INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
SEABED DISPUTES CHAMBER

CASES 34 & 35 CONCERNING INQUIRIES BY THE INTERNATIONAL SEABED AUTHORITY

NAURU OCEAN RESOURCES INC v. INTERNATIONAL SEABED AUTHORITY

- and -

TONGA OFFSHORE MINING LTD v. INTERNATIONAL SEABED AUTHORITY

STATEMENT OF THE INTERNATIONAL SEABED AUTHORITY IN RESPONSE TO THE APPLICANTS' REQUESTS FOR THE PRESCRIPTION OF PROVISIONAL MEASURES

25 JUNE 2026

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I. INTRODUCTION

1. The International Seabed Authority (the "**Authority**") submits this Statement in Response to the requests for the prescription of provisional measures ("**Requests**") before the ITLOS Seabed Disputes Chamber (the "**SDC**") filed by Nauru Ocean Resources Inc ("**NORI**") and Tonga Offshore Mining Ltd ("**TOML**") (together, the "**Applicants**") on 30 May 2026.

2. The proceedings instituted by NORI and TOML are the first contentious cases brought against the Authority under Part XI of the United Nations Convention on the Law of the Sea ("**UNCLOS**" or the "**Convention**"). While the Authority welcomes this opportunity to appear before the SDC, it is a matter of considerable regret that the Applicants pursue these Requests, which are so obviously without merit.[1]

A. Mandate of the International Seabed Authority under the Convention

3. The Authority was established pursuant to UNCLOS and the 1994 Agreement relating to the Implementation of Part XI of the Convention ("**1994 Agreement**"). The Area and its resources – *i.e.* the seabed, ocean floor and subsoil thereof, beyond the limits of national jurisdiction[2] – are designated as the "*common heritage of mankind*" with all "*rights in the resources of the Area … vested in mankind as a whole, on whose behalf the Authority shall act*."[3]

4. Article 137 of UNCLOS ("*Legal status of the Area and its resources*") provides that:

> "1. No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources, nor shall any State or natural or juridical person appropriate any part thereof. No such claim or exercise of sovereignty or sovereign rights nor such appropriation shall be recognized.
>
> 2. All rights in the resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act. These resources are not subject to alienation. The minerals recovered from the Area, however, may only be alienated in accordance with this Part and the rules, regulations and procedures of the Authority.
>
> 3. No State or natural or juridical person shall claim, acquire or exercise rights with respect to the minerals recovered from the Area except in accordance with this Part. Otherwise, no such claim, acquisition or exercise of such rights shall be recognized."[4]

[1] The Authority's Response to the Applicants' requests for the prescription of provisional measures is, necessarily, focused on the issues most relevant to those requests. The Authority expressly reserves all rights to develop and supplement its pleaded arguments – including on the facts, merits, or any other issues – in the course of these proceedings, including with respect to any potential preliminary objections.

[2] UNCLOS, Articles 1(1) and 157(1).

[3] UNCLOS, Articles 1(1), 136 and 137(2).

[4] UNCLOS, Article 137.

5. The Authority has broad express and implied powers to fulfil the mandate given to it by the Convention. As provided by the 1994 Agreement:

> "The International Seabed Authority (hereinafter referred to as 'the Authority') is the organization through which States Parties to the Convention shall, in accordance with the regime for the Area established in Part XI and this Agreement, organize and control activities in the Area, particularly with a view to administering the resources of the Area. The powers and functions of the Authority shall be those expressly conferred upon it by the Convention. The Authority shall have such incidental powers, consistent with the Convention, as are implicit in, and necessary for, the exercise of those powers and functions with respect to activities in the Area."[5]

B. The Applicants' claims and requests for the prescription of provisional measures

6. The Applicants are contractors operating under the Authority's exclusive mandate to organise and control activities in the Area pursuant to Part XI of the Convention. The Applicants' activities in the Area operate under a contract-based licensing system, which is organised, carried out and controlled by the Authority on behalf of mankind as a whole.[6] No other entity is permitted to organise and control activities in the Area.

7. The Authority has – for good reason – real and legitimate concerns about unilateral activities in the Area, outside the multilateral legal framework of the Convention.[7] For instance, on 15 June 2026, at the 36th meeting of States Parties to UNCLOS in New York, the Authority's Secretary-General stressed that:

> "…today the framework created by the Convention is at risk. As Parties are certainly aware, threats of commencement of activities in the Area outside the framework established by the Convention undermine the mandate of the Authority, and the principles, that for more than thirty years, have guided its work. Please allow me to reiterate what I said one year ago at the last meeting of Parties, that the Authority was created to prevent a lawless race to the bottom for resources and to ensure that any activities in the Area are carried out for the benefit of all countries, particularly developing States, and with due regard for the marine environment. The integrity of the Authority is the integrity of the Convention, a core value that we have undertaken to protect and uphold."[8]

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[5] 1994 Agreement, Annex, section 1(1). See also: UNCLOS, Articles 137(2), 153 and 157(1)-(2).

[6] UNCLOS, Article 153.

[7] See *e.g.* Statement of Madam Secretary-General at Part I of the Authority's 30th session on 28 March 2025, available at: https://www.isa.org.jm/wp-content/uploads/2025/03/Statement_Announcement-by-The-Metals-Company.pdf (last accessed 25 June 2026); Q&A on the International Seabed Authority and Ocean Governance, Section 4 (Developments Concerning Potential Unilateral Activities in the Area), available at: https://isa.org.jm/faq-for-media/ (last accessed 25 June 2026).

[8] Statement of Madam Secretary-General at the 36th Meeting of States Parties to UNCLOS on 15 June 2026, available at: https://isa.org.jm/wp-content/uploads/2026/06/ISA_MSG_SPUNCLOS_JUNE-2026.pdf (last accessed 25 June 2026).

8. At the heart of the Applicants' claims is a complaint that they have allegedly been 'named' in a report of the Authority's Legal and Technical Commission (the "**Commission**") concerning contractors at risk of non-compliance with their contractual obligations, including the obligation to accept control by the Authority of activities in the Area, as provided for under the UNCLOS multilateral system.

9. The Applicants assert that:

> "While the LTC [the Commission], in its report ISBA/31/C/4/Add.1 to the Council, did not explicitly name [NORI/TOML], it included references in that report, including through footnoted materials and contextual indicators, that enabled [NORI/TOML] to be readily identified in the public domain as a contractor allegedly requiring '*specific attention*'."[9]

10. Although the Applicants do not specify precisely which "*footnoted material*" they mean, the Authority presumes they are referring to paragraph 6(c), which reads:

> "6. In respect of the information received in relation to paragraph 9 of decision ISBA/30/C/19, the Commission recommends that the Council:
>
> […]
>
> (c) Remind all sponsoring States of their obligation under article 311.6 of the Convention, according to which States Parties agree that there shall be no amendments to the basic principle relating to the common heritage of humankind set forth in article 136 and that they shall not be party to any agreement in derogation thereof. In this sense, the Commission recommends that the Council request clarification and information on any agreements that sponsoring States have already entered into or may enter into in the future that may run counter to the above-mentioned provisions of the Convention;"[10]

11. At the end of the passage underlined above is footnote 3 ("**Footnote 3**"), which states:

> "See https://www.noaa.gov/sites/default/files/2026-01/TMC_USA-B_Exploration_License_Application_July_2025__Redacted_FINAL.pdf (sections 4.5.5 and 4.5.6)."

12. The document hyperlinked in Footnote 3 – publicly available on the website of the US National Oceanic and Atmospheric Administration ("**NOAA**") – is titled: "*The Metals Company USA, Application for Polymetallic Nodule Exploration License for USA B,*

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[9] Application Instituting Proceedings Brought by Nauru Ocean Resources Inc before the Seabed Disputes Chambers of the International Tribunal for the Law of the Sea, 30 May 2026 ("**NORI Application Instituting Proceedings**"), para. 30 (underlining added) (footnote omitted); Application Instituting Proceedings Brought by Tonga Offshore Mining Ltd before the Seabed Disputes Chambers of the International Tribunal for the Law of the Sea, 30 May 2026 ("**TOML Application Instituting Proceedings**"), para. 23 (underlining added) (footnote omitted).

[10] Addendum to the Report of the Legal and Technical Commission on the implementation of the Council's decision relating to a request for additional information from contractors at risk of non-compliance with their contractual obligations, ISBA/31/C/4/Add.1, 6 March 2026 ("**Addendum**"), para. 6: **Annex 5**.

July 2025." Sections 4.5.5 and 4.5.6 are redacted, in part. The unredacted parts state as follows:

> "**4.5.5 Use Conflict with NORI and TOML [Confidential]**
>
> TMC's wholly owned subsidiaries Nauru Ocean Resource Inc (NORI) and Tonga Ocean Minerals Limited (TOML) hold exploration contracts issued by the International Seabed Authority (ISA). The application area overlaps with a portion of both NORI and TOML's ISA exploration contract areas (see Figure 10).
>
> **4.5.6 Republic of Nauru and Kingdom of Tonga [Confidential]**
>
> On 4 June 2025, the Republic of Nauru and NORI announced they had updated their sponsorship agreement. The updated sponsorship agreement considers a TMC subsidiary application via the United States regulatory regime. Specifically, clause 23.14 of the updated sponsorship agreement states:
>
> > *23.14 Save to the extent that the Republic seeks to defend its rights or reputation, the Republic will not, and will not cause any natural or legal person under the Republic's effective control to take any action or make any statements, whether oral or in writing, in any international or domestic forum, which disputes, opposes, obstructs, interferes with or brings into disrepute:*
> >
> > > *(a) any application made by TMC Subsidiary to the US for the issuance of an exploration license or commercial recovery permit from the US; or*
> > >
> > > *(b) any exploration or commercial recovery activity undertaken by TMC Subsidiary pursuant to such a license or permit.*
>
> TOML and the Kingdom of Tonga are in advanced negotiations on a similar updated Sponsorship Agreement."[11]

13. Against this backdrop: by their claims and these Requests for the prescription of provisional measures, the Applicants argue, in essence, that the Authority is not even permitted to put any questions to them about whether they have undertaken, or plan to undertake, activities that may contribute to the appropriation of any part of the Area or its resources outside the multilateral legal framework of UNCLOS, or are contrary to, or inconsistent with, their exclusive rights in the area of their exploration contracts entered into with the Authority.[12]

14. Having put such questions to the Applicants on 16 March 2026, pursuant to a decision of the Authority's Council of 21 July 2025 (the "**2025 Council Decision**")[13] and in

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[11] "*The Metals Company USA, Application for Polymetallic Nodule Exploration License for USA B, July 2025*", available at: https://www.noaa.gov/sites/default/files/2026-03/TMC_USA-B_Exploration_License_Application_July_2025__Redacted_FINAL_1.pdf (last accessed 25 June 2026).

