

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



STATEMENT BY

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REGISTRAR

OF THE

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

ON

BUDGETARY AND FINANCIAL MATTERS OF THE TRIBUNAL

TO

THE THIRTY-FOURTH MEETING OF STATES PARTIES TO THE

UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

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Mr President,

I am honoured to have this opportunity to present to the Meeting of States Parties four documents relating to budgetary and financial matters submitted by the Tribunal under agenda item 11. Advance, unedited versions of these documents were posted on the ITLOS website on 17 April 2024.

I. Draft budget proposals of the International Tribunal for the Law of the Sea for the budget period 2025-2026 (SPLOS/34/6)

1. I will begin with the Draft budget proposals of the Tribunal for 2025-2026 contained in document SPLOS/34/6. The overall budget proposed for the next biennium amounts to €26,728,400, which represents an increase of €3,284,500 compared with the approved budget for the years 2023-2024 (see Annex I). This overall increase is the result of a combination of increases and decreases in the three parts of the budget, which I will address in the following order: Part C “Case-related costs”, Part A “Recurrent expenditure” and Part B “Non-recurrent expenditure”.

Case-related costs (Part C)

2. The estimates under Part C “Case-related costs” are based on the expected judicial workload of the Tribunal during the budget period in question. Thus, provisions under “Case-related costs” are intended to enable the Tribunal to deal with pending cases and, in addition, as required by the Convention, with any urgent proceedings which could be submitted to it in the budget period concerned.

3. The estimated number of days of judicial meetings has a direct impact on the Judges’ remuneration and the budget. As you may be aware, two thirds of the Judges’ remuneration – consisting of a special allowance (for days of meetings and preparatory work) and a daily subsistence allowance or “DSA” (for each day spent in Hamburg) – is calculated on the basis of the number of days of meetings of the Tribunal. An additional factor impacting this part of the budget is the recruitment of temporary staff required for hearings and judicial deliberations.

4. Accordingly, an amount of €2,965,900 is envisaged under Part C “Case-related costs” for 2025-2026, which represents an increase of €575,800 compared with the previous budget. It should be noted that in June 2023 the Meeting authorized the Tribunal to use up to €1,241,200 from the 2021-2022 cash surplus to finance the expenses related to Case No. 31 (*Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*) that exceed the approved budget for 2023-2024. Taking into account the 2023-2024 budget and the supplementary budget for Case No. 31, the amount of €2,965,900 represents a decrease of €665,400 in Part C.

5. The proposed amount includes provisions (€1,134,900, see Annex VIII) to deal with an entire case on the merits, namely Case No. 32 submitted to a Special Chamber of the Tribunal (*The M/T “Heroic Idun” (No. 2) Case (Marshall Islands/Equatorial Guinea)*).

6. As in previous budgets, the 2025-2026 budget proposals also envisage the possibility of two urgent cases being submitted to the Tribunal (see Annex VII). The amount proposed in this regard (€1,831,000) is slightly higher (€163,200) than the previous budget because of factors beyond the control of the Tribunal, in particular the increase in the DSA for Hamburg from €319 to €325, the increase in the exchange rate of the dollar to the euro and the revised post adjustment multiplier for Hamburg.

7. As has been its practice, the Tribunal will make its best efforts to optimize efficiency and reduce costs while handling cases. The administrative sessions of the Tribunal will be arranged so that they are held in conjunction with judicial meetings, thereby reducing Judges’ travel costs.

Recurrent expenditure (Part A)

8. Turning to Part A “Recurrent expenditure”, I wish to underline that this part of the draft budget generally follows an overall zero-growth approach. As regards the Registry, it may be noted that since the budget period 2015-2016 the number of staff

members has remained at 38. I would like to point out, however, that the recent increase in the Tribunal's judicial work has led to a substantial increase in the Registry's workload, in particular of its Linguistic Services, a department whose work is essential for the efficient discharge of the Tribunal's core functions. Since 2003, the overall workload of Linguistic Services has grown considerably and it is apparent from the workload of the two French-language translators in the Registry that there is an overwhelming demand for translation of documents from English into French which the current staff is no longer able to absorb. Thus, for the reasons mentioned in paragraphs 27 to 29 of the document, it is proposed that a new post of French language Translator/Reviser (P-4) be included in the budget for 2025-2026. The budgetary increase necessitated by the new position under the budget line "Established posts" would amount to €195,900 for two years.

