



## Council

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Council session, part II

Kingston, 15–26 July 2024

Agenda item 11

**Report of the Secretary-General on the implementation of the decision of the Council in 2023 relating to the reports of the Chair of the Legal and Technical Commission**

## **Implementation of the decision of the Council in 2023 relating to the reports of the Chair of the Legal and Technical Commission**

### **Report of the Secretary-General**

#### **I. Background**

1. At its 312th meeting, on 8 November 2023, the Council of the International Seabed Authority adopted a decision relating to the reports of the Chair of the Legal and Technical Commission ([ISBA/28/C/27](#)). In paragraph 19 of the decision, the Council requested the Secretary-General to report to it on the implementation of the decision at its twenty-ninth session, and that such annual reporting remain on the agenda of the Council as a standing item.

2. Part II of the present report provides information on the steps taken by the Secretary-General in response to specific requests made by the Council in its decision. Part III contains details of the work carried out by the Commission to address various requests of the Council. Part IV provides an update on the status of the voluntary trust fund, which supports the participation of developing States in the meetings of the Commission and of the Finance Committee.

#### **II. Actions to be taken by the Secretary-General**

3. In paragraph 4 of its decision, the Council welcomed the Secretary-General's engagement, through the Compliance Assurance and Regulatory Management Unit of the secretariat, with individual contractors on matters raised by the Commission and the secretariat's review of the responses of individual contractors, and requested the Secretary-General to continue the practice of communicating the various issues identified during the Commission's review of contractors' annual reports to the relevant contractors and sponsoring States, to follow up in writing with those



contractors that repeatedly perform inadequately or incompletely against an approved plan of work or that have indicated that the implementation of the plan of activities will be made conditional on external factors regardless of the applicable contractual requirements, to request meetings with them and to write to the respective sponsoring States to bring that issue to their attention and request a meeting with the sponsoring States to address it and to provide relevant information to the Council as necessary.

4. Following the usual practice, the Secretary-General conveyed the Commission's comments and recommendations to individual contractors after evaluating their annual reports. In response, contractors included their replies in the annual reports for 2023, which will be reviewed by the Commission during the second part of the twenty-ninth session. In addition, during the sixth annual consultation between the secretariat and contractors, held in Dar es Salaam, United Republic of Tanzania, from 22 to 24 October 2023, contractors were briefed on the annual and periodic reporting process. Discussions also covered potential ways to further streamline and improve responses to the Commission's feedback.

5. In paragraph 6 of the decision, the Council requested the Secretary-General to continue to report to it on an annual basis the instances of alleged non-compliance and regulatory action in accordance with the United Nations Convention on the Law of the Sea, the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 and the regulations on prospecting and exploration identified by the Commission, taking into account the results of the Secretary-General's consultation with contractors, and urged the relevant sponsoring States to provide any information relating to such non-compliance and measures taken to ensure compliance under contracts for exploration, in accordance with article 139 of the Convention.

6. As at 27 June 2024, the Secretary-General has not identified any instances of alleged non-compliance by contractors regarding their operations at sea or the execution of their plans of work for exploration.

7. In paragraph 7 of the decision, the Council commended the progress made towards increasing the transparency of exploration contracts and requested the Secretary-General to continue to pursue dialogue with contractors who have not yet submitted public templates on their plans of work.

8. In June 2024, the secretariat successfully concluded its comprehensive data management review and reporting template training sessions. These sessions engaged data managers and scientific experts from various contractor organizations, aiming to enhance their proficiency in utilizing the DeepData platform and associated reporting templates. The primary objective of the training efforts was to improve both the quantity and quality of data submitted by contractors.

### **III. Actions to be taken by the Legal and Technical Commission**

9. In paragraph 5 of its decision, the Council reaffirmed with renewed urgency its request to the Commission to annually name those contractors that have responded insufficiently or incompletely, or failed to respond, to the calls from the Council to address issues of concern identified by the Commission in relation to their contractual obligations (see [ISBA/27/C/44](#)), noted that such information is important to assist the Council with respect to compliance, and also noted that the Commission has considered this request and will consider the matter during the first part of the twenty-ninth session, with the aim of naming contractors that either do not respond or respond insufficiently or incompletely during the next reporting cycle.

10. During the first part of the twenty-ninth session, following the Council's request, the Commission adopted the criteria for assessing the responses of contractors to concerns identified by the Commission in relation to their contractual obligations, with the aim of naming contractors that have responded inadequately, or failed to respond, in the next reporting period (see [ISBA/29/LTC/5](#)). The assessment is undertaken for each contractor that received a notification from the Secretary-General of concerns identified by the Commission in relation to its contractual obligations arising from the review of its annual report.

11. In paragraph 9 of its decision, the Council took note of the Commission's development of a draft procedure and criteria for consideration of a request for the transfer of rights and obligations under a contract for exploration, and requested the Commission to continue to revise its draft once the Council has considered issues relating to the transfer of rights and obligations under a contract for exploitation in the draft regulations for exploitation, as well as relevant issues related to effective control. The Commission has taken note of the Council's request.