[12] NORI Annex 5; TOML Annex 4.

[13] Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission, ISBA/30/C/19, 21 July 2025: **Annex 3**.

accordance with the terms of the Applicants' contracts,[14] the Applicants have opted not to provide any answers. Instead, the Applicants have raised a myriad of procedural objections, and, by way of the present Requests, seek to dictate how, and on what terms, the Authority should carry out its mandate under Part XI of the Convention.

* * *

15. For the reasons set out below, these Requests are manifestly ill-founded: the Applicants fundamentally misunderstand (or have mischaracterised) the specific "*possible* *non-compliance*" process at issue; they have instituted proceedings in relation to which the SDC does not have *prima facie* jurisdiction; assert 'rights' that are simply not plausible in the present context; and do so in circumstances where there is patently no real and imminent risk of irreparable prejudice. Accordingly, the SDC is invited to reject the Requests, and not to prescribe any provisional measures.

[14] NORI Annex 1; TOML Annex 1.

II. THE INTERNATIONAL SEABED AUTHORITY

A. Structure of the Authority

16. The Authority has three principal organs:[15]

    a. The Assembly: the Authority's plenary body and "supreme organ";[16]

    b. The Council: the Authority's "executive organ", which consists of 36 Member States elected by the Assembly;[17] and

    c. A Secretariat: responsible for administration and led by the Authority's Secretary-General, Ms Leticia Reis de Carvalho.[18]

17. The Authority is also composed of subsidiary organs, including the Commission, which is a subsidiary organ of the Council.[19] As a subsidiary organ of the Council, the Commission exercises its functions as set out mainly in Article 165 of the Convention and any guidelines and directives as the Council may adopt.[20]

18. The Commission is currently composed of 38 members, elected by the Council from among appropriately qualified candidates nominated by Member States.[21] The Authority meets at regular annual sessions convened at its seat in Kingston, Jamaica.[22] Annual sessions are typically scheduled in two or three parts, taking place in: (i) February to March; (ii) June to August; and (iii) occasionally, October to November. Part I of the Authority's 31st session was held from 23 February to 19 March 2026. Part II is scheduled to run from 29 June to 31 July 2026.[23]

B. Mining in the Area

19. The Convention identifies three distinct phases of operations in the Area: prospecting; exploration; and exploitation.[24] The relevant phase at issue in these proceedings is exploration.

20. Prospective contractors must submit an application for plan of work for approval by the Council, following a recommendation by the Commission.[25] Once a plan is approved, it

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[15] UNCLOS, Article 158(1).

[16] UNCLOS, Article 160(1) and (2); 1994 Agreement, Annex, section 3(1).

[17] UNCLOS, Articles 161 and 162; 1994 Agreement, Annex, section 3(15).

[18] UNCLOS, Article 166.

[19] UNCLOS, Articles 163(1)(b) and 165.

[20] UNCLOS, Article 163(9).

[21] UNCLOS, Articles 163(2) to (3) and 165(1).

[22] UNCLOS, Article 159(2) and (3).

[23] See: https://isa.org.jm/sessions/31st-session-2026/ (last accessed 25 June 2026).

[24] See *e.g.* UNCLOS, Annex III, Articles 2 and 3.

[25] UNCLOS, Article 153(3); 1994 Agreement, Annex, section 3(11).

takes the form of a contract between the Authority and the contractor which enters into force upon signature. The contract confers exclusive rights to explore the area covered by the contract, for a fifteen-year term.[26] A contractor may apply to extend their fifteen-year term of exploration,[27] following the criteria and procedure provided in the Council's Decision of 23 July 2015 ("**Procedures and Criteria for Extension**").[28] This process, insofar as relevant for the present Requests, is summarised in paragraphs 33-34 below.

21. The Authority regulates contractors' conduct by reference to three sets of regulations addressing prospecting and exploration activities for polymetallic nodules, polymetallic sulphides and cobalt-rich ferromanganese crusts (the "**Regulations**").[29] The Regulations relevant to these proceedings are those addressing Polymetallic Nodules in the Area (the "**Nodule Regulations**").[30] The Nodule Regulations contain a set of standard clauses which are incorporated in all exploration contracts.[31]

C. Compliance

22. As explained at paragraphs 3 to 5 above, the Authority is mandated to act as custodian of the Area. Accordingly, the Authority has broad powers to control activities in the Area and is tasked with ensuring the compliance of contractors. As provided by Article 153 of UNCLOS:

> "(4) The Authority shall exercise such control over activities in the Area as is necessary for the purpose of securing compliance with the relevant provisions of this Part and the Annexes relating thereto, and the rules, regulations and procedures of the Authority, and the plans of work approved in accordance with paragraph 3. States Parties shall assist the Authority by taking all measures necessary to ensure such compliance in accordance with article 139.
>
> (5) The Authority shall have the right to take at any time any measures provided for under this Part to ensure compliance with its provisions and the exercise of the functions of control and regulation assigned to it thereunder or under any contract. The Authority shall have the right to inspect all installations in the Area used in connection with activities in the Area." (underlining added)

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[26] UNCLOS, Article 153(3), (6) and Annex III, Articles 3 and 6; 1994 Agreement, Annex, section 1(6)(a)(i), (9).

[27] 1994 Agreement, Annex, section 1(9).

[28] Decision of the Council of the International Seabed Authority relating to the procedures and criteria for the extension of an approved plan of work for exploration pursuant to section 1, paragraph 9, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, ISBA/21/C/19, 23 July 2015 ("**Procedures and Criteria for Extension**"): **Annex 1**.

[29] These are supplemented by recommendations issued by the Commission. See UNCLOS, Article 165(2)(e).

[30] Decision of the Council of the International Seabed Authority relating to amendments to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area and related matters, ISBA/19/C/17, 22 July 2013 ("**Nodule Regulations**"), available at: https://www.isa.org.jm/wp-content/uploads/2022/06/isba-19c-17_0.pdf (last accessed 25 June 2026).

[31] Nodule Regulations, regulation 23(1) and Annex IV.

23. The Council plays a key role in monitoring, being expressly mandated to exercise control over activities in the Area.[32] With regard to compliance monitoring, it is reliant on information provided by the Secretary-General and the Commission to fulfil this function.

(i) Inadequate performance procedure

24. On 11 November 2022, the Council requested that the Commission, beginning at the Authority's 28th session, annually name contractors that had responded inadequately, or failed to respond, to the calls from the Council to address issues of concern.[33] In response, on 19 April 2024, the Commission issued criteria for assessing the responses of contractors to concerns identified by the Commission, with the aim of naming contractors that have responded inadequately, or failed to respond, in the next reporting period ("**Inadequate Performance Procedure**").[34]

25. The Inadequate Performance Procedure forms part of the process of annual reporting by contractors. Its scope is set at paragraph 2 as follows:

> "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. The Commission assesses only specific contractual obligations on which concerns were identified by the Commission and communicated by the Secretary-General."[35]

26. Where the Inadequate Performance Procedure applies, a three-step procedure is commenced, beginning with the Commission's review of a contractor's annual report. In the event that responses and/or comments from a contractor remain unsatisfactory, the Commission and the Secretary-General are expressly entitled to report contractors' names to the Council.[36] This three-step process ranges over one calendar year, with steps taking place in two sessions of the Authority.[37]

27. On 11 July 2025, four contractors were named as requiring: "*continued attention regarding their performance and alignment with their contractual obligations*": UK

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[32] UNCLOS, Article 162(2)(l).

[33] Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission, ISBA/27/C/44, 11 November 2022, para. 7, available at: https://isa.org.jm/wp-content/uploads/2022/12/2225711E.pdf (last accessed 25 June 2026).

[34] 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, Issued by the Legal and Technical Commission, ISBA/29/LTC/5, 19 April 2024 ("**Inadequate Performance Procedure**"): **Annex 2**. This was welcomed in the Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission, ISBA/29/C/24, 26 July 2024, para. 8, available at: https://isa.org.jm/wp-content/uploads/2024/07/2413849E.pdf (last accessed 25 June 2026).

[35] Inadequate Performance Procedure, Annex, para. 2: **Annex 2**.

[36] *Ibid*., Annex, para. 6: **Annex 2**.

[37] *Ibid*., Appendix 1: **Annex 2**.

Seabed Resources Ltd I and II; Marawa Research and Exploration Ltd; and Cook Islands Investment Corporation.[38]

(ii) Possible non-compliance of contractors arising out of direct or indirect actions related to activities in the Area, including contractual obligations to act in accordance with the multilateral legal framework established by the Convention and the 1994 Agreement

28. As has been widely publicised and noted in paragraph 7 above, the Authority has real and legitimate concerns with respect to unilateral activities in the Area, outside the multilateral legal framework of UNCLOS.[39]

29. Accordingly, as described in paragraph 14 above, by way of the 2025 Council Decision, the Council requested the collation of supplemental compliance information from contractors specifically pursuant to section 10.3 of the standard clauses for exploration contracts, as follows:

> "9. *Also requests* the Secretary-General to require, in accordance with section 10.3 of the standard clauses for exploration contracts, additional information from contractors at risk of non-compliance with their contractual obligations, in particular with sections 13 and 27 of the standard clauses, further [requested] the Secretary-General to forward that information to the Commission for its consideration, and [requested] the Commission to report and make appropriate recommendations to the Council during the first part of its thirty-first session on the outcome of the inquiry;
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> 10. *Urges* the Commission, with reference to paragraph 9 above and in accordance with section 27 of the standard clauses for exploration contracts, to pay specific attention to possible non-compliance of contractors with the obligation that they, their employees, subcontractors, agents and all persons engaged in working or acting for them in the conduct of their operations under their exploration contracts shall observe the applicable law, in particular where such possible non-compliance may arise out of direct or indirect actions related to activities in the Area, including contractual obligations to act in

[38] Status of contracts for exploration and related matters, including information on the periodic review of the implementation of approved plans of work for exploration, Report of the Secretary-General, ISBA/30/C/2/Add.2, 11 July 2025, para. 2, available at: https://isa.org.jm/wp-content/uploads/2025/07/2511569E.pdf (last accessed 25 June 2026); see also Report of the Chair of the Legal and Technical Commission on the work of the Commission at the second part of its thirtieth session, ISBA/30/C/4/Add.1, 7 July 2025, para. 9, available at: https://isa.org.jm/wp-content/uploads/2025/07/2511051E.pdf (last accessed 25 June 2026).

