INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
SEABED DISPUTES CHAMBER

CASE CONCERNING AN INQUIRY BY THE INTERNATIONAL SEABED AUTHORITY

(NAURU OCEAN RESOURCES INC. *v.* INTERNATIONAL SEABED AUTHORITY)

WRITTEN STATEMENT
OF THE REPUBLIC OF NAOERO "NAURU"

23 JUNE 2026

TABLE OF CONTENTS

SECTION 1 INTRODUCTION 1

SECTION 2 THE CENTRAL ISSUE FOR THE REPUBLIC OF NAOERO "NAURU" IN THESE PROVISIONAL MEASURES PROCEEDINGS 2

SECTION 3 THE RESPONDENT'S CONDUCT 7

SECTION 4 THE TEST FOR THE PRESCRIPTION OF PROVISIONAL MEASURES IS SATISFIED 11

I. *Prima facie* jurisdiction 11

II. Plausibility of rights 11

III. Real and imminent risk of irreparable prejudice 11

LIST OF ANNEXES 13

SECTION 1
INTRODUCTION

1. The Republic of Naoero "Nauru" refers to the Registrar's letter dated 16 June 2026, inviting the Republic of Naoero "Nauru" to submit a written statement by 23 June 2026.

2. The Republic of Naoero "Nauru", a Small Island Developing State (SIDS), is a member State, Council member and member of the finance committee of the Authority. It is also a long-standing, proactive participant in the multilateral regime of the Authority, and played an instrumental role in the request for the Advisory Opinion of this Chamber on *Responsibilities and Obligations of States with Respect to Activities in the Area* ("the 2011 Opinion"). The Republic of Naoero "Nauru" thus has an unwavering commitment to, and interest in, ensuring adherence to—and the maintenance of the integrity of—the ISA framework and, more broadly, the 1982 United Nations Convention on the Law of the Sea ("UNCLOS"), including the 1994 Agreement relating to the Implementation of Part XI of UNCLOS (the "1994 Implementing Agreement").

3. The balance of this written statement is structured as follows. **Section II** sets out the central issue for the Republic of Naoero "Nauru" in these provisional measures proceedings, namely the requirements of due process in the context of the Authority's ongoing inquiry into whether, the Republic of Naoero "Nauru"'s sponsored contractor, Nauru Ocean Resources Inc. ("NORI") has complied with its contractual obligations. **Section III** then outlines aspects of the Authority's conduct that make it imperative that the Legal and Technical Commission (the "Commission") not make any finding, statement or recommendation arising from the inquiry before first ensuring the requisite due process safeguards are in place. Finally, **Section IV** explains why the test for the prescription of provisional measures is satisfied in the present case.

SECTION 2
THE CENTRAL ISSUE FOR THE REPUBLIC OF NAOERO "NAURU" IN THESE PROVISIONAL MEASURES PROCEEDINGS

4. For the Republic of Naoero "Nauru", the central issue in the present provisional measures proceedings concerns the requirements of due process in the context of the Authority's ongoing inquiry into whether NORI has complied with its contractual obligations. More specifically, the central issue concerns due process requirements with respect to (1) setting out the legal and factual basis for (a) NORI's identification and treatment as a contractor regarding which there are specific concerns (ie a potential need for "special attention"), and (b) the questions then put to NORI by the Commission (regarding which the Chair of the Commission has insisted on a deadline of 31 May 2026); and (2) ensuring a right to meaningfully respond.[1]

5. In this connection, the Republic of Naoero "Nauru" recalls that:

   a. The Commission has correctly recognised that the naming of contractors who are identified in relation to concerns regarding non-compliance with their contractual obligations gives rise to a "key concern" of "due process" and that the process for identifying such contractors must be "transparent" and "timely".[2]

   b. To this end, the Commission has designed a three-step process which requires that contractors are afforded due process, including: (a) at step 1, a requirement that "Contractors presenting a risk of non-compliance are requested to submit comments on specific concerns identified" by the Commission, and (b) at step 2, if the contractor's responses are unsatisfactory, the contractor is afforded an opportunity to provide clarifications and/or to take corrective action.[3]

   c. The Commission has also put in place and held inter-sessional meetings with certain other contractors identified as requiring specific attention in order "to facilitate a detailed exchange of views on ongoing concerns".[4]

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1 The centrality of these requirements of due process is further reflected in the terms of the proposal sent by NORI to the Authority (copying in the Registrar), a copy of which was provided to the Republic of Naoero "Nauru" (**Annex 4**).