9. In addition to the new position, changes beyond the control of the Tribunal in the standard parameters used to prepare the budget proposals had to be taken into account. This concerns, in particular, the rise in the DSA rate for Hamburg – as already indicated – from €319 (in March 2022) to €325 (in March 2024), the revisions by the International Civil Service Commission (ICSC) of the post adjustment multiplier applicable to Hamburg on three occasions (February 2023, July 2023 and February 2024) and the rise in the exchange rate of the US dollar to the euro. In particular, the revisions of the post adjustment for Hamburg have resulted in increases in Section 1 "Judges" and Section 3 "Staff costs". Additional factors also contribute to the increase, namely changes in the number of pensioners, higher operating expenditure and the high level of inflation in Germany over the past two years. I will now indicate the specific reasons for this increase in relation to the various sections of Part A.

Judges

10. In Section 1 "Judges", an increase of €1,038,300 is envisaged.

11. Under this section, the budget line "Annual allowances" includes an amount of €4,559,000, which represents an increase of €888,600 compared with the 2023-2024 budget. This increase is the result of the combined effect of the several

revisions in the post adjustment multiplier for Hamburg and the revision of the Judges' remuneration to US\$ 191,263, effective 1 January 2023.

12. As to the budget line "Special allowances", the proposed amount is €1,078,000, which shows an increase of €106,000 compared with the previous budget. This is again due to the adjustments I have just mentioned, together with the increase in the DSA rate for Hamburg.

13. An increase of €37,200 is envisaged under the budget line "Travel to sessions" compared with the budget for 2023-2024. This reflects the sharp increase in international airfares over the past 24 months and represents a new development. It should be noted that in previous budget periods there have been only moderate increases in this budget line.

Judges' pension scheme

14. Section 2 "Judges' pension scheme" proposes an amount of €2,617,800.

15. Under this section, the budget line "Pension in payment" includes a provision of €2,533,600, which is €497,200 higher than the appropriation approved for 2023-2024. This change is based on the higher number of Judges and surviving spouses receiving a pension payment; there are currently 16 former judges and 11 surviving spouses.

16. In addition, the budget line "Pension for retiring judges" envisages a provision of €84,200 for seven Judges whose terms of office will expire on 30 September 2026. This amount is €423,900 lower than the previous budget because that budget included pension payments for seven Judges for a 15-month period, while in the current 2025-2026 budget proposals such pension is provided for a 3-month period.

17. Taking these changes into account, the Section "Judges' pension scheme" shows an overall increase of €73,300 compared with the previous budget.

Staff costs

18. With regard to Section 3 “staff costs”, as I mentioned earlier, the number of members of staff in the Registry has remained at 38 since 2015 but, for the reasons already explained, a proposal for a new P-4 French Translator/Reviser has been included. As in previous budgets, the Tribunal’s budgetary estimates relating to established posts are based on standard costs issued by the Office of Programme Planning, Budget and Finance of the United Nations. However, the standard costs have increased over the past two years because of the higher post adjustment multiplier for Hamburg and the increased salaries for General Service staff. On that basis, an amount of €6,842,300 is proposed for the budget lines “Established posts” and “Staff assessment” in 2025-2026. This represents an increase of €777,900 compared with the amount approved for 2023-2024.

19. The budget line “Common staff costs” envisages a provision of €2,641,300, which represents an increase of €325,100 compared with the amount approved for 2023-2024. As in the past, estimates have been prepared on the basis of actual requirements. However, there has been an increase in contributions to the United Nations Joint Staff Pension Fund following the revision of the pensionable remuneration for Professional and General Service staff. The slightly higher exchange rate between the euro and the dollar which applies to staff entitlements based on the dollar (such as contributions to the pension fund, the medical insurance plan and after-service health insurance) and the entitlements related to the new P-4 post also add to the increase.