[39] See *e.g.* Statement of Madam Secretary-General at Part I of the Authority's 30th session on 28 March 2025, available at: https://www.isa.org.jm/wp-content/uploads/2025/03/Statement_Announcement-by-The-Metals-Company.pdf (last accessed 25 June 2026); Statement of Madam Secretary-General at the 36th Meeting of States Parties to UNCLOS on 15 June 2026, available at: https://isa.org.jm/wp-content/uploads/2026/06/ISA_MSG_SPUNCLOS_JUNE-2026.pdf (last accessed 25 June 2026); Q&A on the International Seabed Authority and Ocean Governance, Section 4 (Developments Concerning Potential Unilateral Activities in the Area), available at: https://isa.org.jm/faq-for-media/ (last accessed 25 June 2026).

accordance with the multilateral legal framework established by the Convention and the Agreement;…".[40]

30. Sections 10, 13 and 27 of the standard clauses in the Applicants' contracts concern:

    a. Reporting requirements, including the submission of annual reports by contractors (sections 10.1 and 10.2) and the *ad hoc* provision of any "*such additional information to supplement the reports referred to in sections 10.1 and 10.2 hereof as the Secretary-General may from time to time reasonably require in order to carry out the Authority's functions under the Convention, the Regulations and this contract*" (section 10.3).

    b. Contractor undertakings to *inter alia* "*carry out exploration in accordance with the terms and conditions of this contract, the Regulations, Part XI of the Convention, the Agreement and other rules of international law not incompatible with the Convention*" and acceptance of the Authority's control over activities in the Area (sections 13.1 and 13.2(c); see also section 13.2(b)).

    c. The applicable law, with contracts being governed by "*the terms of this contract, the rules, regulations and procedures of the Authority, Part XI of the Convention, the Agreement and other rules of international law not incompatible with the Convention*" (section 27.1). This applies broadly, with clause 27.2 providing that: "*The Contractor, its employees, subcontractors, agents and all persons engaged in working or acting for them in the conduct of its operations under this contract shall observe the applicable law referred to in section 27.1 hereof and shall not engage in any transaction, directly or indirectly, prohibited by the applicable law*" (section 27.2)

31. Crucially for the purposes of these proceedings: the procedure set out in paragraphs 9 and 10 of the 2025 Council Decision (quoted in paragraph 29 above), is distinct from the Inadequate Performance Procedure (described in paragraphs 24-27 above). The latter of these – Inadequate Performance Procedure – is referred to separately in paragraph 8 of the 2025 Council Decision, as follows:

> "8. *Requests* the Secretary-General to continue to report to the Council 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, inter alia taking into account the results of the Secretary-General's consultations with contractors;…".[41]

[40] Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission, ISBA/30/C/19, 21 July 2025: **Annex 3** (underlining added).

[41] *Ibid*., para. 8: **Annex 3**.

III. STATEMENT OF FACTS

A. The Applicants and their contracts

32. The Applicants both hold exploration contracts concluded with the Authority for the exploration for polymetallic nodules in the Clarion-Clipperton Zone.[42] For such exploration, the Applicant companies (NORI and TOML) are sponsored by the Republic of Nauru ("**Nauru**") and the Kingdom of Tonga ("**Tonga**"), respectively. Nauru has held membership of the Council from 2023; Tonga has held membership of the Council since 2025.[43]

33. In January 2026, NORI applied for extension of its contract term which is currently due to expire on 22 July 2026.[44] The process for consideration of extensions by the Commission is set out in paragraphs 8 to 13 of the Procedures and Criteria for Extension.[45] Under these provisions, the Commission is required to consider applications expeditiously and in the order in which they are received.[46] As at 30 January 2026, eight applications for the extension of contracts for the exploration for polymetallic nodules had been received by the Secretary-General and transmitted to the Commission.[47]

34. The Commission dedicated 23 to 27 February 2026 and 2, 4 and 5 March 2026, during Part I of the Authority's 31st session, to the consideration of these extension applications, working in the order of their receipt (as required). Owing, however, to time constraints and the heavy workload of the Commission, it concluded its review of the first six of the eight extension applications.[48] The remaining two applications, including NORI's application, are scheduled to be considered by the Commission at Part II of the Authority's 31st session.

B. The Authority's implementation of paragraphs 9 and 10 of the Council Decision of 21 July 2025 (ISBA/30/C/19)

35. Specifically on the basis of paragraphs 9 and 10 of the 2025 Council Decision (quoted in paragraph 29 above), on 15 January 2026, the Authority's Secretary-General issued

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[42] NORI Annex 1; TOML Annex 1.

[43] See: https://isa.org.jm/organs/the-council/ (last accessed 25 June 2026).

[44] NORI Annex 3.

[45] Procedures and Criteria for Extension: **Annex 1**. See also: 1994 Agreement, Annex, section 1(9); Nodule Regulations, regulation 26 and Annex IV, section 3.2.

[46] Procedures and Criteria for Extension, para. 8: **Annex 1**.

[47] See: Applications for the extension of approved plans of work for exploration pursuant to section 1, paragraph 9, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, Note by the secretariat, ISBA/31/LTC/3/Rev.1, 30 January 2026, para. 2, available at: https://isa.org.jm/wp-content/uploads/2026/02/2601331E.pdf (last accessed 25 June 2026).

[48] See: Report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its thirty-first session, ISBA/31/C/4, 6 March 2026, para. 13, available at: https://isa.org.jm/wp-content/uploads/2026/05/ISBA_31_C_4_E.pdf (last accessed 25 June 2026).

Circular/2026/001 to all contractors, requesting the information stipulated by the Council (the "**Circular**").[49] A deadline of 10 February 2026 was provided.

36. By letters dated 9 February 2026, NORI and TOML responded: (i) asserting full compliance with their contractual obligations; (ii) claiming the 2025 Council Decision and the Circular to be "*unlawful*"; and (iii) purporting to reserve their rights and remedies, including all dispute resolution rights available under their contracts, the Nodule Regulations and UNCLOS.[50]

37. During Part I of the Authority's 31st session in February-March 2026, the Commission updated the Council on its work by Report dated 6 March 2026.[51] In Part I of the Addendum to this Report (the "**Addendum**"), the Commission provided a detailed update on its implementation of paragraph 9 of the 2025 Council Decision (quoted at paragraph 29 above).[52] In particular, the Commission:

    a. Noted that the Authority's Secretariat had received responses from all 21 contractors, all of whom stated that there had been no incidents, activities or events that might place them at risk of non-compliance with their contractual obligations;

    b. Recognised that two contractors had stressed that, in their view, the 2025 Council Decision and the Circular were unlawful, however following detailed consideration, the Commission found no basis for these claims;

    c. Recommended that the Council require additional information from sponsoring States on any agreements they may have entered into, or may enter into in the future, that may run counter to the principle that the Area, together with its resources, is the common heritage of mankind.[53] As explained in paragraph 12 above, specifically with respect to this recommendation – relating to the obligations of sponsoring States under Articles 136 and 311(6) of UNCLOS – the Commission referenced (by way of Footnote 3) a hyperlink to the webpage of the NOAA website, *i.e.* the publicly available exploration application made by the Metals Company USA to the NOAA, referring in particular to sections 4.5.5. and 4.5.6 of that document, wherein the Applicants and their sponsoring States are noted (see paragraphs 10-12 above).

38. In Part II of the Addendum, the Commission addressed its progression of the requests for information under paragraph 10 of the 2025 Council Decision (quoted at paragraph 29 above), noting that:

> "The Commission took note of the Council's decision. During the first part of its thirty-first session, it took into account the elements included in paragraph 10 of the decision within its established process of criteria for

[49] NORI Annex 2; TOML Annex 2.

[50] NORI Annex 4; TOML, Annex 3.

[51] Report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its thirty-first session, ISBA/31/C/4, 6 March 2026: **Annex 4**.

[52] Addendum, paras. 1-6: **Annex 5**.

[53] UNCLOS, Articles 311(6) and 136.

identifying contractors (ISBA/29/LTC/5), in order to request additional information from one already identified contractor requiring specific attention for potential inadequate performance. Furthermore, the Commission took into account the elements included in paragraph 10 of the decision in order to identify other contractors that might require specific attention for possible non-compliance arising out of direct or indirect actions related to activities in the Area, including obligations to act in accordance with the multilateral legal framework established by the Convention and the Agreement. One contractor was identified as falling within this category and the Commission requested additional information from it. The Commission will report to the Council on this issue during the second part of its thirty-first session."[54]

39. On 16 March 2026, the Secretary-General wrote privately on behalf of the Commission to both NORI and TOML. These letters asked the recipients to respond to three enquiries, made pursuant to paragraph 10 of the 2025 Council Decision, as follows:

> "As per paragraph 10 of ISBA/30/C/19 [*i.e.* the 2025 Council Decision], the Contractor has also been identified as requiring specific attention to possible non-compliance that may arise out of direct or indirect actions related to activities in the Area, including obligations to act in accordance with the multilateral legal framework established by the Convention and the Agreement. In light of this paragraph 10, the Commission wishes to ask additional information to the Contractor on the following issues:
>
> i. Has [NORI/TOML] directly or indirectly undertaken or plans to undertake any activity which may contribute to the appropriation of any part of the Area or its resources outside the multilateral legal framework of UNCLOS?
>
> ii. Has [NORI/TOML] undertaken or plans to undertake any activity in any manner whatsoever contrary to or inconsistent with its exclusive rights in the area of its exploration contract?
>
> iii. In light of the two previous questions, can [NORI/TOML] specify whether such activities may have included or will include, inter alia, sharing data or other information appertaining to its exploration work pursuant to its contract with the Authority to any entity or person outside the framework of such contract?"
>
> Written answers are expected by the 31st of May 2026."[55]
>
> (the "**Section 10.3 Requests**")

40. The Section 10.3 Requests made clear that that the concern expressed by the Commission related, at least in part, to the possibility that NORI and/or TOML have undertaken acts that "*may contribute to the appropriation of any part of the Area or its resources outside the multilateral legal framework of UNCLOS*", that is to say by

[54] Addendum, para. 8: **Annex 5** (underlining added).