2 "Criteria for identifying contractors that have responded insufficiently or incompletely, or failed to respond, to the calls from the Council to address issues identified by the Legal and Technical Commission in relation to their contractual obligations", 19 April 2024, ISA Doc. No. ISBA/29/LTC/5, paras. 9-10 ("A key concern relates to the issue of due process. It is an elementary due process requirement, as well as a requirement of legal certainty, that contractors are aware of the potential measures and penalties to which they may be subject, depending on their contractual performance, in advance. In that context, the process for identifying contractors that may not have responded or may have responded inadequately shall be: (a) neutral and objective; (b) transparent, giving due regard to confidentiality obligations; (c) timely and efficient, bearing in mind the workload of the Commission and the timing of the reviews of annual reports; and (d) one that elicits positive responses and encourages contractors generally to carry out their plans of work effectively").

3 "Criteria for identifying contractors that have responded insufficiently or incompletely, or failed to respond, to the calls from the Council to address issues identified by the Legal and Technical Commission in relation to their contractual obligations", 19 April 2024, ISA Doc. No. ISBA/29/LTC/5, Appendix 1.

4 Report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its thirtieth session, 14 March 2025, ISBA/30/C/4, para. 11.

d. Furthermore, the Council has expressly confirmed that the Commission is "to continue to ensure due process, transparency and fairness at every stage in the conduct of this inquiry, including by providing contractors and Sponsoring States with the right to respond".[5]

6. The Republic of Naoero "Nauru" has previously raised its concerns on adherence to due process with respect to the treatment of NORI. Specifically, it has raised its concerns both before the Council, in an intervention on 16 March 2026,[6] and in letters to the Chair of the Commission dated 17 April and 20 May 2026.[7] In particular, as the Republic of Naoero "Nauru" noted in its letter dated 20 May 2026, "despite the Commission not having addressed procedural and other matters reasonably raised by NORI in its letter dated 21 April 2026", the Commission's deadline of 31 May 2026 for NORI's responses to it "remains in full effect".[8]

7. This central issue regarding due process is of key concern to the Republic of Naoero "Nauru" because it directly engages its interests. This is because, in addition to being a member State, Council member and member of the finance committee of the Authority, and a long-standing, proactive participant in the multilateral regime of the Authority, the Republic of Naoero "Nauru" is also the sponsoring State of NORI.

8. As a sponsoring State, the Republic of Naoero "Nauru" is under express obligations to ensure the compliance of its contractor with its contract:

a. As stated in Article 139(1) of UNCLOS:

> States Parties shall have the responsibility to ensure that activities in the Area, whether carried out by States Parties, or state enterprises or natural or juridical persons which possess the nationality of States Parties or are effectively controlled by them or their nationals, shall be carried out in conformity with this Part.

b. As explained by this Chamber in the 2011 Opinion, the reference in Article 139(1) to "this Part" (that is, Part XI) "includes the rules, regulations and procedures of the Authority and the contracts (or plans of work) for exploration and exploitation, which are based on Part XI and the relevant Annexes thereto".[9]

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5 "Decision of the Council relating to the report of the Legal and Technical Commission on the implementation of the Council's decision relating to a request of additional information from contractors at risk of non-compliance with their contractual obligations (ISBA/30/C/19)", 19 March 2026, ISA Doc. No. ISBA/31/C/18, para. 4(b).

6 Intervention of the Republic of Naoero "Nauru" before the Council of the Authority dated 16 March 2026 (**Annex 1**).

7 Letter from the Republic of Naoero "Nauru" to the Authority dated 17 April 2026 (**Annex 6 to NORI's Application dated 30 May 2026 ("NORI's Application")**); Letter from the Republic of Naoero "Nauru" to the Authority dated 20 May 2026 (**Annex 11 to NORI's Application**).

8 Letter from the Republic of Naoero "Nauru" to the Authority dated 20 May 2026, p. 2 (**Annex 11 to NORI's Application**). See also NORI's Application, paras. 54, 62, 71.

