

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-SECOND MEETING OF STATES PARTIES TO THE  
UNITED NATIONS CONVENTION ON THE LAW OF THE SEA  
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Madam 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 budget proposals of the Tribunal for 2023-2024**

I will first address the Draft budget proposals of the Tribunal for 2023-2024, which are contained in document SPLOS/32/5. The overall budget proposed for the next biennium amounts to €23,496,500, which represents a decrease of €658,500 compared with the approved budget for the years 2021-2022 (see annex I). This overall reduction is the result of a combination of increases and decreases in the three parts of the budget, as I will now explain.

#### ***Case-related costs (Part C)***

I will begin with Part C “Case-related costs”, which is the part of the budget specifically devoted to expenses relating to the discharge of the Tribunal’s judicial functions. These costs are based on the expected volume of judicial work during the budget period in question. Indeed, 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 (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 the budget is the recruitment of temporary staff required for hearings and judicial deliberations (interpreters, translators and verbatim reporters).

Thus, provisions under “Case-related costs” are intended to enable the Tribunal to deal with the cases on its docket and, in addition, as required by the

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<sup>1</sup> Draft budget proposals of the International Tribunal for the Law of the Sea for the budget period 2023-2024 (SPLOS/32/5); Report on budgetary matters for the financial periods 2019-2020 and 2021-2022 (SPLOS/32/3); Report of the external auditor for the financial period 2021 (SPLOS/32/4).

Convention, any urgent proceedings which could be submitted to it in the budget period concerned (prompt release cases under article 292 of the Convention and requests for provisional measures under article 290 of the Convention).

Accordingly, an amount of €2,390,100 is envisaged under Part C “Case-related costs” for 2023-2024, which represents a decrease of €2,110,600 compared with the appropriation approved for the previous budget. The proposed amount includes provisions (€722,700, see Annex VIII) to deal with the second part of a merits case, namely Case No. 28 submitted to a Special Chamber of the Tribunal (*Dispute concerning delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)*). By contrast, the 2020-2021 budget included provisions to deal with the first part of Case No. 28 as well as with an entire case on the merits submitted to the Tribunal (Case No. 29).

As in previous budgets, the 2023-2024 budget proposals also envisage the possibility of two urgent cases being submitted to the Tribunal (see Annex VII). The amount proposed in this regard (€1,667,400) is slightly higher (€58,800) than the amount approved for the financial period 2021-2022 due to parameters beyond the control of the Tribunal (the revision of the annual net base salary of the Judges, the increase in the DSA applicable to Hamburg and the increase in the post adjustment for Hamburg in 2022, as determined by the ICSC).

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)***

Turning now to Part A, devoted to recurrent expenditure, I wish to underline that this part of the draft budget proposals follows an overall zero-growth approach compared with the equivalent value in euro of the 2021-2022 budget proposals. However, parameters beyond the control of the Tribunal had to be taken into consideration. The application of these parameters resulted in an increase of

€1,447,400 compared with the previous financial period. This is due, in particular, to the rise in the daily subsistence allowance (DSA) rate for Hamburg, the revisions of the post adjustment multiplier applicable to Hamburg and the rise in the exchange rate of the US dollar to the euro. Additional factors also contribute to the increase, namely changes in the number of pensioners and higher operating expenditures. I will now proceed to indicate the specific reasons for this increase in relation to the various sections of Part A.

### ***Judges***

Beginning with the section “Judges”, an increase of €335,900 is envisaged in the following budget lines: “Annual allowances”, “Special allowances” and “Common costs”.

With regard to the budget line “Annual allowances”, an amount of €3,670,400 is proposed, which represents an increase of €173,400 over the appropriation approved for 2021-2022. This change is due to the combined effect of the rise in the post adjustment multiplier for Hamburg in 2022 and the revision of the Judges’ remuneration to US\$ 187,000, effective 1 January 2022.

For the budget line “Special allowances”, the proposed amount is €972,000 which shows an increase of €37,400 in comparison with the approved amount for 2021-2022. This is again due to the above-mentioned adjustments together with the increase in the DSA rate for Hamburg from €309 (in March 2020) to the rate of €319 (in March 2022).

An increase of €125,100 is envisaged under “Judges’ common costs” compared with the provision made in the previous budget. As there will be an election for the President on 1 October 2023, a provision to cover installation and repatriation costs is required to take account of the change in the presidency of the Tribunal.

### ***Judges' pension scheme***

Under the section "Judges' pension scheme", an amount of €2,597,100 is proposed. This section consists of two budget lines, namely "Pension in payment" and "Pension for retiring judges".

A provision of €2,089,000 is proposed for the budget line "Pension in payment". This amount is €713,800 higher than the appropriation approved for 2021-2022. The change is due to the higher number of Judges and surviving spouses receiving a pension payment, namely 15 former judges and nine surviving spouses. However, the number of pensioners has changed since March 2022 when the budget was drafted due to the passing away of the widow of a late judge. The provision may accordingly be reduced by €52,600 to €2,036,400.

The budget line "Pension for retiring judges" envisages a provision of €508,100 for seven Judges whose terms of office expire on 30 September 2023. This amount is €85,900 lower than the appropriation finally approved for 2021-2022. The amount is lower because in the 2021-2022 budget pension for seven Judges was provided for a 24-month period, while in the 2023-2024 budget proposals such pension is provided for a 15-month period.

Taking these changes into account, the section "Judges' pension scheme" shows an overall increase of €627,900 compared with the previous budget.