[55] NORI Annex 5; TOML Annex 4 (underlining added).

applying for exploration licenses from the NOAA, as summarised in paragraphs 10-12 above.

41. The Authority received no substantive response to the Section 10.3 Requests by 31 May 2026, as requested, and to date no such response has been received.

42. On 19 March 2026, at the close of Part I of the 31st session, the Council issued a Decision expressly noting in the preamble that: "*the identification for 'specific attention to possible non-compliance*" as reflected in the Addendum "*is a preliminary step and does not constitute a finding of non-compliance*".[56] The Council's Decision of 19 March 2026 provides as follows:

> "1. *Reminds* all Exploration contractors of their contractual obligations, as described in paragraph 5 of the Commission's report, including but not limited to the respect for and compliance with Part XI of the Convention, the 1994 Agreement and other rules of international law not incompatible with the Convention, rules, regulations and procedures of the Authority and decisions of the organs of the Authority, as well as of the exclusivity of their exploration rights;
>
> 2. *Reminds* all Sponsoring States of their due diligence obligations according to articles 139, 153(4) and 4(4) Annex III of the Convention, as interpreted by the ITLOS Seabed Disputes Chamber in its Advisory opinion of 2011;
>
> 3. *Takes note* of the Commission's identification of contractors requiring specific attention under section 27 of the Standard clauses and its ongoing requests for additional information and awaits its report on the issue during the second part of its thirty-first session;
>
> 4. *Supports* the Commission's intent to continue its inquiry in accordance with the Commission's mandate under the Convention and relevant rules, regulations and procedures of the Authority, and the Council Decision ISBA/30/C/19 and awaits its report and recommendations, and requests the Commission in taking the matter forward:
>
> a. to consider information obtained as a result of the Secretary-General's inquiry to contractors, any other relevant information that may be held, obtained, or received by the Authority, as well as publicly available information, as may be deemed appropriate by the Commission;
>
> b. 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. *Requests* the Secretary-General to request Sponsoring States whose sponsored contractors are identified by the Commission in accordance with Decision ISBA/30/C/19 to provide additional information on:

[56] 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/31/C/18, 19 March 2026: **Annex 6**.

a. How they intend to ensure that their sponsored contractors comply with all applicable obligations under the Convention; and

b. The measures they will take to ensure that the exclusive exploration rights of the contractors remain within the limits of the Convention and of the Authority's mandate;

6. *Requests* the Secretary-General to continue to support the Commission in carrying out its functions of supervision and inspection in accordance with the Convention, the 1994 Agreement and the Authority's rules, regulations and procedures including by facilitating information sharing with Sponsoring States;

7. *Invites* the Chair of the Commission to provide responses to the questions posed by Council Members in respect of the Commission's Report ISBA/31/C/4/Add.1 [*i.e.* the Addendum] during the first part of the Council's 31st Session as soon as practicable and to the extent appropriate;

8. *Notes* that any additional information sought under paragraph 5 shall be targeted at matters necessary to address the issues identified by the Commission;

9. *Further notes* that any additional information provided under this decision shall be treated in accordance with applicable confidentiality rules and without prejudice to any rights under the Convention, the 1994 Agreement, and the rules, regulations, and procedures of the Authority."[57]

C. Subsequent correspondence

43. Subsequent events and correspondence have included as follows:

a. By intervention before the Council on 16 March 2026 and by letter dated 17 April 2026, Nauru *inter alia* requested information from the Commission on various aspects of: (i) the Commission's consideration of applications for the extension of contracts; and (ii) the Addendum.[58]

b. By letters dated 21 and 22 April 2026, NORI and TOML wrote to the Commission seeking *inter alia* "*confirmation of the procedure that the Commission intends to follow*" and "*further clarification and particulars in respect of the questions raised and their legal bases*".[59]

c. By letters dated 13 May 2026, the Chair of the Commission, Ms Sissel Eriksen, replied to NORI, TOML and to the Republic of Nauru, stating that:

> "As you are aware, the meetings of the Commission for the thirty-first session are being held in two parts, the first having taken place from

[57] *Ibid*: **Annex 6** (underlining added).

[58] NORI Annex 6; Nauru Annex 1.

[59] NORI Annex 7; TOML Annex 5.

23 February to 6 March 2026, and the second scheduled to convene from 29 June to 10 July 2026. The Commission is therefore not presently in session.

In these circumstances, and bearing in mind that the work of the Commission is conducted on a collective and consensus-based basis, it would neither be procedurally appropriate nor feasible for me, in my capacity as Chair, to express any position on the matters raised in your correspondence prior to the Commission having had a full and proper opportunity to consider, deliberate upon, and determine its position collectively.

The Commission, as an organ of the Council established pursuant to the United Nations Convention on the Law of the Sea, will continue to exercise its functions collectively and strictly within the scope of the mandate conferred upon it by the Council and the applicable legal framework.

Notwithstanding the foregoing, I reiterate the Commission's full commitment to the discharge of its responsibilities in accordance with its mandate and established procedures, including with respect to all matters duly referred to it by the Council.

I further wish to note that the deadline of 31 May 2026 for the submission by [NORI/TOML] [of its] response to the questions and requests for further clarification as requested by the Commission, following its consideration of the relevant agenda item during Part I of its meetings, remains in full effect."[60]

d. On 15 May 2026, the Secretary-General of the Authority wrote to Nauru, at the behest of the Commission,[61] seeking additional information on:

> "a. How [Nauru] intends to ensure that [NORI] complies with all applicable obligations under the Convention; and
>
> b. The measures [Nauru] will take to ensure that the exclusive exploration rights of [NORI] remain within the limits of the Convention and of the Authority's mandate."[62]

e. On 18 May 2026 – that is to say, 13 days before the deadline set for the responses to the Section 10.3 Requests – the Secretariat of the Authority received Notices of Dispute from both NORI and TOML, requesting consultations within 10 days, *i.e.* by 29 May 2026.[63] These Notices were followed by letter from Nauru to the Chair of the Commission dated 20 May 2026 (and conveyed to Authority on 27 May)

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[60] NORI Annexes 8 and 9; TOML Annex 6.

[61] See: 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/31/C/18, 19 March 2026, para. 5: **Annex 6**.

[62] Nauru Annex 2. By letter of 5 June 2026 to the Secretary-General, Nauru stated *inter alia* that it is "*not presently in a position to respond substantively to the questions in your 15 May letter*" on account of various procedural concerns (Nauru, Annex 3).

[63] NORI Annex 10; TOML Annex 7.

supporting NORI's request for consultations and seeking the Commission's response to the points raised in Nauru's letter of 17 April 2026 "*in a timely manner and to Nauru's satisfaction*".[64]

f. On 26 May 2026, the Secretary-General wrote to NORI and TOML, in response to their Notices of Dispute, as follows:

> "The International Seabed Authority (the Authority) acknowledges the concerns raised in your correspondence. We are committed to reviewing these matters in accordance with UNCLOS, the 1994 Agreement pertaining to the implementation of Part XI of UNCLOS, the applicable rules, regulations, and procedures of the Authority, as well as the relevant contractual agreements.
>
> We appreciate [NORI's/TOML's] suggestion to engage in consultations by 29 May 2026. However, the Authority believes it is essential for us to conduct a thorough legal assessment of the issues presented to facilitate a more meaningful and constructive engagement during our discussions. Consequently, we propose that consultations be initiated at an appropriate time, following further discussions with the senior leadership of the Legal and Technical Commission (Commission). The Authority remains committed to fostering a collaborative and amicable resolution that serves the best interests of all parties involved.
>
> In the meantime, please be informed that your previous letter dated [21/22 April 2026], appended to [NORI's/TOML's] notice of dispute dated 18 May 2026, has been forwarded to the Commission for consideration. The Commission is currently evaluating your requests to determine how they may be accommodated, as was indicated in the response from the Chair of the Commission dated 13 May 2026. We wish to clarify that [NORI's/TOML's] requests are receiving thoughtful consideration, and we are mindful of the practical constraints faced by both the Commission and the Authority.
>
> Please rest assured that the Authority is dedicated to the peaceful resolution of this matter and to fulfilling our responsibilities in good faith, with full respect for the rights and obligations of all parties under the Convention.
>
> This acknowledgment is made without prejudice to the Authority's legal position, its organs, or any rights, remedies, or procedures available under international law."[65]

D. Institution of proceedings and requests for provisional measures

44. Only four days later, on 30 May 2026, the Applicants instituted the present proceedings, together with the present Requests for the prescription of provisional measures.

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[64] NORI Annex 11.

[65] NORI Annex 11; TOML Annex 9.

45. By letters dated 31 May 2026, NORI and TOML maintained their refusal to provide substantive responses to the Section 10.3 Requests.[66]

46. On 19 June 2026, the Applicants wrote to the Authority's Secretary-General, noting that "*the time, cost, and procedural burden associated with a provisional measures hearing may yet be avoided*", and requesting three specific measures:

    a. the provision of specific information to "*ensure that NORI and TOML are placed in a position to understand the case that they are required to meet and to respond meaningfully to the questions posed in the 16 March 2026 letter*" (*i.e.* the Section 10.3 Requests);

    b. an extension of time to respond to the Section 10.3 Requests; and

    c. that the "*consideration of the inquiry concerning NORI and TOML be deferred to a subsequent session*".[67]

47. On 22 June 2026, the Authority's Secretary-General responded to the Applicants, inviting them to withdraw their Requests and making the following proposal with respect to the measures sought by the Applicants:

> "(i) I reiterate my invitation of 26 May 2026 to engage in consultations with NORI and TOML, and propose that these take place by virtual means at a mutually convenient time between 29 and 30 June 2026 on a without prejudice basis.
>
> (ii) The Authority is prepared to offer NORI and TOML an extension of time to respond to the three questions appended to my letter dated 16 March 2026, running to 12 noon (CEST) on 5 July 2026.
>
> (iii) Any deferral of consideration by the Commission and/or the Council are strictly a matter for each of those respective bodies, to be considered during the course of the 31st Session, in accordance with their applicable rules and procedures."[68]

48. By letter dated 23 June 2026 the Applicants refused to withdraw their Requests, insisting *inter alia* on the Authority: (i) providing the "*specific obligations said to be engaged and the reasons why issues of 'possible non-compliance' by NORI and TOML are said to arise*"; and (ii) confirmation that "*no adverse findings, statements or recommendations*" will be made during Part II of the 31st session and that consideration of these matters "*will be deferred, if necessary, to a subsequent session…*".[69]

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[66] Letter from NORI to the Secretary-General of the Authority dated 31 May 2026: **Annex 7**; Letter from TOML to the Secretary-General of the Authority dated 31 May 2026: **Annex 8**.