9 *Responsibilities and Obligations of States with Respect to Activities in the Area*, Advisory Opinion, 1 February 2011, para. 105 (emphasis added).

c. The obligation of sponsoring States to ensure the compliance of their contractors with their contracts was also recalled by the Council in its decision of 21 July 2025, in which the Council:

> *Urges* the relevant sponsoring States to provide any information relating to non-compliance by their sponsored contractors and measures taken to ensure compliance under the contracts for exploration, in accordance with article 139 of the Convention …[10]

9. The Republic of Naoero "Nauru" takes its sponsorship duties with the utmost seriousness:

a. The Republic of Naoero "Nauru" has a comprehensive regulatory framework, with primary and secondary legislation and the establishment of the Republic of Naoero "Nauru" Seabed Minerals Authority, to secure effective control over its sponsored contractor and to ensure full compliance with the ISA regime and UNCLOS, as elaborated in the 2011 Opinion.[11]

b. Within this framework, NORI has consistently demonstrated full compliance with the Republic of Naoero "Nauru"'s sponsorship requirements and with its contractual and regulatory obligations towards the Authority.[12]

c. The Republic of Naoero "Nauru" remains one of the few States Parties to have enacted a fully integrated and complete legislative package relating to seabed mineral activities specifically designed to ensure that its sponsored contractor meets all obligations arising under UNCLOS.[13]

d. The Republic of Naoero "Nauru" has at all times sought to engage constructively and transparently with the Authority.[14]

10. The Republic of Naoero "Nauru"'s ability to discharge its responsibilities as a sponsoring State in an appropriate, timely and informed manner is not only fundamental to the efficient and effective working of the regulatory mechanism, but also a matter of paramount importance to the rights of other actors, including the Republic of Naoero "Nauru"'s sponsored entity.[15] It is critical so that the Republic of Naoero "Nauru" can take necessary and appropriate measures to avoid the risk of being held liable for a failure in this regard,[16] *particularly where that failure would stem from matters of which the Republic of Naoero "Nauru" was not given the legal and factual basis, and which it*

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10 "Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission" dated 21 July 2025, ISA Doc. No. ISBA/30/C/19, operative para. 7.

11 See Intervention of the Republic of Naoero "Nauru" before the Council of the Authority dated 16 March 2026, p. 4 (**Annex 1**).

12 See Intervention of the Republic of Naoero "Nauru" before the Council of the Authority dated 16 March 2026, p. 5 (**Annex 1**).

13 See Intervention of the Republic of Naoero "Nauru" before the Council of the Authority dated 16 March 2026, p. 4 (**Annex 1**).

14 See e.g., Letter from the Republic of Naoero "Nauru" to the Authority dated 5 June 2026, p. 1 (**Annex 3**).

15 See Letter from the Republic of Naoero "Nauru" to the Authority dated 20 May 2026, p. 2 (**Annex 11 to NORI's Application**).

16 See UNCLOS, Art. 139(2), and Annex III, Art. 4.

therefore had no opportunity to assess or address before any potential liability could arise.

11. The Authority should co-operate with the Republic of Naoero "Nauru" to facilitate, and not impede, the performance of its obligations in this regard.

12. The Republic of Naoero "Nauru" recognises and supports the important role of the Commission in: (a) naming those contractors that have responded inadequately, 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;[17] and (b) identifying contractors requiring specific attention as to possible non-compliance.[18]

13. However, in order for the Republic of Naoero "Nauru" to be able to discharge its sponsoring State responsibilities in an appropriate and informed manner, it is imperative that due process requirements are complied with.

