By Email

Ms Ximena Hinrichs Oyarce
Registrar
International Tribunal for the Law of the Sea
Am Internationalen Seegerichtshof 1, 22609
Hamburg, Germany

Our Reference SINGAPORE/92656440v3

31 August 2026

Dear Madam Registrar

Nauru Ocean Resources Inc. v. the International Seabed Authority & Tonga Offshore Mining Ltd v. the International Seabed Authority — Report of Nauru Ocean Resources Inc. and Tonga Offshore Mining Ltd pursuant to the Chamber's Orders of 18 July 2026

1. We write on behalf of Nauru Ocean Resources Inc. ("**NORI**") and Tonga Offshore Mining Ltd. ("**TOML**") (together, the "**Applicants**") in the above-referenced proceedings pursuant to the Chamber's Orders of 18 July 2026 ("**Orders**")[1] and in accordance with Article 95(1) of the Rules.

2. The Applicants remain committed to complying fully and in good faith with the Orders and continue to engage constructively with the International Seabed Authority ("**ISA**") in accordance with the Chamber's directions.

3. The provisional measures prescribed by the Chamber require that:

    a. the ISA act in accordance with the relevant legal framework, including rules of due process, in the procedure for the inquiry mandated by the Council under paragraphs 9 and 10 of Council Decision ISBA/30/C/19 and, in the case of NORI, also in the procedure for the extension of its exploration contract;

    b. the ISA clarify or provide to the Applicants the relevant information concerning the procedures for implementation of paragraphs 9 and 10 of Council Decision ISBA/30/C/19 and the questions posed

[1] *Nauru Ocean Resources Inc. v. International Seabed Authority*, Order on Provisional Measures, 18 July 2026, paras. 214, 216(2); *Tonga Offshore Mining Ltd. v. International Seabed Authority*, Order on Provisional Measures, 18 July 2026, paras. 190, 192(2).

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to the Applicants, so as to enable them to respond meaningfully and within a reasonable period of time; and

c. the Parties cooperate and refrain from any action that might lead to aggravating the dispute.

4. The Applicants respectfully submit this initial report concerning compliance with the provisional measures prescribed by the Chamber. This report summarizes developments since the hearing on provisional measures and the steps taken by the Applicants in compliance with the Chamber's directions. A chronology of the relevant developments is annexed to this report (**Annex 1**).

Applicants' Compliance with the Orders

5. The Applicants have continued to cooperate with the ISA and remain willing to engage constructively in any clarification process contemplated by the Orders.

6. The Applicants have taken no action that might lead to aggravating the dispute, and have proceeded on the basis that the issues in dispute should be addressed through the mechanisms identified by the Chamber.

7. Consistently with that approach, the Applicants remain prepared to provide substantive responses to the matters raised by the ISA once the clarification process contemplated by the Orders has occurred and sufficient information has been provided to permit a meaningful and informed response.

8. The Applicants also continue to perform their obligations under their respective exploration contracts, including their reporting and environmental commitments

9. As to the steps the Applicants propose to take, the Applicants will engage promptly and constructively with the clarification contemplated by the Orders when it is issued, will participate in any consultation the ISA may offer, and will respond to the questions posed within a reasonable period of time once a meaningful opportunity to do so exists.

Developments Following the ISA's Thirty-First Session

10. On 24 July 2026, the ISA Council adopted Decision ISBA/31/C/34[2] relating to the reports of the Chair of the Legal and Technical Commission ("**LTC**").

11. The Applicants note in particular paragraph 15 of that decision, by which the Council requested the LTC:

"*no later than the end of the first part of its thirty-second session, to clarify or provide to the contractors under the inquiry on potential non-compliance the relevant information concerning the procedures for the implementation of paragraphs 9 and 10 of the Council Decision ISBA/30/C/19 and paragraph 4 of the Council Decision ISBA/31/C/18 and the questions posed to such contractors, so as to enable those contractors, engaging in a constructive manner with the Authority, to respond meaningfully to the questions posed by the Authority in the course of the inquiry, and within a reasonable period of time but no later than at the end of the second part of the thirty-second session, subject to any further decision made by the Council*."

12. The Applicants welcome the Council's recognition of the need for clarification concerning the applicable procedure and the questions put to contractors. The Council's direction reflects, at least in part, the

[2] Annex 3 to the ISA's correspondence dated 29 July 2026.

concerns regarding procedural clarity and due process that formed the basis of the proceedings before the Chamber.

13. At present, however, the clarification process contemplated by paragraph 15 has not yet occurred. The first part of the LTC's thirty-second session is scheduled to take place in February-March 2027. Consequently, the Applicants remain in the position identified by the Chamber, namely that they await clarification concerning the applicable procedure and the questions posed before they can provide a meaningful substantive response.