[67] Letter from the Agent for NORI and TOML to the Secretary-General of the International Seabed Authority dated 19 June 2026: **Annex 9**.

[68] Letter from the Secretary-General of the International Seabed Authority to the Agent for NORI and TOML dated 22 June 2026: **Annex 10**.

[69] Letter from the Agent for NORI and TOML to the Secretary-General of the International Seabed Authority dated 23 June 2026: **Annex 11**.

49. The Secretary-General has repeatedly offered to engage in consultations with the Applicants to address issues they have raised. They have refused to do so. Moreover, it is patently not open to the Secretary-General, nor the Chair of the Commission – acting pursuant to the relevant provisions of UNCLOS, the 1994 Agreement, the applicable rules, regulations, and procedures, as well as the relevant contractual agreements – to circumscribe the duties and functions of the Commission and the Council in advance of, and during, Part II of the 31st session, as the Applicants seek.

IV. THE APPLICANTS' CLAIMS

50. The Applicants have each instituted proceedings against the Authority before the SDC in reliance on Article 187(c)(i) and (ii) of the Convention, whereby:

    a. Both Applicants (NORI and TOML) assert that the Authority has conducted a "*procedurally defective*" inquiry;[70] and

    b. NORI asserts "*inconsistencies in the Authority's treatment of [its] extension application.*"[71]

51. Taking each of these in turn:

A. Alleged "*procedurally defective inquiry*"

52. The Applicants' claims with respect to the Authority's alleged "*procedurally defective inquiry*" revolve around: (i) the Applicants' purported "*identification*" within the Addendum; and (ii) the Section 10.3 Requests made to them by the Authority, comprising various allegations of lack of due process, transparency and fairness, as well as alleged discrimination and *ultra vires* acts.[72] None of these claims are arguable.

(i) Alleged "identification"

53. The Applicants are not named in the Addendum. As evident from the quoted extract at paragraph 38 above, the two contractors identified at paragraph 8, as requiring "*specific attention for possible non-compliance*", are not named.

54. As explained in paragraphs 9-12 above, the Applicants assert that they are *identifiable* through unspecified "*references, including through footnoted materials and contextual indicators*".[73]

55. The Applicants have no basis for complaining about the Authority's reference to a publicly available document at Footnote 3:

    a. *First*, Footnote 3 appears in a separate Part of the Addendum, in paragraph 6(c) which addresses the obligations of sponsoring States.[74] There is no reference to Footnote 3 in paragraph 8, addressing specific attention for possible non-

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[70] Request for the Prescription of Provisional Measures Submitted by Nauru Ocean Resources Inc under Article 290(1) of the United Nations Convention on the Law of Sea, 30 May 2026 ("**NORI Provisional Measures Request**"), paras. 49-72; Request for the Prescription of Provisional Measures Submitted by Tonga Offshore Mining Ltd under Article 290(1) of the United Nations Convention on the Law of Sea, 30 May 2026 ("**TOML Provisional Measures Request**"), paras. 25-53.

[71] NORI Provisional Measures Request, paras. 41-48.

[72] NORI Application Instituting Proceedings, paras. 49-72; TOML Application Instituting Proceedings, paras. 21-24.

[73] NORI Provisional Measures Request, para. 16; TOML Provisional Measures Request, para. 16.

[74] Addendum, para. 6(c): **Annex 5**.

compliance by contractors, nor is it stated that the footnoted document forms the basis for possible non-compliance.

b. *Second*, Footnote 3 refers to a publicly available document, published on the NOAA website, which any reader of the Addendum could readily locate.

c. *Third*, in any event, the Addendum reflects the initial stages of the process provided for under paragraphs 9 and 10 of the 2025 Council Decision (see, in contrast, the contractors expressly named in ISBA/30/C/2/Add.2, as detailed in paragraph 27 above). Neither NORI nor TOML were "*singled out*", as they claim.[75] Paragraph 8 of the Addendum refers to the unnamed contractors expressly on the basis of "*possible non-compliance*".[76] As expressly stated in the Council Decision of 19 March 2026: "*…identification for 'specific attention to possible non-compliance' as reflected in [the Addendum] is a preliminary step and does not constitute a finding of non-compliance…*".[77]

(ii) The Authority's Section 10.3 Requests

56. The Applicants also object to acts of the Authority leading up to, and culminating in, the Section 10.3 Requests, namely: (i) the 2025 Council Decision;[78] (ii) the Circular;[79] and (iii) the Secretary-General's letters of 16 March 2026, sent to the Applicants on behalf of the Commission.[80] None of these acts can be impugned:

a. *First,* as outlined above, the Applicants have not been publicly identified as non-compliant or even possibly non-compliant. They are not named in the 2025 Council Decision, or the Addendum. The complained of Circular was sent to all contractors. The Secretary-General's letters of 16 March 2026 were sent to the Applicants privately (albeit their content is now in the public domain as a result of the Applicants' claims).

b. *Second*, by virtue of Section 10.3 of their contracts, NORI and TOML are expressly required to: "… *submit such additional information to supplement the reports referred to in sections 10.1 and 10.2 hereof as the Secretary-General may from time to time reasonably require in order to carry out the Authority's functions under the Convention, the Regulations and this contract.*"[81] However, both NORI and TOML have steadfastly refused to provide any substantive

[75] NORI Provisional Measures Request, para. 49; TOML Provisional Measures Request, para. 46.

[76] Addendum, para. 8: **Annex 5** (underlining added).

[77] 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/31/C/18, 19 March 2026, preamble, p.1: **Annex 6**.

[78] Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission, ISBA/30/C/19, 21 July 2025: **Annex 3**.

[79] NORI Annex 2; TOML Annex 2.

[80] NORI Annex 5; TOML Annex 4.

[81] NORI Annex 1, Section 10.3; TOML Annex 1, Section 10.3. See also: Nodule Regulations, Annex IV, Standard clauses for exploration contract, available at: https://www.isa.org.jm/wp-content/uploads/2022/06/isba-19c-17_0.pdf (last accessed 25 June 2026).

response to the Section 10.3 Requests. The Applicants' claims are premised on alleged rights of contractors to demand extensive disclosure, consultation, explanation, questioning, particularisation, *etc.,* before any request for information can be made of them by the Authority pursuant to section 10.3 of their contracts and the procedure set out in paragraphs 9 and 10 of the 2025 Council Decision. However, the Applicants manifestly fail to identify the legal provision that is said to be the source of any such rights.

c. *Third,* the Council's Decision of 19 March 2026, made at the close of Part I of the 31st session, expressly provides that the Commission will ensure that the Applicants are afforded "*due process, transparency and fairness at every stage in the conduct of this inquiry*" as well as "*the right to respond.*"[82] The Section 10.3 Requests are an early information-gathering step in this process, which is being impeded by the Applicants' persistent refusal to engage in the process, and their failure to provide answers to straightforward questions. By way of the Section 10.3 Requests the Applicants have already been given an opportunity to respond. The Applicants will be given further opportunity to respond, and to engage properly and meaningfully with the Commission's inquiry process, but they must first comply with their obligations to provide information pursuant to section 10.3 of their contracts and paragraphs 9 and 10 of the 2025 Council Decision. Accordingly, their claims – and these Requests – are premature and manifestly unfounded.

57. With respect to the claims of alleged "*discrimination*" by reference to Article 152(1) of the Convention, these are wholly unsupported assertions. The Applicants have not been publicly identified by the Authority; they have merely been requested to provide information to the Commission to enable it to carry out its functions under paragraphs 9 and 10 of the 2025 Council Decision, and the Applicants are contractually obliged to provide such information. In any event, the explicit references to the Applicants in the document on the NOAA website, referred to in paragraphs 10-12 above, distinguishes the Applicants from other contractors.

58. As to the Applicants' allegations that the Authority has acted *ultra vires* or erred procedurally in its decisions or acts leading to the Section 10.3 Requests: paragraph 5 of the Addendum recognises that the Authority has a broad range of powers to regulate activities in the Area and ensure compliance by contractors.[83] Of most relevance to the Applicants' claims:

a. The Council has a broad remit to exercise control over activities in the Area. It cannot reasonably be argued that the Authority is precluded from inquiring about – or even asking questions of – contractors' compliance with their contractual obligations.[84]

[82] 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/31/C/18, 19 March 2026, para. 4(b): **Annex 6**.

[83] Addendum, para. 5: **Annex 5**.

[84] UNCLOS, Article 162.

b. The Commission is obligated to make recommendations with regard to the exercise of the Authority's functions upon the request of the Council and supervise, upon the request of the Council, activities in the Area. This duty includes the Commission's consultation and collaboration with contractors and sponsoring States, where appropriate.[85] Here, the Applicants refuse to collaborate.

c. The Secretary-General is empowered to perform any administrative functions entrusted to her by the Authority's organs, including the Council.[86] The correspondence the Applicants complain of plainly falls within these functions. As described in paragraph 56.b above, the Secretary-General is entitled to require contractors to submit additional information to supplement the information contained in their annual reports in order to carry out the Authority's functions under the Convention, the regulations and their contract.[87]

B. NORI's extension application

59. As described in paragraphs 33-34 above, NORI's extension application will be considered by the Commission during Part II of the upcoming 31st session and is yet to be determined by the Council. There was no decision on NORI's extension application during Part I of the Authority's 31st session, due to time and capacity constraints.

60. In accordance with the Procedures and Criteria for Extension, the Commission was required to consider the eight applications in the order in which they were received.[88]

61. The first six were considered, with the remaining two (including NORI's) carried over to Part II of the 31st session. Being the last application received by the Commission, NORI is not entitled to 'skip the queue'. Furthermore, NORI's contract is not due to expire until after the Commission's meetings during Part II of the 31st session, such that its activities in the Area have not been impeded by the deferral from Part I to Part II of the 31st session. The Chair of the Commission addressed these matters in some detail in her Report on Part I of the 31st session:

> "The Commission noted that eight applications for extension of approved plans of work for exploration for polymetallic nodules had been received from the following contractors, listed in the order of receipt: the Interoceanmetal Joint Organization, JSC Yuzhmorgeologiya, the Government of the Republic of Korea, China Ocean Mineral Resources Research and Development Association (COMRA), Deep Ocean Resources Development Co. Ltd. (DORD), the Institut français de recherche pour l'exploitation de la mer (Ifremer), the Federal Institute for Geosciences and Natural Resources of Germany (BGR) and Nauru Ocean Resources Inc. (NORI) (see ISBA/31/LTC/3/Rev.1). The Commission dedicated 23 to 27

[85] UNCLOS, Article 165(2)(a) and (c).

