



**Statement by Her Excellency, High Commissioner Lumka Yengeni, the
Permanent Representative of South Africa to the International Seabed
Authority on the Report of the Secretary-General to the Authority during its
27th Session of the Assembly from 1-5 August 2022**

Mr President

I have the honour and privilege to deliver this statement on behalf of the South African delegation in our national capacity. We align ourselves with the statement delivered by Ghana on behalf of the African Group. At the outset, let my delegation join others in formally acknowledging and congratulating you on your election as President of the 27th Session of the Assembly of the International Seabed Authority (ISA/Authority). We are confident that you will steer the proceedings of the Assembly to a successful conclusion and we assure you of our full support and cooperation. We take this opportunity to, yet again, thank our host, the Government and the people of Jamaica for their hospitality and their on-going support to the Authority.

Mr President

Through you, Mr President, allow us to thank and congratulate the Secretary-General of the International Seabed Authority, Mr Michael Lodge, for the manner that he has steered the Authority as we move into the more operational phase of the Authority's existence. We thank him especially for the thorough and comprehensive report submitted to the Assembly. South Africa welcomes the report of the Secretary-General and is very pleased to note that there are many areas of progress building on the work of the Authority over the years, while recognizing that areas of concern nonetheless do require constant attention.

Mr President

Under the Convention, the Authority is the organisation established to organize, control and regulate activities in the Area for the benefit of humankind as a whole. This, Mr President, is a solemn responsibility that has to be carried out faithfully and has to be guarded jealously. The biggest challenge for ISA is balancing the conflicting obligations which are the exploitation activities of mineral resources in a sustainable manner and effective protection of marine environment from harmful effects which may arise from such activities. These obligations emanate from the 1982 United Nations Convention on the Law of the Sea (Convention/UNCLOS). For instance, Article 140 states that "activities in the Area shall be carried out for the benefit of mankind as a whole" whilst Article 145 states that "Necessary measures shall be taken in accordance with this Convention with respect to activities in the Area to ensure effective protection for the marine environment from harmful effects which may arise from such activities". By the way, the draft exploitation regulations

must make it clear that the exploitation activities in the Area are carried out in terms of the principle of the Common Heritage of Mankind (CHM) because the Area and its resources are the CHM. The precautionary and polluter pays principles must also be taken into consideration. Another challenge is specifying in the draft exploitation regulations how the ISA is going to give effect to the principle of the CHM in terms of the Convention and the 1994 Agreement, more particularly, how fair and equitable benefit sharing will be realized. There is also a need for a payment regime that balances commercial interests with a fair and equitable return to the CHM. This is an obligation in the Convention and it reads as follows: “The Authority shall provide for the equitable sharing of financial and other economic benefits derived from activities in the Area through any appropriate mechanism, on a non-discriminatory basis”, in accordance with Articles 140(2) and 160, paragraph 2(f)(i). The last biggest challenge is specifying in the draft exploitation regulations how the ISA is going to protect the developing countries from adverse effects on their economies or on their export earnings resulting from a reduction in the price of an affected mineral, or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area, as provided in articles 150 (h) and 151(10).

In conclusion, Mr President

We are very happy that there is progress on the front of the Enterprise. A big thank you goes to the Secretary-General for doing the right thing and we will continue supporting him all the way for as long as he is doing the right thing within the parameters of the Convention and the 1994 Agreement. The boldest measure envisaged by the Convention to institutionalise benefit-sharing is the creation of the Enterprise, the commercial arm of the ISA. It was to be a communitarian feature of Part XI that would enable joint seabed mining operations with some of the profits being distributed amongst States parties, particularly developing States. The Convention envisages the Enterprise as an organ of the ISA albeit enjoying “autonomy in the conduct of its operations.” In order to minimise costs for States parties, the Enterprise's initial deep seabed mining operations must be conducted by means of joint-ventures. In facilitating the participation of developing countries in deep seabed mining, especially those that are less technologically endowed, the Enterprise was designed to provide an important mechanism to give effect to the common heritage of mankind principle. Indeed, without the Enterprise, the Area's mineral resources could be effectively reserved for those private corporations and government entities with sufficient capital and operational and/or technological knowledge to extract them, to the effective exclusion of the developing countries. South Africa supports the operationalization of the Economic Planning Commission as it must be ready before the first plan of work is approved. The deliberations on its operationalisation must be finalised in the next Council meeting in November 2022.

I thank you for your attention.