14. Regrettably, the Commission has failed to adhere to the requirements of due process in its treatment of NORI, notably by failing to (1) set out the legal and factual basis for (a) NORI's identification as a contractor regarding which there are specific concerns (ie in relation to whom "special attention" is potentially required) or (b) the questions then put to NORI by the Commission (regarding which the Chair of the Commission has insisted on a deadline of 31 May 2026); and (2) ensuring a right to meaningfully respond.[19]

15. Moreover, the Republic of Naoero "Nauru" has consistently and repeatedly made it clear to the Authority that the failure to adhere to due process in its treatment of NORI directly undermines the Republic of Naoero "Nauru"'s ability to discharge its sponsoring State responsibilities. Following an earlier intervention before the Council in March 2026 during which the Republic of Naoero "Nauru" raised due process concerns:

    a. In its letter to the Chair of the Commission dated 17 April 2026, the Republic of Naoero "Nauru" noted that it understood NORI had been identified by the Commission as potentially requiring "specific attention", and raised serious concerns and specific questions concerning due process related to the Commission's inquiry.[20] The Republic of Naoero "Nauru" explained that it "respectfully [sought] clarity so we may fully understand the basis of this preliminary identification and discharge our sponsoring State responsibilities in an appropriate and informed manner".[21]

    b. In its letter to the Secretary-General of the Authority dated 5 June 2026, the Republic of Naoero "Nauru" explained that "the Commission's determinations, in respect of NORI directly bear upon Nauru's rights, interests and obligations as a

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17 "Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission", 11 November 2022, ISA Doc. No. ISBA/27/C/44, para. 7.

18 "Decision of the Council relating to the report of the Legal and Technical Commission on the implementation of the Council's decision relating to a request of additional information from contractors at risk of non-compliance with their contractual obligations (ISBA/30/C/19)", 19 March 2026, ISA Doc. No. ISBA/31/C/18, paras. 9-10.

19 See NORI's Application, paras. 49-72.

20 Letter from the Republic of Naoero "Nauru" to the Authority dated 17 April 2026 (**Annex 6 to NORI's Application**).

21 Letter from the Republic of Naoero "Nauru" to the Authority dated 17 April 2026, p. 1 (**Annex 6 to NORI's Application**).

sponsoring State" and "noted the importance of the interface with the Authority to properly discharge our responsibilities as a sponsoring State".[22]

16. In these circumstances, the requirements of due process in the context of the Authority's ongoing inquiry into whether NORI—the Republic of Naoero "Nauru"'s sponsored entity—has complied with its contractual obligations, is a key concern for the Republic of Naoero "Nauru".

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22 Letter from the Republic of Naoero "Nauru" to the Authority dated 5 June 2026, pp. 1-2 (**Annex 3**).

SECTION 3
THE RESPONDENT'S CONDUCT

17. Against the above backdrop, the Republic of Naoero "Nauru" is disappointed and at a loss as to the following aspects of the Authority's conduct.

18. First, the Authority did not engage substantively with the concerns of due process that the Republic of Naoero "Nauru" raised in its 16 March 2026 intervention,[23] and its 17 April 2026 letter:[24]

    a. In its 16 March 2026 intervention, the Republic of Naoero "Nauru" asked the Chair of the Commission to clarify what selection criteria were used to "identify" the two (then-unnamed) contractors for "specific attention", what "materials were before the Commission that led to the focus on these two entities", and what "standard of review and evidentiary threshold did the Commission apply in determining that further attention was warranted".[25] In its 17 April 2026 letter, the Republic of Naoero "Nauru" noted it understood that NORI was one of the two contractors identified for specific attention, reiterated the requests made in its 16 March 2026 intervention, and also asked for clarification on the source of any information that formed the basis for NORI's identification.[26]

    b. Contrary to usual practice, no Commission member was present at the March 2026 Council meeting. Then, in its response of 13 May 2026, the Chair of the Commission declined to address the Republic of Naoero "Nauru"'s concerns.[27] The Chair stated that, in circumstances where the Commission was "not presently in session", it would not be "procedurally appropriate" or "feasible" to address the matters raised by the Republic of Naoero "Nauru".[28] This is not an answer. Given the workload of the Commission, intersessional work is now a common practice, including in the context of the Commission's exchanges with contractors.[29] For example, as noted above, during the intersessional period in May 2025, the Commission held informal virtual exchanges with five contractors who had been identified as needing to provide further clarification following the assessment of their responses to the Commission's initial

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23 Intervention of the Republic of Naoero "Nauru" before the Council of the Authority dated 16 March 2026 (**Annex 1**).

24 Letter from the Republic of Naoero "Nauru" to the Authority dated 17 April 2026 (**Annex 6 to NORI's Application**).

25 Intervention of the Republic of Naoero "Nauru" before the Council of the Authority dated 16 March 2026, p. 6 (**Annex 1**).

