G77 and other delegates that liability and redress mechanisms are necessary according to the polluter pays principle, as the environment should not be left to bear the damage, and we join FSM in their intervention suggesting that further attention be paid to a fund.
5. We have already made a statement earlier this on public participation in dispute resolution mechanism. We welcome the strong consensus for transparency and public participation throughout these discussions, and suggest that this be carried

through into dispute resolution mechanisms, and we welcome Tonga's intervention calling for non-State entities to have access. Best practice is seen in the Aarhus Convention, which allows non-State actors access to the Compliance Committee. It is also important that stakeholders have access to all dispute resolution mechanisms at all stages, including at advisory and compulsory tribunals such as ITLOS.

6. Finally, we have already intervened on what is meant by 'not undermining,' drawing attention to the use of this term in the Fish Stocks Agreement. Like IUCN, we believe that the natural meaning of this phrase is, 'not undermine the effectiveness of' or 'not reduce the effectiveness of.' This is a critically important point: it is crucial to avoid a situation where the limited sectoral approach prevents the application of best practice. It may also be helpful to draw the delegates' attention to Article 30 of the Vienna Convention on the Law of Treaties, which suggests that an International Instrument will in general prevail over another treaty. We will, of course, need to be careful that in drafting the instrument, we do not reduce the effectiveness of the regional and sectoral treaties, but instead enhance their effectiveness, and as Jamaica said for CARICOM, bring coherence. And as Mexico said, the IA is intended to strengthen a global network, by providing protection and conservation, and so we would not be undermining other organizations.

Thank you Mr Chair