20. On the basis of the performance during the budget period 2021-2022 and during the year 2023, it is proposed that the amounts for the budget lines “General temporary assistance” and “Training” be reduced by €20,000 in total.

21. Taking these increases and decreases into account, the Section “Staff costs” shows an overall increase of €1,098,600 compared with the previous budget.

Official travel

22. Following the travel restrictions during the pandemic, many meetings continue to be organized online. A decrease by €10,000 to a total of €175,000 is therefore proposed for Section 5 “Official travel”, despite higher international airfares and accommodation costs.

Operating expenditure and Library costs

23. Under Section 7 “Operating expenditure”, the proposal shows an increase of €483,800 compared with the 2023-2024 budget. It should be noted in this regard that prices in Germany have risen significantly over the past two years, which obviously has an impact on this section of the Tribunal’s budget. The average rate of inflation over the past 24 months has been 6.83%, which is higher than any of the average inflation rates used in previous budgets of the Tribunal. This increase mainly concerns the budget lines to which I will now refer.

24. For the budget line “Maintenance of premises including security”, the proposed total provision of €3,347,300 represents an increase of €477,700, which is due to the following factors: (i) the expected increase in the rates for the renewal of the facility management contract and the security services contract, which is to take place in 2025; (ii) increased labour costs over the past five years and the high level of inflation in Germany over the past two years; (iii) the high level of energy prices for gas and electricity; and (iv) the increase in maintenance fees for technical equipment in the building, in particular the maintenance costs for the new courtroom.

25. Turning to the budget line “Rental and maintenance of equipment”, I would like to point out that the annual maintenance fees for many software applications used by the Tribunal have increased over the years. In addition, rental and leasing fees are also higher. On this basis, the amount proposed for this budget line has been adjusted by inflation and amounts to €460,500, an increase of €41,000 compared with the previous budget.

26. In the 2023-2024 budget, the budget line “Miscellaneous services and charges (incl. bank charges)” included a provision for interest bank charges on cash deposits. Because banks stopped this practice in July 2022, the budget line shows a decrease of €58,000 in comparison with the previous budget.

27. The Meeting of States Parties will appoint the auditor for the financial periods 2025-2028. As I will explain in a moment, the Tribunal has received three quotations in this regard. The budget line “Special services (external audit)” includes an amount of €24,200, which equates to the lowest quotation received. This amount will be adjusted in accordance with the decision taken by the Meeting.

28. The budget line “External printing and binding” envisages a provision of €102,000, which represents an increase of €13,700 compared with the appropriation approved for 2023-2024. This is the result of price increases for external printing and related services.

Non-recurrent expenditure (Part B)

29. With regard to Part B (“Non-recurrent expenditure”), the inflation rate I mentioned earlier has been applied to the budget line “Purchase of equipment”, resulting in an increase of €10,700.

Mr President,

30. As already indicated, taking into account the proposed increases (€3,796,400) and decreases (-€511,900), an overall increase of €3,284,500 is envisaged for the budget period 2025-2026. I would like to emphasize that the overall increase is caused mainly by the higher remuneration costs of Judges and staff, the high level of inflation and the increased workload of the Tribunal, all factors that are beyond the control of the Tribunal. It may be noted in this regard that the 2021-2022 cash surplus will be surrendered and deducted from the 2025 contributions of States Parties.

II. Report on budgetary matters for the financial period 2023 (SPLOS/34/3)

31. Mr President, I would now like to turn to document SPLOS/34/3.

Provisional budget performance report for 2023

32. The provisional budget performance report contained in this document concerns the year 2023, the first year of the 2023-2024 budget period. As shown in the report (see Annex I), the expenditure levels for the different parts of the budget for the period are as follows:

- Part A, Recurrent expenditure: €10,313,892, or 98.74 per cent of the approved amount (€131,908 savings);
- Part B, Non-recurrent expenditure: €45,334, or 55.90 per cent of the approved amount (€35,766 savings);
- Part C, Case-related costs: €1,433,712, or 114.44 per cent of the approved amount (€238,662 overexpenditure). This overexpenditure will be financed by the supplementary budget approved by the Meeting in June 2023 to cover the costs of Case No. 31. It may be recalled that the Meeting authorized the Tribunal to use up to €1,241,200 from the 2021-2022 cash surplus to finance the expenses related to this case. Half of the approved additional amount (€620,600) was allocated to the year 2023.

