



## Council

Distr.: General  
13 October 2021

Original: English

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### Twenty-sixth session

Council session, part II

Kingston, 6–10 December 2021\*

Agenda item 12

### Draft regulations for exploitation of mineral resources in the Area

#### **Submission by Costa Rica\*\* in relation to the request made by Nauru pursuant to section 1, paragraph 15, 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**

1. Argentina, the Bahamas, Chile, Costa Rica, Cuba, the Dominican Republic, Guyana, Jamaica, Panama and Trinidad and Tobago, member States of the Latin American and Caribbean Group to the Seabed Authority, have the honour to submit the present document concerning the letter sent by the Government of Nauru on 25 June 2021, through which it notified the Council that Nauru Ocean Resources Inc. – a Nauruan entity, sponsored by Nauru – intended to apply for approval of a plan of work for exploitation.

2. Through its letter, Nauru requested the Council to complete the adoption of rules, regulations and procedures necessary to facilitate the approval of plans of work for exploitation in the Area within a two-years' period, in accordance with section 1, paragraph 15, of the annex to the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.

3. Our countries acknowledge the value and role of the United Nations Convention on the Law of the Sea in ocean governance as the overarching treaty governing access and use of the ocean and its resources. We also extend this recognition to all agreements derived from the Convention, including the 1994 Agreement. Moreover, our countries are committed to the rule of law in ocean affairs and the effective implementation of the Convention.

4. We agree on the importance of working efficiently towards the development of a regime that will provide legal certainty and guarantees to govern exploitation activities in compliance with the requirements of the Convention and the 1994 Agreement. At the same time, we are convinced that the development of robust rules, regulations and procedures, including those addressing environmental issues, must be developed in a coherent and cohesive manner to establish a first-class regulatory framework for present and future generations.

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\* New dates of the in-person meetings originally scheduled for July 2020 and then July 2021.

\*\* On behalf of Argentina, the Bahamas, Chile, Cuba, the Dominican Republic, Guyana, Jamaica, Panama and Trinidad and Tobago.



5. Notwithstanding, our countries are not indifferent to the challenges arising from the global coronavirus disease (COVID-19) pandemic that have hampered the process to agree and adopt the exploitation regulations and guidelines, for which negotiations have been limited, and with no substantial progress.

6. We believe that, because of the importance and technicality of the legal framework for exploitation activities, the Council must negotiate, agree and adopt it at in-person meetings, and not virtually.

7. Owing to the uncertainty surrounding the resumption of in-person meetings, in addition to the fact that no tangible progress has been achieved in the adoption of the regulations and other guidelines for exploitation, our countries are concerned about the obstacles that the COVID-19 pandemic has posed to the negotiations and the completion of this regulatory framework to facilitate the approval of plans of work for exploitation in the Area, as well as other technical, environmental and financial aspects that need to be set up to ensure that exploitation activities are carried out in line with the best available practices, standards and requirements for the protection of the marine environment and the observance of the common heritage of humankind principle, as required under the Convention.

8. In particular, we express our concern regarding the following crucial pending issues that need to be discussed and agreed upon before any plan of work should be considered, and on which delegations are far from reaching an agreement:

- (a) The financial mechanism;
- (b) The benefit sharing mechanism;
- (c) The operationalization of the Enterprise;
- (d) The establishment of regional environmental management plans;
- (e) The rules for inspection, compliance and enforcement;
- (f) The discussion and adoption of the standards and guidelines;
- (g) The revision of the draft regulations of March 2019, to include the comments and proposals of stakeholders;
- (h) The adoption of a geographically balanced process for the election of the members of the Legal and Technical Commission, without which the new members cannot be elected.

9. For our countries, it is paramount that an adequate and effective regulatory framework be completed before the commencement of exploitation activities, to ensure compliance with the relevant provisions of the Convention and the 1994 Agreement.

10. We respectfully request the Bureau of the Council to include this matter for discussion and consideration by the members of the Council, with the assistance of the Secretariat, so that they may explore alternative ways that will allow progress in the discussions about the exploitation regulations and other regulatory instruments in the absence of the resumption of in-person meetings. In addition, consideration must be given to the reality that the Council might not be able to conclude the development and adoption of the required rules, regulations and procedures within the two-year period provided for in section 1, paragraph 15, of the annex to the 1994 Agreement.

11. Our countries acknowledge the proposed road map proposed by the Secretary-General for 2022 and 2023 (ISBA/26/C/44), which needs to be revised and approved by the Council at the next in-person meeting to ensure that the Council can meticulously discuss and adopt a robust, comprehensive and holistic regulatory framework before the beginning of any mining operation.

12. Lastly, we reiterate our commitment to the full implementation of the Convention and the work of International Seabed Authority.

13. Our countries request that the present letter be issued as a document of the twenty-sixth session of the Council, under agenda item 12, and made available in all official languages of the Authority.

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