

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



STATEMENT BY  
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OF THE  
INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA  
ON  
BUDGETARY AND FINANCIAL MATTERS OF THE TRIBUNAL  
TO  
THE THIRTY-THIRD MEETING OF STATES PARTIES TO THE  
UNITED NATIONS CONVENTION ON THE LAW OF THE SEA  
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CHECK AGAINST DELIVERY

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Mr President,

I am grateful for this opportunity to present to the Meeting of States Parties three documents relating to budgetary and financial matters submitted by the Tribunal under agenda item 11.<sup>1</sup>

### **Draft supplementary budget proposals of the International Tribunal for the Law of the Sea for the budget period 2023–2024**

1. I will first address the Draft supplementary budget proposals of the International Tribunal for the Law of the Sea for 2023–2024, which are contained in document SPLOS/33/9.
  
2. It may be recalled that, in June 2022, the thirty-second Meeting of States Parties approved the budget of the Tribunal for the period 2023–2024 (SPLOS/32/12) in the total amount of €23,443,900. In this budget, the States Parties approved the sum of €2,390,100 for part C, Case-related costs. This sum was to provide for the costs of the second part of the meetings to deal with Case No. 28, a dispute concerning delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives), submitted to a Special Chamber of the Tribunal, and for the costs of two urgent cases (see SPLOS/32/5, para. 16).
  
3. However, on 12 December 2022, the Tribunal received a request from the Commission of Small Island States on Climate Change and International Law to render an advisory opinion, and the request was entered in the list of cases of the Tribunal as Case No. 31. As Case No. 31 was filed after the budget for 2023–2024 had been approved, no provision for the costs of that case was included in part C of the 2023–2024 budget.
  
4. As a consequence, and in accordance with rule 103.4 (b) of the Financial

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<sup>1</sup> Draft supplementary budget proposals of the International Tribunal for the Law of the Sea for the budget period 2023–2024 (SPLOS/33/9); Report on budgetary matters for the financial periods 2021 and 2022 (SPLOS/33/3); Report of the external auditor for the financial period 2022 (SPLOS/33/4).

Regulations and Rules of the Tribunal, draft supplementary budget proposals were prepared and have been submitted to the Meeting of States Parties. Please note that all meetings relating to Case No. 31, including the hearing, are scheduled to take place during the 2023–2024 budget period, and the advisory opinion is expected to be rendered in 2024. Therefore, the supplementary budget proposals are being submitted in June 2023, to the present thirty-third Meeting of States Parties, under rule 103.4 (a) of the Financial Regulations and Rules of the Tribunal.

5. The supplementary budget has been prepared in euros and, as required by financial regulation 3.6, in a form consistent with the approved budget. This supplementary budget was considered and approved by the Tribunal during its session held from 20 to 31 March 2023, in accordance with the Tribunal's Financial Regulations and Rules. It proposes a total of €2,484,900 to cover the costs of Case No. 31.

6. Allow me to provide the Meeting with further details on the proposals which are before you.

7. First, as for cases on the merits in previous budget proposals, the budget estimates for Case No. 31 are based on the Tribunal's judicial work programme and calculated using a specific number of days of meetings for the various steps in the proceedings (initial deliberations: 2 days; oral proceedings: 9 days; deliberations: 41 days; meeting of the Drafting Committee: 28 days).

8. Second, the supplementary budget relates to section 12 (Judges) and section 13 (Staff costs) of part C (Case-related costs) of the Tribunal's budget (see annex). The apportionment of the budget estimates for Case No. 31 in the amount of €2,484,900 is as follows:

- In Section 12, an amount of €1,694,600 is envisaged to cover special and subsistence allowances of judges of the Tribunal including special allowance for preparatory work.

- An amount of €196,300 is to finance the travel costs of judges for Case No. 31. I wish to underline in this regard that, as usual, the Tribunal intends to organize its judicial deliberations in Case No. 31, to the extent possible, in conjunction with its administrative sessions in 2023 and 2024, so as to reduce travel costs.

- A separate provision of €571,500 is made to cover the costs for the recruitment of temporary assistance, such as interpreters, verbatim reporters, translators and courtroom technology operators for meetings, including the hearing and judicial deliberations;

- In line with previous budget proposals, an amount of €22,500 is proposed to cover overtime during Case No. 31.