33. I would like to briefly discuss certain sections of the 2023 budget performance report, starting with the case-related part of the budget.

34. A provision in the amount of €2,390,100 was approved for the 2023-2024 budget under “Case-related costs”, which included appropriations to cover part of the costs relating to Case No. 28. In respect of this case, an amount of €305,323 was spent in 2023 against the case-related budget of the Tribunal. In addition in 2023, an amount of €1,111,509 was spent for Case No. 31 and charged against the same part of the budget. The extent to which the supplementary budget will be used to cover the costs of Case No. 31 will depend on the level of expenditure for urgent proceedings in 2024.

35. I now turn to Part A of the budget, “Recurrent expenditure”.

36. After the 2023-2024 budget was approved in June 2022, the post adjustment multiplier for Hamburg was revised by the ICSC on three occasions, as was explained earlier. In relation to Section 1, “Judges”, these revisions – which represent a total increase of 19.8 per cent compared with January 2023 – have led to successive increases in the judges’ remuneration, resulting in an additional expenditure of approximately €198,000 in 2023. Moreover, Case No. 31 was dealt with by the Tribunal in its composition of September 2023 and, as a consequence, from October 2023 until the end of Case No. 31 in May 2024, annual allowances were paid to 21 judges and an additional six judges whose terms of office had started in October 2023. For 2023, this resulted in an additional expenditure of approximately €137,000. Total overexpenditure for 2023 in the budget lines “Annual allowances” and “Special allowances” amounts to €337,099 and €17,413, respectively.

37. The budget line “Travel to sessions” shows an overexpenditure of €43,303 at the end of 2023. This is mainly due to the recent sharp increase in international airline tickets, which have risen by more than 22 per cent in the past two years. In addition, and as a result of the elections in 2023, 26 instead of the usual 20 judges travelled to Hamburg for the Tribunal’s Fifty-sixth Session in September 2023.

38. On the other hand, six judges, whose terms of office had expired at the end of September 2023, continued to sit in Case No. 31 pursuant to article 17 of the Rules of the Tribunal. Therefore, the initial pension payments to these six judges were suspended, which resulted in savings in the amount of €290,352 for 2023 under Section 2, “Judges’ pension scheme”. Furthermore, the former President, whose term of office expired at the end of September 2023, continues to sit in Case No. 32 pursuant to article 30 of the Rules.

39. Regarding Section 3, “Staff costs”, the net pay of the salaries of staff in the Professional and higher categories has increased as a result of the various revisions of the post adjustment multiplier applicable to Hamburg. In addition, the salary scales

for staff in the General Service category were revised by the UN in March 2023. The pensionable remuneration for staff in the Professional and higher categories was also revised by the UN on three occasions (February 2023, January 2024 and February 2024), resulting in an increase in contributions to the United Nations Joint Staff Pension Fund.

40. As a consequence, and despite vacant positions in the Registry in 2023, the budget lines “Established posts” and “Common staff costs” were overspent by €42,998 and €39,454, respectively, at the end of 2023. It should be noted, however, that this overexpenditure could be compensated by transfers within Section 3, “Staff costs”, which shows a balance of €8,467 at the end of 2023.

41. The Registry has made efforts to keep expenditure at low levels in the following sections: Section 5, “Official travel”; Section 7, “Operating expenditure”; and Section 9, “Purchase of equipment”. These efforts resulted in savings of €32,354, €183,184 and €35,766, respectively, at the end of 2023. The Registry will try to achieve further savings in these sections. The aforementioned savings achieved in 2023 in the total amount of €251,306 will be used to absorb part of the expected overexpenditure in Section 1, “Judges”, and Section 3, “Staff costs”.

Projected performance for the budget period 2023-2024

42. Although the increases I have just mentioned did not result in overexpenditure with regard to the year 2023, they will have an impact on the 2024 budget performance.