12. In paragraph 10 of its decision, the Council expressed its appreciation for the Commission's work on revising the draft standardized procedure for the development, review and approval of regional environmental management plans and the template with the minimum requirements, including the Commission's preliminary consideration of the written submissions received from delegations and the Commission's decision to continue this work, requested the Commission to prioritize this work as a matter of urgency and to report back to it at the twenty-ninth session with a revised standardized framework, including the standardized procedure and template, with the objective of its adoption by the Council so that regional environmental management plans can be adopted in accordance with the standardized procedure and template.

13. In the report of the Chair of the Commission on the work of the Commission during the first part of its twenty-ninth session (see [ISBA/29/C/7](#), sect. IV.C), the Commission informed the Council that it had made progress on developing a standardized procedure for the creation, establishment and review of regional environmental management plans. This work was carried out through intersessional meetings in September and November 2023, as well as during the first part of the twenty-ninth session. The Commission will continue to address this matter during the second part of the twenty-ninth session, and it is anticipated that it will report its findings to the Council accordingly.

14. In paragraph 11 of its decision, the Council welcomed the work done by the Commission to implement Council decision [ISBA/27/C/42](#) relating to the development of binding environmental threshold values, requested the Commission to report to the Council on the next steps foreseen for the Intersessional Expert Group and its subgroups, and highlighted the need to conduct an inclusive and transparent process in the development through these groups.

15. At its meetings during the first part of the twenty-ninth session, the Commission took note of the progress made with respect to the development of environmental threshold values, including meetings of the subgroups of the Intersessional Expert Group held in December 2023 and February 2024. It is anticipated that the Commission will report further on this matter at the second part of the twenty-ninth session.

16. In paragraph 12 of its decision, the Council expressed its appreciation for the Commission's work on the development of the draft regional environmental management plan for the Area of the northern Mid-Atlantic Ridge, and requested the Commission to review the draft after the standardized procedure for the development, review and approval of regional environmental management plans and the template

have been adopted by the Council, in the light of the Council's comments. The Commission has taken note of this request.

17. In paragraph 13 of its decision, the Council stated that it appreciated the clarification by the Commission of the criteria for the use of the silence procedure in the adoption of decisions, including its confirmation that thorough discussions within the Commission will always take place before any document is placed under silence procedure, as the procedure is a means for decision-making at the end of, and not a substitute for, the consultation process in the Commission, as well as the publication of the step-by-step process for the Commission to reach consensus on any draft recommendation or draft report, and requested the Commission to provide further clarifications on any issues for which the silence procedure may not be used and how the silence procedure is used consistently with its rules of procedure.

18. During the reporting cycle, the Commission did not use the silence procedure for decision-making. Should the Commission decide to employ the silence procedure in the future, it will continue to follow the guidelines outlined in annex I to document [ISBA/28/LTC/5](#).

19. In paragraph 14 of its decision, the Council welcomed the Commission's updates to the process for reviewing environmental impact statements in relation to the testing of mining components or other activities requiring an environmental impact assessment during exploration, and invited the Commission to consider holding consultations with stakeholders on the revised guidance document. The Commission took notice of the Council's suggestion.

20. In paragraph 15 of its decision, the Council noted the importance of transparency in the Authority, recalled its request to the Commission to hold open meetings, where appropriate, so as to allow for greater transparency in its work, in that regard welcomed the Commission's initiative in holding an informal dialogue in the margins of the second part of the Council's twenty-eighth session, and encouraged the Commission to continue this practice.

21. The Commission will hold an informal dialogue with members and observers on 15 July 2024, during the second part of the twenty-ninth session. Furthermore, on 18 July 2024, the Chair of the Commission will present a report to the Council on the Commission's work during the second part of the twenty-ninth session.

22. In paragraph 16 of its decision, the Council requested the Commission to provide recommendations to the Council on how the procedures of the Commission could be further improved to provide for more transparency while maintaining its effective operation and recognizing the need to ensure the confidentiality of data and information. The Commission has taken note of this request.

#### **IV. Status of contributions to the voluntary trust fund to support the participation of members of the Legal and Technical Commission**

23. In paragraph 18 of its decision, the Council called for contributions to the voluntary trust funds to support the participation of developing States in the Authority's meetings, including those of the Council, the Commission and the Finance Committee. As of the second part of the twenty-ninth session, the voluntary trust fund for the participation of members of the Commission and of the Finance Committee has been exhausted, making it unable to provide assistance to all applicants and jeopardizing the Commission's ability to function effectively. Owing to general increases in the cost of air tickets, as well as the significant increase in the

daily subsistence allowance for Kingston, the secretariat estimates that approximately \$190,000 will be needed to support the participation of all eligible members of the Commission and of the Finance Committee in the second part of the twenty-ninth session. For the Commission's meetings in the first part of the session, approximately \$170,000 was required .

## **V. Recommendations**

24. The Council is invited to take note of the present report and to provide such guidance as may be necessary.

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