



## Council

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### Twenty-sixth session

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Agenda item 17

### Report on matters relating to the Enterprise

## Report of the Special Representative of the Secretary-General of the International Seabed Authority for the Enterprise

### I. Introduction

1. The present report is submitted in keeping with the terms of reference of the Special Representative of the Secretary-General for the Enterprise contained in the contract signed between the Special Representative in his capacity as consultant and the International Seabed Authority on 30 October 2019.
2. The terms of reference are based on the decision of the Council ([ISBA/25/C/36](#)), in which it requested the Secretary-General to extend the contract and renew the terms of reference of the Special Representative until the end of the twenty-sixth session of the Authority.
3. During the reporting period, in accordance with the terms of reference, the Special Representative performed the functions described below.

### A. Proposed joint venture with Poland

4. In furtherance of the mandate established by the Council and outlined in the terms of reference contained in the contract, the Special Representative made contact with representatives of the Government of Poland through electronic communication in October 2019, enquiring as to the state of preparedness of the Polish authorities for the convening of the second round of negotiations for the conclusion of a joint venture agreement with the Enterprise. The Special Representative was advised that further internal consultations were being conducted and that the Polish authorities were unable to provide any information on the resumption of negotiations at that time. Follow-up contacts were made in January 2020, by electronic means, in February on the margins of the first part of the twenty-sixth session of the Authority, and in April 2020. To date, no additional information has been obtained on the matter.



5. In view of this situation, it is not yet possible to submit to the Council a full proposal between Poland and the Enterprise for a joint venture, parts of which have been agreed upon ad referendum.

## **B. Participation in meetings of the first part of the Council session in February 2020**

6. In keeping with the mandate established by the Council, the Special Representative participated actively in the plenary meetings of the Council and the open-ended informal working group of the Council, which deliberated on the draft regulations on exploitation of mineral resources in the Area. The Special Representative proposed amendments to the draft regulations, which emphasized, but were not limited to, the role that the Enterprise is expected to play in activities in the Area consistent with the provisions of part XI of the United Nations Convention on the Law of the Sea and the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.

## **C. Consultations with regional groups and other entities on the operationalization of the Enterprise**

7. The Special Representative met with representatives of regional groups and other entities, including contractors, on matters concerning the operationalization of the Enterprise on the sidelines of the first part of the twenty-sixth session of the Authority.

8. It was evident during the interactions that, while there was general support for the Enterprise, representatives of regional groups were waiting on the recommendations of the Legal and Technical Commission in relation to the study related to issues on the operationalization of the Enterprise,<sup>1</sup> to be submitted to the Council for its consideration during the second part of the twenty-sixth session, in July 2020. One delegation advised that, within its capital, the issue of exploring the possibility of concluding a joint venture with the Enterprise had been discussed in a preliminary manner and that it would advise the Special Representative on any further development on the matter in July.

9. In an effort to engage in the most general discussion possible on matters germane to the Enterprise, the Special Representative used the opportunities presented at other events to speak about the need to operationalize the Enterprise. These included accepting an invitation to address participants at a workshop for the Latin America and Caribbean Group organized by the Permanent Mission of Costa Rica to the International Seabed Authority held at Strawberry Hill Hotel, Irish Town, Saint Andrew, Jamaica, on 16 February 2020, during which delegations expressed their support for the need to have the Enterprise become operational.

10. The Special Representative was also invited to speak at a fully sponsored expert group meeting on the strategic road map for the development of deep sea mining regulations in the framework of Africa's blue economy, which was held in Addis Ababa on 28 and 29 January 2020, and seized the opportunity to speak on the topic of the operationalization of the Enterprise to the participants in the corridors of that

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<sup>1</sup> Edwin Egede, Mati Pal and Eden Charles, "A study related to issues on the operationalization of the Enterprise: legal, technical and financial implications for the International Seabed Authority and for States parties to the United Nations Convention on the Law of the Sea", International Seabed Authority, Technical Report 1/2019, 13 June 2019.

workshop. Participants used the moment to reiterate the support of the Group of African States for the early operationalization of the Enterprise.

11. At the invitation of the Ambassador of Chile to Trinidad and Tobago, Juan Anibal Barria, the Special Representative met with the Ambassador on 24 January 2020 and briefed him on his work related to the Enterprise.

12. The Special Representative also participated as a panellist at the International Conference on Legal, Scientific and Economic Aspects of Deep Seabed Mining, held in Kingston from 14 to 16 November 2019, commemorating the twenty-fifth anniversary of the establishment of the Authority. During the conference, he presented the paper entitled “The Enterprise and the common heritage of mankind”. Here again, before a diverse audience, including diplomats, judges, academics, international lawyers and other officials from different regions of the globe, the Special Representative touched on, inter alia, the importance of the operationalization of the Enterprise as a means of giving effect to the principle of the common heritage of mankind, with particular reference to its role in the participation of developing countries in activities in the Area. In addition, the operationalization of the Enterprise is a means to fully give effect to the “parallel system” of access, which is the bedrock of the system of exploration and exploitation.

## **II. Future action required**

13. The Special Representative notes that the Council has taken important steps, in particular through its decision adopted during the second part of the twenty-fifth session, to provide opportunities for the Special Representative to participate in the deliberations of the Council with Poland for a joint venture agreement and to undertake other activities identified in the terms of reference contained in the contract. It is noted that additional action is needed in order for the Enterprise to become operationalized.

14. In the light of the foregoing, the Council is invited to:

(a) Take note of the present report of the Special Representative in keeping with the terms of reference contained in the contract between the Special Representative and the Authority, consistent with the decision of the Council;

(b) Provide guidance on the next steps to be taken with the relevant Polish authorities on the status of preparedness for the resumption of negotiations for the conclusion of the joint venture agreement with the Enterprise.