[86] UNCLOS, Article 166(3).

[87] NORI Annex 1, Section 10.3; TOML Annex 1, Section 10.3. See also: Nodule Regulations, Annex IV, Standard clauses for exploration contract, available at: https://www.isa.org.jm/wp-content/uploads/2022/06/isba-19c-17_0.pdf (last accessed 25 June 2026).

[88] Procedures and Criteria for Extension, para. 8: Annex 1.

> February and 2, 4 and 5 March to the consideration of these extensions in the order of receipt, but owing to the limited time frame and workload of the Commission for the first part of the thirty-first session, it only concluded its review of six of the eight applications, noting that the contracts of both of the remaining applicants expired after the second part of the session."[89]

62. As such, NORI can be in no doubt as to the reason why its extension application has not yet been determined; its assertion that there is an "*absence of a clear explanation*" or "*[n]o explanation*" is plainly wrong.[90]

[89] Report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its thirty-first session, ISBA/31/C/4, 6 March 2026, para. 13: **Annex 4**.

[90] NORI Application Instituting Proceedings, para. 48; NORI Provisional Measures Request, para. 46.

V. THE APPLICANTS HAVE NOT SATISFIED THE REQUIREMENTS FOR THE PRESCRIPTION OF PROVISIONAL MEASURES

63. The Applicants request the SDC prescribe the following provisional measures:

> "(a) Order the Authority to immediately suspend the inquiry regarding the alleged "*possible non-compliance*" of [NORI/TOML] with its contractual obligations, pending the final decision of the Chamber;
>
> (b) Order the Authority to refrain from taking, authorizing, or permitting any further steps or measures in connection with that inquiry pending the final decision of the Chamber;
>
> (c) Order the Authority to ensure that no recommendations, findings, reports, or other outputs arising from the LTC's [the Commission's] inquiry are adopted, issued, published, communicated, or otherwise relied upon pending the final decision of the Chamber;
>
> [(d/e)] Prohibit the Authority from taking any action that might aggravate or extend the dispute, or prejudice the execution of any decision the Chamber may render; and
>
> [(e/f)] Order such other provisional measures as the Chamber considers necessary to preserve [NORI's/TOML's] rights and to ensure the effectiveness of its eventual decision."[91]

64. NORI additionally invites the SDC to order that:

> "(d) Pending the final decision of the Chamber, prohibit the Authority from taking any step or adopting any position, including through the LTC, that would have the effect of prejudging, refusing, or otherwise adversely affecting NORI's application dated 19 January 2026 for an extension of the Exploration Contract, insofar as such action is based on or influenced by the ongoing inquiry. For the avoidance of doubt, this measure does not prevent the Authority or the LTC [the Commission] from proceeding with consideration of that application in a lawful and impartial manner".[92]

65. Article 290(1) of the Convention provides that:

> "If a dispute has been duly submitted to a court or tribunal which considers that *prima facie* it has jurisdiction under this Part or Part XI, section 5, the court or tribunal may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending the final decision."

[91] NORI Provisional Measures Request, para. 70; TOML Provisional Measures Request, para. 65.

[92] NORI Provisional Measures Request, para. 70(d).

66. Provisional measures remain an exceptional form of relief in international law.[93] The requirements of Article 290(1), as interpreted and applied by the Tribunal, are well established. The SDC cannot prescribe provisional measures under Article 290(1) of UNCLOS unless all of the following conditions are met:

    a. the SDC considers that it has *prima facie* jurisdiction over the Applicants' claims under Part XI, section 5, of the Convention;[94]

    b. the rights alleged by the Applicants on the merits are, at least, plausible;[95]

    c. there is a real and imminent risk of irreparable prejudice to the rights alleged by the Applicants pending final decision by the SDC;[96] and

    d. the measures sought would not cause irreparable prejudice to the rights of the party against whom the measures are sought.[97]

67. As set out below, none of these conditions are met.

A. No *prima facie* jurisdiction

68. The Applicants seek to found their claims on Article 187(c)(i) and (ii) of the Convention, which provides that:

> "The Seabed Disputes Chamber shall have jurisdiction under this Part and the Annexes relating thereto in disputes with respect to activities in the Area falling within the following categories:
>
> […]

[93] *Passage through the Great Belt (Finland v. Denmark),* Provisional Measures, Separate Opinion of Judge Shahabuddeen, ICJ Reports 1991, p. 29; *Enrica Lexie,* Provisional Measures, Order of 24 August 2015, ITLOS Reports 2015, p. 214, Declaration of Judge Paik, para. 10.

[94] UNCLOS, Article 290(1).

[95] *Case Concerning the Detention of three Ukrainian Naval Vessels (Ukraine v. Russian Federation),* Provisional Measures, Order of 25 May 2019, ITLOS Reports 2019, para. 91; *Request relating to the Return of Property Confiscated in Criminal Proceedings (Equatorial Guinea v. France)*, Provisional Measures, ICJ, Order of 12 September 2025, para. 36; *Zheng He* (*Luxembourg v. Mexico*), Provisional Measures, Order of 27 July 2024, para. 119; *Enrica Lexie,* Provisional Measures, Order of 24 August 2015, ITLOS Reports 2015, p. 182, at p. 197, para. 84.

[96] *Delimitation of the Maritime Boundary in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, Provisional Measures, Order of 25 April 2015, ITLOS Reports 2015, p. 146, at p. 156, para. 42; *Construction of a Road in Costa Rica along the San Juan River (Nicaragua* v. *Costa Rica); Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua*), Provisional Measures, Order of 13 December 2013, ICJ Reports 2013, p. 398, at p. 405, para. 25.

[97] *Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)*, Provisional Measures, Order of 3 October 2018, ICJ Reports 2018, p. 623, at p. 650, para. 94; *Enrica Lexie,* Provisional Measures, Order of 24 August 2015, ITLOS Reports 2015, p. 182, at p. 203, para. 125.

(c) disputes between parties to a contract, being States Parties, the Authority or the Enterprise, state enterprises and natural or juridical persons referred to in article 153, paragraph 2(b), concerning:

(i) the interpretation or application of a relevant contract or a plan of work; or

(ii) acts or omissions of a party to the contract relating to activities in the Area and directed to the other party or directly affecting its legitimate interests;…"

69. Materially for the present proceedings, Article 189 of the Convention, titled "*Limitation on jurisdiction with regard to decisions of the Authority*", provides that:

> "The Seabed Disputes Chamber shall have no jurisdiction with regard to the exercise by the Authority of its discretionary powers in accordance with this Part; in no case shall it substitute its discretion for that of the Authority. Without prejudice to article 191, in exercising its jurisdiction pursuant to article 187, the Seabed Disputes Chamber shall not pronounce itself on the question of whether any rules, regulations and procedures of the Authority are in conformity with this Convention, nor declare invalid any such rules, regulations and procedures. Its jurisdiction in this regard shall be confined to deciding claims that the application of any rules, regulations and procedures of the Authority in individual cases would be in conflict with the contractual obligations of the parties to the dispute or their obligations under this Convention, claims concerning excess of jurisdiction or misuse of power, and to claims for damages to be paid or other remedy to be given to the party concerned for the failure of the other party to comply with its contractual obligations or its obligations under this Convention."

70. The language of Article 189 is clear, and it reflects the desire of the drafters of the Convention to ensure that the SDC is not engaged in micro-managing of the administration of this Part of the Convention. It follows that the SDC does not have jurisdiction to pronounce itself on the lawfulness of the procedure provided for under paragraphs 9 and 10 of the 2025 Council Decision – which concerns the exercise of discretionary powers – or on the lawfulness of the power under section 10.3 of the Applicants' contracts to request information, bearing in mind that this power stems directly from the standard clauses included within the Authority's Nodule Regulations.[98] Nor does the SDC have jurisdiction to pronounce itself on the lawfulness of the Procedures and Criteria for Extension, which are matters within the exercise of the discretionary powers of the Authority.[99]

71. Contrary to the Applicants' assertions, the requirements of Article 187(c)(i) and (ii) of the Convention do not afford a *prima facie* basis on which the jurisdiction of the SDC might be founded.[100]

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[98] Nodule Regulations, regulation 23(1) and Annex IV.

[99] Procedures and Criteria for Extension: Annex 1.

[100] NORI Provisional Measures Request, paras. 27-39; TOML Provisional Measures Request, paras. 27-39.

a. With respect to Article 187(c)(i) of the Convention, the Applicants do not invoke section 10.3 as a basis for the SDC's jurisdiction (*i.e.* a power pursuant to which the Secretary-General relayed the Commission's Section 10.3 Requests). Instead, the Applicants rely solely on section 13.4 of their contracts, which is also one of the standard clauses incorporated in all exploration contracts by way of the Nodule Regulations.[101] Section 13.4 provides that: "*The Authority undertakes to fulfil in good faith its powers and functions under the Convention and the Agreement in accordance with article 157 of the Convention*."[102] In light of the facts set out above, it is simply not arguable, even on a *prima facie* basis, that the Authority – in putting questions to the Applicants pursuant to section 10.3 of their contracts, or by deferring NORI's extension application due to lack of time during Part I of the 31st session – can be said to have acted in bad faith, or otherwise failed to exercise its powers and functions in accordance with Article 157 of the Convention.

b. As to Article 187(c)(ii) of the Convention, the Applicants' complaints of an alleged "*procedurally defective inquiry*", summarised in paragraphs 52-58 above, are not claims "*relating to activities in the Area*". They relate to the Authority's exercise of its compliance powers under Part XI of the Convention and the 1994 Agreement, including – specifically with respect to the paragraphs 9 and 10 of the 2025 Council Decision – the Authority's discretionary powers under Article 153 of UNCLOS, and those of the Council pursuant to Article 162 of the Convention. For instance, under Article 153(5) of UNCLOS: "*The Authority shall have the right to take at any time any measures provided for under this Part to ensure compliance with its provisions and the exercise of the functions of control and regulation assigned to it thereunder or under any contract…*".[103] The exercise of such powers by the Authority, for the purpose of ensuring compliance by the Applicants of their obligations under sections 13 and 27 of their contracts, is inherently discretionary in nature, and includes such incidental powers, consistent with the Convention, as are necessary and implicit.[104] Likewise, NORI's claim insofar as it relates to the extension of its contract, pursuant to section 1(9) of the Annex to the 1994 Agreement necessarily relates to the exercise by the Authority of its discretionary powers, including whether a contractor has "*made efforts in good faith to comply with the requirements of the plan of work but for reasons beyond the contractor's control has been unable to complete the necessary preparatory work for proceeding to the exploitation stage or if the prevailing economic circumstances do not justify proceeding to the exploitation stage*."[105]

72. The Tribunal also lacks jurisdiction, and the Applicants claims are inadmissible, on the basis that they are manifestly premature and accordingly, no dispute has crystallised. No steps have been taken by the Authority that could be said to affect the Applicants' rights or any legitimate interests that they say they may have. As described at paragraph

[101] Nodule Regulations, regulation 23(1) and Annex IV, available at: https://www.isa.org.jm/wp-content/uploads/2022/06/isba-19c-17_0.pdf (last accessed 25 June 2026).