9. Let me turn now to the Tribunal's proposals to finance the supplementary budget.

10. As previously mentioned, Part C (Case-related costs) of the approved 2023–2024 budget provides for the amount of €1,667,400 for two urgent cases and the amount of €722,700 for the second part of the deliberations in Case No. 28. The Special Chamber dealing with Case No. 28 completed its deliberations in April 2023 and the judgment in that case was read on 28 April 2023. As the number of meetings of the Special Chamber was lower than initially anticipated when the budget was drafted, some savings from Case No. 28 were achieved in respect of the 2023–2024 budget. Such savings amount to €410,000 – slightly revised from the sum indicated in document SPLOS/33/9 – and could be used to finance a portion of the costs of Case No. 31.

11. It is also proposed that the provision for one urgent case (€833,700) in the 2023–2024 budget likewise be used to finance a portion of the costs of Case No. 31. This approach would leave the further provision for a second urgent case in that budget until the end of the 2023–2024 budget period. Should two urgent cases be filed within the budget period ending in December 2024, the Working Capital Fund would be used to finance the second case.

12. It is proposed that the remaining costs of Case No. 31, in the amount of €1,241,200 (= €2,484,900–€410,000–€833,700) – slightly revised from the sum indicated in document SPLOS/33/9 – be financed from the 2021–2022 cash surplus. The sum total of this surplus will be determined on 31 December 2023 and is expected to provide sufficient funds. It may be noted that the provisional cash surplus, as determined on 31 December 2022 in accordance with financial regulation 4.4,<sup>2</sup> amounts to €3,405,652.

13. I should like to conclude this introduction to the 2023–2024 supplementary budget by specifying that any savings from this supplementary budget will be surrendered to States Parties along with any 2023–2024 cash surplus.

### **Report on budgetary matters for the financial periods 2021 and 2022**

14. Mr President, this leads me to document SPLOS/33/3, which provides information to the States Parties as required under the Financial Regulations of the Tribunal. I will briefly present this document to you.

### ***Budget performance report for 2021–2022***

15. In relation to the budget performance report for 2021–2022 which is annexed to document SPLOS/33/3, it may be recalled that the thirtieth Meeting of States Parties approved a budgetary amount of €24,155,000 for the period 2021–2022. Total expenditure for that period stands at €19,744,120, representing 81.74 per cent of total appropriations. It should be noted that the budget was drafted and approved on a cash basis and that the performance is also cash-based.

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<sup>2</sup> The provisional cash surplus for the budget period shall be determined by establishing the balance between credits (assessed contributions actually received for the budget period and other/miscellaneous revenue received during the budget period) and charges (all disbursements against the appropriations for that budget period and provisions for commitments for that budget period).

16. I would like to touch briefly on some sections of the budget performance for the budget period 2021–2022. Part C of that budget (Case-related costs) provided appropriations for part of the meetings to deal with Case No. 28, for the meetings to deal with Case No. 29, and for two urgent cases. In relation to the Tribunal's judicial work,

- in 2022, the hearing and part of the deliberations relating to Case No. 28 were held. The Special Chamber continued to deal with Case No. 28 in 2023, while funds for those meetings were approved in the 2023–2024 budget, as stated earlier;

- at the request of the parties to the case, Case No. 29 was removed from the Tribunal's list of cases by Order of the President of the Tribunal of 29 December 2021, and therefore no meetings on Case No. 29 were held in 2021 or in 2022;

- one urgent proceeding was submitted to the Tribunal in 2022, namely, Case No. 30 (*The M/T "Heroic Idun" Case (Marshall Islands v. Equatorial Guinea), Prompt Release*). Pursuant to article 106, paragraph 1, of the Rules of the Tribunal, this case was removed from the Tribunal's list of cases by Order of the President of the Tribunal of 15 November 2022. No meetings on Case No. 30 were therefore held.

17. Accordingly, expenditure against Part C (Case-related budget) of the 2021–2022 budget mainly concerned Case No. 28. The unused balance stands at €3,787,884 and will be surrendered in January 2025 to the States Parties with the cash surplus from the 2021–2022 budget period.