43. Thus, an overexpenditure of up to €1,543,000 is expected at the end of the budget period 2023-2024 in the budget lines “Annual allowances” (€907,000), “Special allowances” (€93,000), “Travel to sessions” (€51,000), “Established posts” (€413,000) and “Common staff costs” (€79,000). At the same time, savings of €420,000 in the budget line “Judges’ pension scheme” are also expected. In addition, the Registry will continue its efforts in 2024 to achieve savings at a similar level as in 2023 in the following sections: Section 5, “Official travel”; Section 7,

“Operating expenditure”; and Section 9, “Purchase of equipment”. These savings would then total approximately €251,000.

44. In order to meet the Tribunal's budgetary requirements for 2023-2024, it is therefore proposed that up to €872,000 from the 2021-2022 cash surplus be used to finance the aforementioned projected overexpenditure.

Report on action taken pursuant to the Financial Regulations and Rules of the Tribunal (see regulations 6.5 and 9.1 of the Financial Regulations and Rules)

45. There are five items under this heading: investment of funds of the Tribunal; cash surplus from the financial period 2021-2022; ITLOS trust fund; the Nippon Foundation trust fund; and the Republic of Korea trust fund. Information on these items can be found in paragraphs 17-34 of document SPLOS/34/3. However, I would like to speak briefly about the 2021-2022 cash surplus.

46. The cash surplus for the budget period 2021-2022 stood at €4,166,064 as at 31 December 2023. The cash surplus, as reflected in paragraph 21 of the document, was reviewed by the external auditor in February 2024.

47. As mentioned earlier, the Meeting authorized a supplementary budget authorizing the Tribunal to use part of the cash surplus from the 2021-2022 budget in the amount of up to €1,241,200 to cover part of the estimated costs relating to Case No. 31. In addition, it is proposed that an amount of up to €872,000 from the 2021-2022 cash surplus be used to finance the expected overexpenditure in relation to the 2023-2024 budget. The remainder of the cash surplus, €2,052,864, will be surrendered and deducted from the contributions of States Parties for 2025 and for earlier periods, where applicable, in accordance with regulation 4.5 of the Financial Regulations and Rules of the Tribunal and subject to the authorization of the Meeting of States Parties. Any unused balance from the supplementary budget and from the amount to cover the expected overexpenditure will be surrendered to States Parties.

III. Report of the external auditor for the financial period 2023 (SPLOS/34/4)

48. The financial statements of the Tribunal for the financial period 2023 were audited, and the report of the external auditor was examined by the Tribunal at its March session. The Tribunal has decided to submit the document, as contained in SPLOS/34/4, to this Meeting.

49. I am pleased to inform you that, in the report, the auditor expressed the opinion that *“on the basis of the knowledge obtained in the audit, the accompanying financial statements gave a true and fair view of the Tribunal’s assets, liabilities and financial position as at 31 December 2023 and of its financial performance for the period from 1 January to 31 December 2023 in accordance with the International Public Sector Accounting Standards.”*

IV. Appointment of auditor for the financial periods 2025-2028 (SPLOS/34/5)

Mr President,

50. A new auditor for the financial periods 2025-2028 is to be appointed by the Meeting pursuant to regulation 12.1 of the Financial Regulations and Rules. Document SPLOS/34/5 has been prepared in this regard.

51. In order to enable the Tribunal to make proposals regarding the appointment of an auditor, the Registry sent a note verbale to States Parties in October 2023, inviting them to express their interest in submitting a proposal for the audit of the Tribunal’s accounts for the financial periods 2025-2028. Two States Parties, namely, the Republic of Indonesia and the Islamic Republic of Pakistan, expressed their interest.

52. In addition, seven internationally recognized firms of auditors with offices in Germany and two German audit firms were contacted by the Registry in November 2023. In the end, three quotations were received – as listed in SPLOS/34/5 – which were all considered to have met the necessary requirements. This document also contains a list of all the auditors appointed since 1996.

53. The budget proposals include only the lowest of the three offers. The amount that will actually be included in the budget proposal will be adjusted in line with the decision of this Meeting.

54. This concludes my presentation of the documents submitted to the Meeting of States Parties under agenda item 11. I will be happy to answer any questions relating to them. I thank you for your attention.