[102] NORI Annex 1; TOML Annex 1 (underlining added).

[103] UNCLOS, Article 153(5) (underlining added).

[104] UNCLOS, Article 157(2).

[105] Procedures and Criteria for Extension: **Annex 1**.

56.c above, at this early stage of the process under paragraphs 9 and 10 of the 2025 Council Decision, the only step taken by the Authority has been to request information by way of the Section 10.3 Requests. As the Applicants are aware:

a. The Council has expressly acknowledged that "…*the identification for 'specific attention to possible non-compliance*" as reflected in the Addendum "*is a preliminary step and does not constitute a finding of non-compliance…*".[106] It has also requested the Commission "*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*."[107]

b. The Commission is fully committed "*to the discharge of its responsibilities in accordance with its mandate and established procedures, including with respect to all matters duly referred to it by the Council.*" [108]

c. The Authority has proposed consultations and is dedicated to "*fulfilling [its] responsibilities in good faith, with full respect for the rights and obligations of all parties under the Convention.*"[109]

73. For these reasons, the Authority invites the SDC to declare – on the basis of the claims made and the evidence before it – that it lacks *prima facie* jurisdiction over the claims brought by the Applicants.

B. No plausible rights

74. At this stage of proceedings, the SDC is entitled to – and should – determine whether the rights which NORI and TOML invoke and seek to protect are even plausible.[110]

75. The Applicants invoke a wide range of diverse "rights" in their pursuit for the prescription of provisional measures, including: (i) the right to due process and fair treatment; (ii) non-discrimination pursuant to Article 152(1) of UNCLOS; (iii) "*the right not to be subjected to unlawful or ultra vires acts*"; (iv) "*the right to a stable and predictable regulatory framework*"; (v) the right to have their contracts performed in good faith pursuant to section 13.4 of their contracts; and (vi) the "*right to have [their] legitimate interests safeguarded in the conduct of activities in the Area.*"[111]

76. The SDC must determine whether these alleged rights have a legal basis and are applicable to the facts of these two cases, summarised in paragraphs 32-49 above. The Applicants, however, fail to demonstrate that any of the alleged rights are plausible in

[106] 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/31/C/18, 19 March 2026, preamble: **Annex 6** (underlining added).

[107] *Ibid*., para. 4(b) (underlining added).

[108] NORI Annexes 8 and 9; TOML Annex 6.

[109] NORI Annex 11; TOML Annex 9; see also: Letter from the Secretary-General of the International Seabed Authority to the Agent for NORI and TOML dated 22 June 2026: **Annex 10**.

[110] *Supra*., footnote 92.

[111] NORI Provisional Measures Request, para. 44; TOML Provisional Measures Request, para. 44.

present circumstances, let alone "*a central element of the law of the sea and governance of the Area*".[112] In particular: (i) the Council's Decision of 19 March 2026 expressly requests the Commission to continue to ensure due process, transparency and fairness (see paragraph 72.a above), the Section 10.3 Requests are not, even arguably, incompatible with this instruction; (ii) the allegations of discrimination are mere assertion, and the Applicants do not specify any basis or grounds for discrimination, nor any comparator, or lack of objective and reasonable justification; and (iii) the actions of the Council, Commission and Secretary-General which led to the Section 10.3 Requests are founded on the Authority's compliance powers under the Convention and, more specifically, paragraphs 9 and 10 of the 2025 Council Decision (which the Applicants do not invite the SDC to declare unlawful) and section 10.3 of their contracts; (iv) for the reasons set out in paragraph 71.a above, it is not arguable that the Authority has failed to comply with section 13.4 of the Applicants' contracts; and (v) the Applicants do not define their "*legitimate interests*", nor which of these have not been safeguarded.

77. The Applicants' Requests are premised on a fundamental misunderstanding of the Authority's compliance powers, which are by their very nature, inherently discretionary. For instance, NORI states that:

> "The LTC's [Commission's] identification of NORI for "*specific attention to possible non-compliance*" warrants particular scrutiny. It was not carried out in accordance with LTC's [Commission's] established criteria and methodology for identifying contractors at risk of non-compliance, as set out in ISBA/29/LTC/5. Those criteria require a structured and transparent process, including engagement with the contractor concerned before any escalation or identification. The manner in which NORI was singled out through the LTC's [Commission's] report, without prior notice, explanation, or opportunity to respond, constitutes a clear departure from that framework. Taken together with the handling of NORI's extension application, these departures give rise to a serious and credible claim that the Authority has failed to comply with its obligation under Article 152(1) of UNCLOS and that NORI's right to a stable, predictable, and lawfully administered regulatory regime has been disregarded."[113]

78. The "*criteria*" and "*framework*" to which NORI and TOML refer is the Inadequate Performance Procedure summarised in paragraphs 24-27 above. This is distinct from the process adopted pursuant to paragraphs 9 and 10 of the 2025 Council Decision, described in paragraphs 28-30 above. The Section 10.3 Requests were made pursuant to the latter procedure, as expressly stated on the face of those requests (see paragraph 39 above).[114]

79. NORI's claim with respect to its extension application also does not plausibly give rise to breach of any right under the Convention or NORI's contract. Indeed, NORI itself concludes that this aspect of its claim merely "*raises questions as to due process, and underscores NORI's concerns as to whether the LTC's [the Commission's] ongoing*

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[112] *Ibid*.

[113] NORI Provisional Measures Request, para. 49 (underlining added) (footnote omitted). See also: TOML Provisional Measures Request, para. 46.

[114] NORI Annex 5; TOML Annex 4.

inquiry may have influenced the consideration of NORI's extension application."[115] This is mere speculation. As NORI is aware, its extension application falls to be determined at Part II of the Authority's 31st session by reference to the Procedures and Criteria for Extension.[116] The consideration of NORI's extension application is entirely distinct from the process being carried out pursuant to paragraphs 9 and 10 of the 2025 Council Decision. The fact that the Commission is responsible for carrying out both of these separate functions (and many others) is not uncommon among the organs of international organisations and treaty bodies.

80. Moreover, the Applicants' alleged rights are simply not plausible because in the present circumstances, their claims – and these Requests for the prescription of provisional measures – are patently premature, for the reasons explained in paragraph 72 above.

81. Accordingly, the Applicants have failed to demonstrate that their claims encompass any plausible rights that could be the subject of a provisional measures order under Article 290(1) of the Convention.

82. It is well-established that a failure to raise plausible rights is of itself a clear basis to deny a request for provisional measures.[117]

C. No real and imminent risk of irreparable prejudice

83. In contrast to subparagraph (5), Article 290(1) of the Convention does not stipulate urgency as a requisite element for the prescription of provisional measures. However, the jurisprudence developed by international courts and tribunals "*supports the view that urgency is an important element in considering a request for provisional measures*."[118]

84. The Applicants invite the SDC to *presume* that during Part II of the 31st session, the Commission will "*proceed with its inquiry and produce findings or recommendations*."[119] However, there is no fixed timeframe prescribed by paragraph 10 of the 2025 Council Decision (quoted in paragraph 29 above).[120] Paragraph 3 of the Council's subsequent Decision of 19 March 2026 (quoted in paragraph 42 above) recalls the "*ongoing requests for additional information and awaits [the Commission's] report on the issue during the second part of its thirty-first session*."[121] This is immediately followed by the Council's request for the Commission to continue

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[115] NORI Provisional Measures Request, para. 48 (underlining added).

[116] Procedures and Criteria for Extension: **Annex 1**.

[117] *Request relating to the Return of Property Confiscated in Criminal Proceedings (Equatorial Guinea v. France)*, Provisional Measures, ICJ, Order of 12 September 2025, para. 36.

[118] *The "Enrica Lexie" Incident (Italy v. India)*, Order on the Request for the Prescription of Provisional Measures, PCA Case No. 2015-28, 29 April 2016, para. 85.

[119] NORI Provisional Measures Request, para. 58; TOML Provisional Measures Request, para. 54

[120] Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission, ISBA/30/C/19, 21 July 2025: **Annex 3**.

[121] 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/31/C/18, 19 March 2026, para. 3: **Annex 6**.

"*ensur[ing] 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*." [122] As such, there is no urgency in this case, *i.e.* no real and imminent risk of any rights being irreparably harmed. The Commission has been invited to report back to the Council with respect to the ongoing (*i.e.* outstanding) Section 10.3 Requests. There is nothing to support the Applicants' *assumption* that the Commission will seek to conclude its inquiry process at Part II of the 31st session without ensuring due process, transparency and fairness, including providing the Applicants and their sponsoring States (Nauru and Tonga) the right to respond. As summarised in paragraph 72 above, the Authority has repeatedly stressed that the process under paragraphs 9 and 10 of the 2025 Council Decision will be carried out in good faith and with full respect for the Applicants' rights under the Convention and their contracts.

85. With respect to NORI's extension application, this will be considered at Part II of the Authority's 31st session, pursuant to the Procedures and Criteria for Extension.[123] This is a separate and distinct process, and there is no evidence before the SDC – or otherwise available – to suggest that it is, or has been, in any way, "*influenced*" by NORI's failure to respond to the Section 10.3 Requests.[124]

86. As to the nature of the alleged prejudice: it is well established that loss of revenue is amply suited to compensation, such that it is not irreparable.[125] To the extent that the Applicants are commercial entities with contractual rights (including those derived from the Convention) to carry out exploration activities in the Area, any prejudice they could hypothetically suffer (quod non) is necessarily revenue-based, and accordingly not of a nature to be treated as irreparable.