26 Letter from the Republic of Naoero "Nauru" to the Authority dated 17 April 2026, p. 2 (**Annex 6 to NORI's Application**).

27 Letter from the Authority to the Republic of Naoero "Nauru" dated 13 May 2026 (**Annex 9 to NORI's Application**). See also Letter from the Republic of Naoero "Nauru" to the Authority dated 5 June 2026, p. 2 ("Nauru raised serious concerns regarding due process of the Legal and Technical Commission's (Commission) inquiry during Part I of the Council's thirty-first session including through a series of questions addressed to the Chair of the Commission. Those concerns, and the specific questions raised, were subsequently set out in writing in my letter addressed to the Chair of the Commission dated 17 April 2026. The Chair's response of 13 May 2026 declined to address any of the substantive questions raised by Nauru") (**Annex 3**).

28 Letter from the Authority to the Republic of Naoero "Nauru" dated 13 May 2026 (**Annex 9 to NORI's Application**).

29 See also Letter from the Republic of Naoero "Nauru" to the Authority dated 20 May 2026, p. 1.

questions.[30] The purpose of these exchanges was to address the concerns identified by the Commission in relation to compliance with their contractual obligations.[31]

To date, the Republic of Naoero "Nauru" has not been given assurances that, consistent with the Council's direction, due process, transparency and fairness will be afforded at every stage.[32]

19. Second, the Authority has not confirmed that the Republic of Naoero "Nauru" can attend and be present during the Commission's deliberations. the Republic of Naoero "Nauru" requested to attend the Commission's deliberations in its 17 April 2026 letter, pursuant to Rule 53(1) of the Rules of Procedure of the Commission.[33] As explained in the letter, the request was made "solely to support the Commission's work, improve the accuracy of the record, and ensure that the Republic of Naoero "Nauru" may fully and responsibly discharge its sponsoring State obligations under Part XI of UNCLOS".[34] Likewise, the Republic of Naoero "Nauru" understands that the Authority has not engaged with NORI's request, further to Rule 53(2) of the Rules of Procedure of the Commission, that it be permitted to attend and be heard at the Commission's meeting at which this matter is to be considered.[35]

20. The response from the Chair of the Commission to the Republic of Naoero "Nauru" dated 13 May 2026 did not confirm that the Republic of Naoero "Nauru" can attend or provide any indication that a decision in this regard would be made before the commencement of the relevant Commission deliberations.[36] As noted above, the Chair of the Commission simply stated that, in circumstances where the Commission was "not presently in session", it would not be "procedurally appropriate" or "feasible" to address the matters raised by the Republic of Naoero "Nauru"; a non-answer. To date, the Republic of Naoero "Nauru" has not been given the courtesy of a substantive response to its request to attend

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30 "Report of the Chair of the Legal and Technical Commission on the work of the Commission at the second part of its thirtieth session" dated 7 July 2025, ISA Doc. No. ISBA/30/C/4/Add.1, p. 2, para. 8.

31 "Implementation of the decision of the Council in 2024 relating to the reports of the Chair of the Legal and Technical Commission" dated 11 June 2025, ISA Doc. No. ISBA/30/C/10, p. 2, para. 8; "Report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its thirtieth session" dated 14 March 2025, ISA Doc. No. ISBA/30/C/4, pp. 2-3, para. 11.

32 Letter from the Republic of Naoero "Nauru" to the Authority dated 20 May 2026, p. 2 ("To date, we have not been given the necessary assurances consistent with the Council's direction that due process, transparency and fairness be afforded at every stage") (**Annex 11 to NORI's Application**); Letter from the Republic of Naoero "Nauru" to the Authority dated 5 June 2026, p. 2 ("in my response dated 20 May 2026 … I noted … that we have neither received the necessary assurances consistent with the Council's direction") (**Annex 3**).

33 Letter from the Republic of Naoero "Nauru" to the Authority dated 17 April 2026, p. 3 (**Annex 6 to NORI's Application**).