Extension of Applicants' Exploration Contracts

14. NORI confirms that its exploration contract has been extended with effect from 22 July 2026, by decision of the Council ISBA/31/C/36.[3]

15. TOML notes that its application for an extension of its exploration contract remains pending before the relevant organs of the ISA.

16. NORI notes that the Chamber placed on record the ISA's assurances and undertakings concerning due process and that the consideration of NORI's contract extension application is entirely distinct from the inquiry process and that a strict separation between the two procedures will be maintained.[4] TOML notes the ISA's assurances and undertakings with respect to due process placed on record in its Order.[5]

17. The Applicants continue to proceed on the basis of those assurances and undertakings. In that regard, TOML expects that its application for an extension of its exploration contract will be considered fairly, impartially, and independently of the inquiry process, while noting the obligation of both Parties under the Orders to cooperate and refrain from any action that might lead to aggravating the dispute.

18. Specifically, given that TOML's exploration contract expires on 11 January 2027, prior to the next scheduled meetings of the LTC and the Council during Part I of the ISA's thirty-second session, TOML considers that paragraph 16 of the Extension Procedures and Criteria will apply from 12 January 2027, with the result that its contract, together with all rights and obligations thereunder, "*shall be deemed to be extended until such time as the Council is able to meet and approve the report and recommendations issued by the Commission in respect of that contract*."

19. The Applicants further expect that any decisions affecting their contractual rights will continue to be taken fairly, impartially and in accordance with the applicable legal framework.

Subsequent Procedural Developments

20. On 30 July 2026, the ISA requested an extension of time for the filing of its Defence in these proceedings until 30 March 2027.

21. In support of that request, the ISA informed the Chamber that, as matters currently stand, it is not in a position to formulate its Defence before the LTC has undertaken the clarification exercise contemplated by paragraph 15 of Council Decision ISBA/31/C/34, and further indicated that it could not anticipate

[3] Annex 2 to the ISA's correspondence dated 29 July 2026.

[4] *Nauru Ocean Resources Inc. v. International Seabed Authority*, Order on Provisional Measures, 18 July 2026, paras. 209-211.

[5] *Tonga Offshore Mining Ltd. v. International Seabed Authority*, Order on Provisional Measures, 18 July 2026, para. 187.

precisely how or by what means the LTC would give effect to the due process rights asserted by the Applicants.

22. The Applicants did not object to the ISA's request. By Orders dated 4 August 2026, the President of the Chamber extended the time for submission of the Defence to 30 March 2027.

23. The Applicants' agreement to that extension reflects their continuing commitment to cooperation and to ensuring that the clarification process contemplated by the Orders is afforded an opportunity to proceed.

24. The ISA's request is nevertheless significant for present purposes. The ISA has itself informed the Chamber that it is not yet in a position to state how, or by what means, effect will be given to the due process rights asserted by the Applicants. That confirms, on the ISA's own position, that the clarification contemplated by the Orders has not yet occurred.

Matters Potentially Relevant to Compliance with the Chamber's Provisional Measures

25. The Applicants respectfully draw the Chamber's attention to several developments which may bear upon implementation of the provisional measures.

Prescribed Timeline for Contractor Responses

26. Paragraph 15 of Council Decision ISBA/31/C/34 not only requests the LTC to provide clarification concerning the procedures and questions at issue, but also provides that contractors should respond "*within a reasonable period of time but no later than at the end of the second part of the thirty-second session, subject to any further decision made by the Council*".

27. The Applicants note that the Orders require that clarification be provided to enable the Applicants to respond meaningfully and within a reasonable period of time. The nature and extent of any future response may necessarily depend upon the content of the clarification ultimately provided, subsequent engagement between the Applicants and the LTC and the process adopted by the ISA in implementing the Chamber's provisional measures.

28. In those circumstances, the Applicants respectfully note that the Council's prospective specification of an outer deadline for contractors' responses, before the clarification process and any potential engagement between the Applicants and the LTC has occurred and before contractors have had an opportunity to assess the procedure ultimately adopted, may give rise to questions as to how that direction is to be reconciled with the Chamber's emphasis on meaningful participation, due process and reasonable opportunity to respond.

29. The Applicants note in this regard that the outer deadline specified by the Council is expressly subject to any further decision made by the Council, and they proceed on the understanding that the Council retains the ability to revisit that timeline in light of the timing and content of the clarification ultimately provided.

30. The Applicants raise this matter only for completeness and without suggesting that any actual inconsistency has yet arisen. The Applicants remain hopeful that the clarification process ultimately implemented by the ISA will fully give effect to the requirements identified by the Chamber.

LTC Report and Annex 2

31. The Applicants further note that the LTC's report ISBA/31/C/4/Add.2[6] from the second part of its thirty-first session contains an Annex 2 discussing three different procedures said to exist in relation to contractor performance and compliance matters.