D. Consequences of prescribing the provisional measures sought

87. Finally, the Authority does not accept that the provisional measures sought by the Applicants would serve to "*stabilize the dispute*" or "*preserv[e] the status quo*".[126] To the contrary, the provisional measures sought by the Applicants amount to, in essence, an invitation for the SDC to fetter the discretionary compliance mandate of the Authority under the Convention, and heavily circumscribe the conduct of the Authority at Part II of its upcoming 31st session, and potentially future sessions. For the SDC to accept the Applicants' argument would make the Authority's activities and management unworkable. At every stage, in respect of the exercise of discretionary powers, the SDC would in effect be engaged in micro-managing the work of the Authority.

88. The Authority is bound by the terms of Part XI of the Convention, the 1994 Agreement, the applicable rules, regulations, and procedures of the Authority, as well as the relevant contractual agreements. For the reasons set out above, the Applicants have

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[122] *Ibid*., para. 4: **Annex 6**.

[123] Procedures and Criteria for Extension: **Annex 1**.

[124] NORI Request for Provisional Measures, para. 59.

[125] *Delimitation of the Maritime Boundary in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, Provisional Measures,Order of 25 April 2015, ITLOS Reports 2015, p. 146, at p. 163, para. 88.

[126] NORI Request for Provisional Measures, para. 68; TOML Request for Provisional Measures, para. 63.

failed to demonstrate any arguable failure on the part of the Authority to comply with any of these requirements. In these circumstances, the SDC should proceed on the basis that the Authority will continue to act in accordance with all applicable rules, requirements and regulations, as the Authority has repeatedly assured the Applicants.

89. An order preventing the Authority from carrying out its discretionary compliance obligations under the Convention would necessarily prejudice the rights and functions of the Authority, as well as the rights of all UNCLOS Member States who have a legitimate interest in ensuring the effectiveness of Part XI of UNCLOS, and ensuring that activities in the Area are carried out for the benefit of mankind as a whole, within the multilateral framework of the Convention.

VI. WRITTEN STATEMENT OF THE REPUBLIC OF NAOERO "NAURU"

90. The Authority has given careful consideration to Nauru's Statement. Nauru asserts that, from its perspective, the "*central issue*" in these proceedings on provisional measures concerns "*the requirements of due process in the context of the Authority's ongoing inquiry into whether NORI has complied with its contractual obligations.*"[127] While Nauru raises various complaints of its own with respect to alleged acts or omissions of the Authority, the alleged rights invoked by Applicants – *qua* contractors – do not extend to Nauru, *qua* sponsoring State. Nevertheless, and for the purpose of setting the record straight, the Authority avails itself of this initial opportunity to address six matters raised in Nauru's Statement (which was only received shortly before the due date for the submission of this Response, so the Authority reserves the right to make further arguments at the hearing).

91. *First*, Nauru will be aware of the NOAA document referred to in paragraph 12 above and the references therein to NORI. On its face, this raises potential issues that the Authority is bound to address, having regard to Article 137 of the Convention. Yet, strikingly, Nauru passes in complete silence on the matter.

92. *Second*, contrary to Nauru's assertion, it is not "*usual practice*" for the Commission to attend Council meetings.[128] Nauru does not identify any rule or regulation stipulating such attendance. The practice of the Chair and other members of the Commission has varied. In recent years: (i) during Part I of the Authority's annual sessions, the Commission's report has typically been presented by the President of the Council, and the Chair has not attended; (ii) in Part II of such sessions, the Chair of the Commission has typically presented the Commission's Report and answered the Council's questions, facilitating an interactive dialogue. The *LinkedIn* internet post annexed to the Applicants' Requests illustrates exactly this: attendance by the Chair of the Commission during Part II of the Authority's 29th session.[129]

93. *Third*, Nauru is mistaken in its contention that the Commission should have addressed both its and NORI's requests by way of intersessional work. In common with many other treaty bodies, members of the Commission are international experts with competing responsibilities. They are not based in Kingston, such that intersessional work requiring quorate decision-making must be carried out by virtual meetings, spanning a wide range of time-zones.[130] This type of virtual decision making is not a working method for the Commission, outside of the rare exception of the COVID-19 pandemic. The "*informal virtual exchanges*" to which Nauru refers, carried out between the Commission and certain contractors pursuant to ISBA/29/LTC/6 modalities, are not

[127] Written Statement of the Republic of Naoero "Nauru", 23 June 2026 ("**Nauru Statement**"), para. 4.

[128] Nauru Statement, para. 18(b).

[129] NORI Annex 13; TOML Annex 10.

[130] Rules of Procedure of the Legal and Technical Commission, Rules 28 and 44., available at: https://isa.org.jm/wp-content/uploads/2022/06/rop_ltc.pdf (last accessed 25 June 2026).

comparable to the type and extent of intersessional work which would be required to address the Applicants' various requests and queries.[131]

94. *Fourth,* Nauru's complaint that the Commission has not responded to its intervention before the Council on 16 March 2026, reiterated in its letter of 17 April 2026, is premature.[132] As explained above, and in the Authority's correspondence of 13 May 2026 and 26 May 2026, the Commission is not presently in session and is due to address these matters when it meets at Part II of the 31st session, from 29 June to 10 July 2026. As Nauru is aware, the Council has invited the Chair of the Commission to: "*…provide responses to the questions posed by Council Members in respect of the Commission's Report ISBA/31/C/4/Add.1* [i.e. the Addendum] *during the first part of the Council's 31st Session as soon as practicable and to the extent appropriate*…".[133] Similarly, Nauru and NORI's Rule 53(1) and (2) requests require decision making by the Commission in accordance with relevant Rules of Procedure, which provide as follows:

> "[53.1] 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.
>
> [53.2] 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."[134]

95. *Fifth*, the Authority does not understand the basis for Nauru's objection to the Secretary-General's letter of 15 May 2026.[135] As Nauru is aware, the Commission was requested to put specific questions to Nauru by the Council, of which Nauru is a member.[136]

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[131] Report of the Chair of the Legal and Technical Commission on the work of the Commission at the second part of its thirtieth session, ISBA/30/C/4/Add.1, 7 July 2025, para. 8, available at: https://isa.org.jm/wp-content/uploads/2025/07/2511051E.pdf (last accessed 25 June 2026).

[132] Nauru Statement, para. 18(a).

[133] 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/31/C/18, 19 March 2026, para. 7: **Annex 6** (underlining added).

[134] Rules of Procedure of the Legal and Technical Commission, available at: https://isa.org.jm/wp-content/uploads/2022/06/rop_ltc.pdf (last accessed 25 June 2026) (underlining added). See: Nauru Statement, paras. 19-20.

[135] Nauru Annex 2. By letter of 5 June 2026 to the Secretary-General, Nauru stated *inter alia* that it is "*not presently in a position to respond substantively to the questions in your 15 May letter*" on account of various procedural concerns (Nauru, Annex 3). See: Nauru Statement, para. 21.

[136] 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/31/C/18, 19 March 2026, para. 5: **Annex 6**.

96. *Sixth*, the Authority does not accept Nauru's characterisation of the Authority seeking to "*shut* [it] *out*" of the current proceedings.[137] As explained in its letters of 16 and 17 June 2026, the Authority does not consider that sponsoring States have a right under UNCLOS and the ITLOS Rules to address the SDC on applications for provisional measures brought by contractors, which would be contrary to the longstanding practice of international courts and tribunals. Moreover, bearing in mind that these Requests were filed on 30 May 2026, and the SDC held consultations with the Parties on 9 June 2026 to set the timetable for these proceedings, Nauru's belated request to participate in the provisional measures phase has given rise to a more truncated timetable, making it more challenging for the Authority to present its submissions to the SDC.

[137] Nauru Statement, para. 22.

VII. SUBMISSIONS

97. For the reasons set out herein, and for those which will be elaborated upon at the hearing in Hamburg on 2 and 3 July 2026, the Authority respectfully requests the SDC:

a. to reject all of the requests made by NORI and TOML for the prescription of provisional measures; and

b. to order NORI and TOML to bear, in equal share, the Authority's costs of responding to their requests for the prescription of provisional measures and attending the hearings in Hamburg on 2 and 3 July 2026.

Respectfully submitted,

Steven Dietrich

Legal Counsel *ad interim* and Officer-in-Charge of the Office of Legal Affairs of the International Seabed Authority

Agent for the International Seabed Authority

25 June 2026

VIII. CERTIFICATION

Pursuant to Article 63(1) of the Rules of the Tribunal, I hereby certify that the copies of documents annexed to this Response are true copies and conform to the original documents.

Steven Dietrich

Legal Counsel *ad interim* and Officer-in-Charge of the Office of Legal Affairs of the International Seabed Authority

Agent for the International Seabed Authority

25 June 2026

IX. LIST OF ANNEXES

Annex 1 Decision of the Council of the International Seabed Authority relating to the procedures and criteria for the extension of an approved plan of work for exploration pursuant to section 1, paragraph 9, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, ISBA/21/C/19, 23 July 2015.

Annex 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, Issued by the Legal and Technical Commission, ISBA/29/LTC/5, 19 April 2024.

Annex 3 Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission, ISBA/30/C/19, 21 July 2025.

Annex 4 Report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its thirty-first session, ISBA/31/C/4, 6 March 2026.

Annex 5 Addendum to the Report of the Legal and Technical Commission on the implementation of the Council's decision relating to a request for additional information from contractors at risk of non-compliance with their contractual obligations, ISBA/31/C/4/Add.1, 6 March 2026.

Annex 6 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/31/C/18, 19 March 2026.

Annex 7 Letter from NORI to the Secretary-General of the International Seabed Authority dated 31 May 2026.

Annex 8 Letter from TOML to the Secretary-General of the International Seabed Authority dated 31 May 2026.

Annex 9 Letter from the Agent for NORI and TOML to the Secretary-General of the International Seabed Authority dated 19 June 2026.

Annex 10 Letter from the Secretary-General of the International Seabed Authority to the Agent for NORI and TOML dated 22 June 2026.

Annex 11 Letter from the Agent for NORI and TOML to the Secretary-General of the International Seabed Authority dated 23 June 2026.