



Assembly

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English only

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Item 21 of the provisional agenda*

Other matters

Provisional Measures Orders prescribed by the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea on 18 July 2026 in Cases No. 34 and 35

Note by the secretariat

I. Introduction

1. On 30 May 2026, Nauru Ocean Resources Inc. (NORI) and by Tonga Offshore Mining Limited (TOML) ('the applicants') instituted proceedings against the International Seabed Authority under article 187 (c) (i) and (ii) of the United Nations Convention on the Law of the Sea. Each application was accompanied by a request for provisional measures under article 290, paragraph 1, of the Convention.
2. The two cases were then entered into the list of cases of the Tribunal as case 34 concerning an inquiry by the Authority (Nauru Ocean Resources Inc. vs. International Seabed Authority) and case 35 concerning an inquiry by the Authority (Tonga Offshore Mining Ltd. vs. International Seabed Authority). The Authority was officially served with the applications on 5 June 2026.
3. By notes verbales dated 5 June 2026, the Secretary-General of the International Seabed Authority notified members of the Authority of the initiation of proceedings by the applicants against the Authority before the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea.
4. This note is prepared to provide an update of the status of the ongoing proceedings since this notification up to 24 July 2026.
5. Bearing in mind that the proceedings instituted by NORI and TOML remain pending before the Chamber, the present note refers solely to publicly available information and does not address matters pertaining to the merits of the proceedings or any legally privileged information.

* ISBA/31/A/L.1/Rev.1

II. Background

6. The factual and procedural background to the proceedings is stated in the Orders and this is not repeated in this note.

7. In the application for provisional measures, the applicants requested of the Tribunal the following provisional measures: (a) To order the Authority to immediately suspend the inquiry regarding the alleged “possible non-compliance” of the applicants with their contractual obligations, pending the final decision of the Chamber; (b) To 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) To order the Authority to ensure that no recommendations, findings, reports or other outputs arising from the Commission’s inquiry are adopted, issued, published, communicated or otherwise relied upon pending the final decision of the Chamber; (d) To 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; (e) To order such other provisional measures as the Chamber considers necessary to preserve the applicants’ rights and to ensure the effectiveness of its eventual decision.

8. NORI additionally requested, pending the final decision of the Chamber, to prohibit the Authority from taking any step or adopting any position, including through the Commission, that would have the effect of prejudging, refusing or otherwise adversely affecting the application by NORI dated 19 January 2026 for an extension of its contract for exploration, insofar as such action is based on or influenced by the ongoing inquiry.¹

9. On 25 June, the Authority filed its written statement in response to the requests for provisional measures submitted by the applicants.²

10. Upon request of the Applicants, on 29 June 2026 the President of the Chamber called upon the Authority and the Applicants (together: the Parties) – pursuant to article 90, paragraph 4, of the Rules of the International Tribunal for the Law of the Sea – not to act in any way that could hinder any order that the Chamber may make on the request for provisional measures.³ The Chamber has elected to maintain this direction pending its determination of the requests.

11. On the same date, the Legal and Technical Commission started the two-week meetings of the second part of its session. The Report of the Chair of the Legal and Technical Commission on the work of the Commission during the second part of the thirty-first session describes the conduct of its work in light of the President’s direction pursuant to article 90, paragraph 4.⁴

12. On 2 and 3 July 2026, the Chamber held hearings on the Applications for Provisional Measures. Naoero as a sponsoring State participated in the hearings and delivered a statement on 2 July.⁵ By order dated 24 June,⁶ the delegation was allowed to present a written statement on the merits of the case.

13. At the closing of the hearings, the President of the Chamber indicated that the Chamber would deliver its order on the request for provisional measures on 18 July.

¹ See www.itlos.org/fileadmin/itlos/documents/cases/34/2026.05.30_Nauru_Ocean_Resources_Inc._-_Provisional_Measures_Application_92502114.1_.pdf.

² See www.itlos.org/fileadmin/itlos/documents/cases/34/Provisional_Measures/ISA_Response_25.06.2026.pdf and www.itlos.org/fileadmin/itlos/documents/cases/35/2026.05.30_Tonga_Offshore_Mining_Ltd._-_Provisional_Measures_Application_92502117.1_.pdf.

³ https://www.itlos.org/fileadmin/itlos/documents/cases/34/Provisional_Measures/verbatim_records_34_and_35-ITLOS_PV26_C34-35_4_E.pdf.

⁴ ISBA/31/C/4/Add.2.

⁵ See www.itlos.org/fileadmin/itlos/documents/cases/34/Provisional_Measures/verbatim_records_34_and_35-ITLOS_PV26_C34-35_2_E.pdf.

⁶ See www.itlos.org/fileadmin/itlos/documents/cases/34/C34_Order_24.06.2026-6.pdf

14. On 18 July 2026, the Chamber made two orders prescribing provisional measures (Provisional Measures Orders) in the proceedings initiated by the Applicants.⁷

III. Provisional measures prescribed by the Chamber in its Orders

15. Following the final submissions of the Parties, on 18 July 2026, the Chamber unanimously prescribed the following provisional measures:

a) The Authority shall act in accordance with the relevant legal framework, including rules of due process, in the procedure for the inquiry mandated by the Council under paragraphs 9 and 10 of the 2025 Council Decision [ISBA/30/C/19];⁸

b) In particular, the Authority shall clarify or provide to [the Applicants] the relevant information concerning the procedures for the implementation of paragraphs 9 and 10 of the 2025 Council Decision [ISBA/30/C/19] and the questions posed to [the Applicants] so as to enable [the Applicants], engaging in a constructive manner with the Authority, to respond meaningfully to the questions and within a reasonable period of time; and

c) The Parties shall cooperate and refrain from any action that might lead to aggravating the dispute;

d) Decides that [the Applicants] and the Authority shall each submit to the Chamber the initial report referred to in paragraph 214 on compliance with any provisional measure prescribed not later than 31 August 2026, and authorizes the President of the Chamber, after that date, to request such information from the Parties as he may consider appropriate.

e) Each Party shall bear its own costs for the present proceedings.

16. In addition, the Chamber stressed that its Provisional Measures Orders are without prejudice to, and in no way prejudice, its final determination concerning the Chamber's jurisdiction to deal with the merits of the Applicants' claims, the admissibility of the claims, or the merits themselves.

17. The Orders request an initial report on the compliance of the prescribed provisional measures by 31 August 2026.

18. On 24 July 2026, the Council adopted by consensus its decision on implementation of the reports of the Chair of the Legal and Technical Commission (see ISBA/31/C/34) which refers to the Orders.

IV. Recommendation

19. Bearing in mind that proceedings are ongoing, the Assembly is invited to take note of this note.

⁷ https://www.itlos.org/fileadmin/itlos/documents/cases/34/Provisional_Measures/Order_180726/C34_Order_18.07.2026_orig.pdf and https://www.itlos.org/fileadmin/itlos/documents/cases/35/Provisional_Measures/Order_180726/C35_Order_18.07.2026_orig.pdf.

⁸ The Provisional Measures Order made in NORI's case includes the same requirement with respect to NORI's application for extension of its exploration contract. On 20 July 2026, acting on recommendation of the Legal and Technical Commission (see ISBA/31/C/26), the Council approved the five-year extension of the Contract for exploration for polymetallic nodules between NORI and the Authority.