

23 March 2022 afternoon

Earthworks Intervention IWG ENVIRONMENT

We would like to comment on paragraph 5 of draft regulation 46bis which currently reads “A Contractor shall review impact assessments etc”. Although our comment is specific to this paragraph, it is relevant to other aspects of this draft regulation as well as several of the draft standards and guidelines. We would like to make the observation that in the management of deep-sea fisheries in areas beyond national jurisdiction, regional fisheries management organizations (RFMOs) for all of their shortcomings, do not allow deep-sea fishing companies to review their own EIAs. EIAs are often done by the flag state (one could say the fisheries equivalent of the ISA Sponsoring State) and submitted to the RFMO, reviewed by the scientific committee of the RFMO, then reviewed by the meeting of the Contracting Parties taking into account any recommendations from the scientific committee. If the EIA does not demonstrate that the bottom fishing activity would be in compliance with the environmental obligations - e.g. preventing significant adverse impacts on VMEs - established in the regulations adopted by the RFMO and the general provisions of the RFMO Convention, then the permission to bottom fish is denied. Moreover, a number of the RFMOs require flag states to conduct and submit a revised EIA when new scientific information so warrants or there are significant changes to the conduct of the fishery.

This is a formula for good governance in ABNJ, not industry self-regulation, as DR 46 would seem to establish or allow. In addition, we appreciate the suggestion of New Zealand to draw on the EIA provisions of the International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, which were endorsed by the UN general Assembly. We also support comments made by the DSCC, DOSI and the Pew Charitable Trusts.