32. Of particular relevance, Annex 2 describes a purported "*non-compliance lato sensu procedure*" which it states was newly established by paragraph 10 of Council Decision ISBA/30/C/19. Annex 2 further states that this procedure "*concerns identifying and paying specific attention to contractors at risk of non-compliance with regard to their contractual obligations lato sensu ... is not linked to contractors' annual reporting process ... does not follow the same steps ... and is independent of the review cycle*."

33. The Applicants note that the existence, nature and legal characterization of the procedure established by paragraph 10 of Council Decision ISBA/30/C/19 is at the heart of the dispute between the Parties.

34. In that regard, Annex 2 appears to advance a particular characterization of the procedure established by paragraph 10 of Council Decision ISBA/30/C/19, including by describing it as a distinct "*non-compliance lato sensu procedure*" with newly defined features, scope and relationship to other existing and known compliance mechanisms. The Annex was produced while these proceedings remain pending and before the clarification process contemplated by the Orders and paragraph 15 of Council Decision ISBA/31/C/34 has been completed.

35. The Applicants do not seek to litigate those issues through this compliance report. They nevertheless note that Annex 2 appears to ascribe a degree of procedural content and legal characterization to the mechanism referenced in paragraph 10 of Council Decision ISBA/30/C/19 that was not previously articulated to the Applicants. In circumstances where the existence, nature and legal consequences of that mechanism remain in dispute, and where the clarification process contemplated by paragraph 15 has yet to occur, such statements may be perceived as retrospectively defining the relevant procedure and its place within the ISA's compliance framework.

36. The Applicants accordingly consider that implementation of the Chamber's requirement that the Parties cooperate and refrain from actions that might lead to aggravating the dispute would be assisted by ensuring that the forthcoming clarification exercise remains open, transparent and conducted without pre-judgment of the issues in dispute, including the nature, scope and legal characterization of the procedure referred to in paragraph 10 of Council Decision ISBA/30/C/19.

Future Reporting

37. The developments described above indicate that the clarification process required by the Chamber has not yet substantively progressed and is expected to occur during the first part of the ISA's thirty-second session.

38. The Applicants therefore respectfully submit that a further round of compliance reporting following the first part of the thirty-second session would likely assist the Chamber in assessing implementation of the provisional measures, including the extent to which the ISA has provided the clarifications contemplated by the Orders and the extent to which those clarifications enable the Applicants to respond meaningfully.

[6] Annex 1 to the ISA's correspondence dated 29 July 2026.

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39. In the interim, the Applicants will promptly inform the Chamber of any material development bearing upon the implementation of the provisional measures, and they remain at the disposal of the President pursuant to the authorization in operative paragraph (2) of the Orders.

Conclusion

40. The Applicants respectfully submit that they have complied with the Orders in so far as the Orders are addressed to the Applicants, and continue:

    a. to cooperate constructively with the ISA;

    b. to refrain from any action that might lead to aggravating the dispute;

    c. to await the clarifications directed by the Chamber and subsequently reflected in Council Decision ISBA/31/C/34; and

    d. to remain ready to engage substantively with the ISA once those clarifications have been provided and a meaningful opportunity to respond exists.

41. The Applicants respectfully request that the Chamber take note of this report and consider inviting a further round of compliance reports following the conclusion of the first part of the ISA's thirty-second session.

Yours sincerely,



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ANNEX 1

Chronology of events following the Orders

Date	Event
2-3 July 2026	Hearing on provisional measures.
10 July 2026	Report of the Chair of the Legal and Technical Commission on the work of the Commission at the second part of its thirty- first session (ISBA/31/C/4/Add.2), including Annex 2 discussing the purported "non-compliance lato sensu procedure".
18 July 2026	The Chamber's Orders in *NORI v. ISA* and *TOML v. ISA* prescribing provisional measures.
20 July 2026	NORI's exploration contract extended by Council Decision ISBA/31/C/36.
24 July 2026	ISA Council adopts Decision ISBA/31/C/34 concerning the reports of the LTC, including directing the LTC to provide procedural clarifications to contractors under inquiry.
30 July 2026	ISA requests an extension of time to file its Defence until 30 March 2027.
3 August 2026	The Applicants communicate to the Chamber that they do not object to the extension request.
4 August 2026	President of the Chamber grants the ISA's request and extends the deadline for the Defence to 30 March 2027**.**
11 January 2027	TOML's exploration contract due to expire.
22 February – 19 March 2027	Part I of the ISA's thirty-second session, including the first part of the LTC's thirty-second session (22 February – 5 March 2027), by the end of which paragraph 15 of Decision ISBA/31/C/34 contemplates that the relevant clarifications should be provided to the Applicants.
30 March 2027	Extended deadline for the ISA's Defence.
28 June – 30 July 2027	Part II of the ISA's thirty-second session. Outer deadline identified in paragraph 15 of Decision ISBA/31/C/34 for contractors' responses to the questions posed.