18. I now turn to the budget performance of section 1, Judges, of the 2021–2022 budget, in which the budget line "Annual allowances" shows a negative balance of €47,222 at the end of the budget period. The overexpenditure is mainly due to the revision of the post adjustment multiplier for Hamburg, Germany, in February 2022, resulting in an increase in net remuneration of approximately 3.9 per cent. Because of the COVID-19 pandemic, some judges were unable travel to Hamburg to attend

the sessions of the Tribunal and therefore were not paid daily subsistence allowance. As a consequence, the budget performance shows underexpenditure under the budget lines “Special allowances” (€50,656) and “Travel to sessions” (€59,048). Furthermore, the budget line “Common costs” shows an underexpenditure of €66,698, mainly because there were no education grant claims from the President during 2021 or 2022. The overexpenditure in the budget line “Annual allowances” in the amount of €47,222 can therefore be absorbed by transfer of appropriations within section 1, in accordance with rule 104.3 of the Financial Regulations and Rules of the Tribunal. On this basis, the total balance of section 1, Judges, amounts to €129,180.

19. The budget line “Judges’ pension scheme” shows a negative balance of €53,824 at the end of 2022. This overexpenditure was caused by the temporary depreciation of the euro against the United States dollar and the increase in pension payments in January 2021 and January 2022. It could be absorbed by transfer of savings from section 1, Judges, (€129,180), in accordance with last year’s authorization of the Meeting of States Parties.

20. With regard to section 3, Staff costs, the budget line “General temporary assistance” shows savings in the amount of €65,898 mainly because fewer temporary staff members were hired during the COVID-19 pandemic. In addition, the budget line “Training” under the same section shows savings of €49,363. During the COVID-19 pandemic, training courses were not available to the same extent as before the pandemic. In addition, many courses were organized online instead of in person and training-related travel expenses were thus greatly reduced.

21. Section 4, Representation allowance, which is based on amounts calculated in United States dollars, shows an overexpenditure of €229, which is due entirely to the temporary depreciation of the euro against the United States dollar during the financial period under review. The overexpenditure could be absorbed by transfer of savings from section 2, Staff costs, in accordance with last year’s authorization of the Meeting of States Parties.

22. Section 5, Official travel, shows an underexpenditure in the amount of €102,412 as a result of COVID-19-imposed travel restrictions.

23. Under section 7, Operating expenditure, the budget line “Miscellaneous services and charges (including bank charges)” shows an overexpenditure of €100,259. As reported last year, the European Central Bank started charging commercial banks interest on cash deposits in 2014 and, in 2019, Deutsche Bank and most other commercial banks in Germany and in other countries of the eurozone began to pass those charges on to their customers. As a consequence, the Tribunal was charged interest on its cash deposits between April 2020 and July 2022. During the 2021–2022 budget period, the Tribunal paid €70,393 in interest on cash deposits while the 2021–2022 budget did not provide for these charges. In addition, the Tribunal had to pay fees to the United Nations Appeals Tribunal in the amount of €30,048. The overexpenditure in the budget line “Miscellaneous services and charges (including bank charges)” can be compensated by transfer of funds within section 7, Operating expenditures, in accordance with rule 104.3 of the Financial Regulations and Rules of the Tribunal. The total balance of section 7 amounts to €62,819.

24. The performance rate of the 2021–2022 budget stands at 81.74 per cent. It may be noted that the performance rates of the different parts of the budget are the following:

- Part A, Recurrent expenditure, 96.8 per cent;
- Part B, Non-recurrent expenditure, 97.6 per cent;
- Part C, Case-related costs, 15.84 per cent.

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

25. There are five items under this heading: Investment of funds of the Tribunal; cash surplus from the financial period 2019-2020; ITLOS trust fund; the Nippon Foundation trust fund; and the Republic of Korea trust fund. Information on these items can be found in paragraphs 16 to 25 of document SPLOS/33/3.

***Report of the external auditor for the financial period 2022***

26. The financial statements of the Tribunal for the financial period 2022 were audited at the end of January 2023, and the report of the external auditor was submitted to the Tribunal on 15 February 2023. It was examined by the Tribunal during its March session and the Tribunal decided to submit it to the Meeting of States Parties.

27. 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 give a true and fair view of the assets, liabilities and financial position of the International Tribunal for the Law of the Sea as at 31 December 2022 and of its financial performance for the period from 1 January to 31 December 2022 in accordance with IPSAS.”

28. 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.