34 Letter from the Republic of Naoero "Nauru" to the Authority dated 17 April 2026, p. 3 (**Annex 6 to NORI's Application**). Rule 53(1) provides that: "Any member of the Authority may, with the permission of the Commission, send a representative to attend a meeting of the Commission when a matter particularly affecting such member is under consideration. For the purpose of facilitating the work of the Commission, such representative shall be allowed to express his or her views on any such matter being considered by the Commission".

35 Letter from NORI to the Authority dated 21 April 2026, p. 3, paras. 18-19 (**Annex 7 to NORI's Application**). Rule 53(2) provides that: "The Commission may invite any State or entity carrying out activities in the Area for the purposes of consultation and collaboration, where the Commission considers appropriate".

36 Letter from the Authority to the Republic of Naoero "Nauru" dated 13 May 2026 (**Annex 9 to NORI's Application**).

and be present.[37] Likewise, the Republic of Naoero "Nauru" understands that the Authority has not engaged with NORI's request.[38]

21. Third, what the Authority did do was then ask the Republic of Naoero "Nauru", two days later, to provide, within one month (i.e., by 15 June 2026), additional information as to how the Republic of Naoero "Nauru" as a sponsoring State intends to ensure that NORI complies with all applicable obligations under UNCLOS, and what measures it will take to ensure that the exclusive exploration rights of the contractor remain within the limits of UNCLOS and the Authority's mandate.[39] The Authority ignored the Republic of Naoero "Nauru"'s previously stated position (in its 16 March 2026 intervention and in its correspondence with the Chair of the Commission) that it was unable to understand the Commission's concerns and therefore unable meaningfully to engage without first receiving the required information from the Respondent.[40] The Republic of Naoero "Nauru" cannot meaningfully respond to the Authority's question without being provided with further information, notably whether (and, if so, how) NORI's exclusive exploration rights are perceived by the Authority to be potentially beyond the limits of UNCLOS and the Authority's mandate.

22. Fourth, the Authority then sought to shut the Republic of Naoero "Nauru" out of the current proceedings. In its letter to the Registrar dated 16 June 2026, the Authority denied that the Republic of Naoero "Nauru" has a right to participate in these provisional measures proceedings and, in the alternative, sought to limit the Republic of Naoero "Nauru"'s participation to the making of a five-page written statement.[41] As the Republic of Naoero "Nauru" explained in its letter to the Registrar dated 18 June 2026, there is no basis in the text of UNCLOS or the Rules of the Tribunal for the limitations that the Authority seeks to have imposed.[42] Further, and in any event, the Republic of Naoero "Nauru" is perplexed as to why the Authority would so robustly seek to exclude the Republic of Naoero "Nauru" from having a voice in circumstances where its interests as a sponsoring State of one of the Applicants are so plainly engaged and it has repeatedly engaged before the Authority on the very due process issue central to these proceedings.

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37 See Letter from the Republic of Naoero "Nauru" to the Authority dated 20 May 2026, p. 2 ("To date, we have not been given the necessary assurances consistent with the Council's direction that due process, transparency and fairness be afforded at every stage. This includes the courtesy of a response to our request to attend and be present during the Commission's deliberations of this matter at Part II of the thirty-first session") (**Annex 11 to NORI's Application**); Letter from the Republic of Naoero "Nauru" to the Authority dated 5 June 2026, pp. 1, 2 ("The Chair's response of 13 May 2026 … failed to address Nauru's request to attend and be present during the Commission's deliberations on the matters raised"; "we have neither received … the courtesy of a response to our request to be present at the Commission's deliberations of this matter made pursuant to Rule 53(1) of the Rules of Procedure of the Commission") (**Annex 3**).

38 Letter from the Authority to NORI dated 13 May 2026 (**Annex 8 to NORI's Application**).

39 Letter from the Authority to the Republic of Naoero "Nauru" dated 15 May 2026 (**Annex 2**).

40 See Letter from the Republic of Naoero "Nauru" to the Authority dated 17 April 2026, pp. 1, 3 ("The Government of Nauru ... respectfully seeks clarity so we may fully understand the basis of this preliminary identification"; "Nauru would appreciate receiving the Commission's responses to the questions raised in this letter by 8 May 2026. This timeline will allow Nauru sufficient opportunity to consider the Commission's clarifications … and to ensure that any further engagement with the Commission ahead of Part II of the 31st session is informed, constructive and aligned with the Authority's procedural framework") (**Annex 6 to NORI's Application**).

41 Letter from the Authority to the Registrar dated 16 June 2026.

42 Letter from the Republic of Naoero "Nauru" to the Registrar dated 18 June 2026.

23. Finally, to date, the Respondent has failed to engage in a constructive manner with the reasonable proposal advanced by the NORI which the Republic of Naoero "Nauru" agrees would provide a pragmatic solution in the circumstances.

24. In the circumstances, the Republic of Naoero "Nauru" considers it imperative that the Commission not make any finding, statement or recommendation arising from the inquiry before first ensuring the requisite due process safeguards are in place, notably by agreeing to provide: (1) the relevant legal and factual basis for (a) NORI's identification and (b) the questions then put to it by the Commission; and (2) ensuring a right to meaningfully respond.

SECTION 4
THE TEST FOR THE PRESCRIPTION OF PROVISIONAL MEASURES IS SATISFIED

26. The Republic of Naoero "Nauru" considers that it is necessary for the Chamber to prescribe appropriate provisional measures to preserve NORI's due process rights pending a final decision. The Chamber's power to grant such measures is not in doubt.[43]

I. *Prima facie* jurisdiction

27. The Republic of Naoero "Nauru" considers that there can be no doubt that the *prima facie* jurisdiction of the Chamber is established.

28. The present dispute has been submitted to the Chamber under Article 187(c)(i) and (ii) of UNCLOS.[44]

II. Plausibility of rights

29. As follows from the above, the Republic of Naoero "Nauru" considers that the existence of the following due process rights for which NORI seeks protection is well-established:

    a. a right to understand the legal and factual basis for (a) its identification and (b) the questions then put to it by the Commission; and

    b. a right to meaningfully engage with the Commission's inquiry, in particular to respond meaningfully to the Commission's questions before any finding, statement or recommendation is made by the Commission in that regard.[45]

III. Real and imminent risk of irreparable prejudice

30. The Republic of Naoero "Nauru" considers that there is a real and imminent risk of irreparable prejudice to NORI's due process rights. This is because:

    a. the Authority has refused to engage with the requests for clarification, information and other engagement made by NORI and the Republic of Naoero "Nauru" respectively;[46]

    b. the Authority has insisted on the deadline of 31 May 2026 for NORI to respond to the Commission's questions;[47]

    c. to date, the Authority has also refused to engage constructively with NORI's proposal that the Authority refrain from progressing or concluding its inquiry into

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43 UNCLOS, Art. 290(1); Statute of the International Tribunal for the Law of the Sea (UNCLOS, Annex VI), Art. 25(1); Rules of the Tribunal, Arts. 89 and 115.

44 NORI's Application, paras. 1-3.

45 See para. 5 above.

46 See paras. 18-20 above. See also NORI's Application, paras. 59-72.

47 See para. 6 above. See also NORI's Application, paras. 54, 62, 71.

NORI's compliance until such time as its due process rights have been respected[48]; and

d. in these circumstances, there is a real risk that the Commission will shortly either progress or conclude its inquiry into NORI's compliance and proceed to make adverse findings, statements or recommendations during the second part of the thirty-first session of the Commission (commencing 29 June 2026).

31. Finally, the Republic of Naoero "Nauru" recalls that the Chamber may prescribe measures different in whole or in part from those requested by a party.[49]



Anastasia Francilia Adire
Agent of the Republic of Naoero "Nauru"
23 June 2026

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48 See Letter from NORI to the Authority, copying in the Registrar, dated 19 June 2026 (**Annex 4**). A copy of the proposal was shared with the Republic of Naoero "Nauru".

49 Rules of the Tribunal, Arts. 89(5) and 115.

LIST OF ANNEXES

Annex 1	Intervention of the Republic of Naoero "Nauru" before the Council of the Authority dated 16 March 2026
Annex 2	Letter from the Authority to the Republic of Naoero "Nauru" dated 15 May 2026
Annex 3	Letter from the Republic of Naoero "Nauru" to the Authority dated 5 June 2026
Annex 4	Letter from NORI to the Authority, copying in the Registrar, dated 19 June 2026