### ***Staff costs***

The number of members of staff in the Registry has remained at 38 since 2015, and no proposal is made to create any new posts. The budgetary estimates relating to staff costs are based on standard costs issued by the United Nations Office of Programme Planning, Finance and Budget applicable to The Hague for the year 2023, since no standard costs are calculated for Hamburg. On that basis, an amount of €6,064,400 is proposed for the budget line "Established posts". In light of an upward revision of the UN standard costs, this budget line shows an increase of

€64,200 compared with the appropriation for 2021-2022, even though the number of staff members remains the same.

The budget line “Common staff costs” envisages a provision of €2,316,200. As was the case for the previous seven financial periods, estimates have been prepared on the basis of actual requirements. The amount proposed is €46,000 higher than the amount approved for the 2021-2022 budget, due to the rise in the value of the dollar against the euro, as applied to staff entitlements such as contributions to the United Nations Pension Fund.

The provision for “Temporary assistance for meetings” amounts to €260,100, which is €11,400 higher than the appropriation approved for 2021-2022. This change is due to the rise in the DSA rate for Hamburg and the stronger US dollar against the euro.

Taking these changes into account, the section “Staff costs” shows an overall increase of €121,600 compared with the previous budget.

### ***Operating expenditure and Library costs***

Under Section 7, “Operating expenditure”, the proposal shows an increase of €355,200 compared with the approved amount for the 2021-2022 budget. This increase mainly affects the budget lines “Maintenance of premises including security”, “Rental and maintenance of equipment” and “Miscellaneous services & charges (including bank charges)”.

It should be noted in this regard that prices in Germany have risen significantly since November 2021, which obviously has an impact on this section of the Tribunal's budget.

The proposed provision for the budget line “Maintenance of premises including security”, in the total amount of €2,869,600, represents an increase of €224,900 which is due to the following factors: (i) the increase in the rates for the extension of the facility management and security services contracts, which is to take

place in 2023; (ii) the upward trend in energy prices, as reflected in actual increases in gas and electricity prices since the end of 2021 and the recent announcement of sharp price increases by the Tribunal's electricity and gas provider.

Turning to "Rental and maintenance of equipment", I would like to point out that maintenance fees for many software applications (library, archiving and accounting software, email system, computer operating system) have increased over the years. In addition, rental and leasing fees for computer equipment, photocopiers and official cars are also higher. On this basis, the amount proposed for this budget line "Rental and maintenance of equipment" amounts to €419,500, an increase of €30,000 compared with the approved amount for the 2021-2022 budget period. In addition, an inflation rate of 1.96 per cent has been applied to the budget line "Communications".

In the past, the budget line "Miscellaneous services & charges (incl. bank charges)" was mainly used to provide for bank charges. Recently, the United Nations has started charging the Tribunal for various services as a member of the International Civil Service Commission and the United Nations common system of salaries, allowances and benefits (e.g. salary surveys). In addition, fees for participation in proceedings before the United Nations Appeals Tribunal have been raised. Bank safekeeping charges for cash have also been included in this budget line. It may be noted in this regard that interest on cash deposits is being charged by commercial banks in Germany and in other countries in the euro zone, which the Tribunal has been required to pay since April 2020. These charges were not therefore included in previous budgets. The budget line "Miscellaneous services & charges (incl. bank charges)" shows an increase of €94,400 in comparison with the approved amount in the 2021-2022 budget.

With regard to Part B ("Non-recurrent expenditure"), the above-mentioned inflation rate has been applied to the budget line "Purchase of equipment", resulting in an increase of €4,700 in this budget line.

Madam President,

As already indicated, taking into account the proposed increase of €1,538,300 and decrease of €2,196,800, an overall decrease of €658,500 is envisaged for this budget period. It may be noted in this regard that an amount of cash surplus (€384,387) will be deducted from the 2023 contributions of States Parties.

### **Report on budgetary matters for the financial periods 2019-2020 and 2021**

This leads me to document SPLOS/32/3, which provides information to the States Parties as required under the Financial Regulations of the Tribunal. I will briefly introduce the document.

#### ***Cash surplus for the financial period 2019-2020***

The first item relates to the cash surplus for the financial period 2019-2020. The amount of cash surplus was reviewed and certified by the auditor and stands at €384,387. As was mentioned earlier, this cash surplus will be surrendered and deducted from the contributions of States Parties for 2023, in accordance with regulation 4.5 of the Financial Regulations of the Tribunal.

#### ***Provisional performance report for 2021***

As shown in the report, the total expenditure for 2021 stands at €8,994,216, representing 74.47 per cent of the appropriations allocated for that year (in the amount of €12,077,500). That being said, the final report will be issued after the end of the 2021-2022 budget period.

I would like to touch briefly on some sections of the budget performance for the year 2021.

A provision in the amount of €4,500,700 was approved under “Case-related costs” for the 2021-2022 budget, which included appropriations for Case No. 29, *The M/T “San Padre Pio” (No. 2) Case (Switzerland/Nigeria)*. However, at the request of

the parties, by Order of the President of the Tribunal of 29 December 2021, the *M/T "San Padre Pio" (No. 2) Case* was removed from the Tribunal's list of cases. Since no meetings on Case No. 29 were held in 2021, expenses against the 2021 case-related budget of the Tribunal were at a very low level. The unused balance of the case-related budget will be surrendered to the States Parties with the 2021-2022 cash surplus. Case No. 28 will, however, be dealt with in 2022 and 2023.

The 2021 budget performance also shows under-expenditure in the budget lines "Special allowances" (€34,828) and "Travel to sessions" (€64,235). It may be noted in this regard that due to the Covid-19 pandemic not all judges were able to travel to Hamburg to attend the 51st session of the Tribunal in March 2021 in person. At the same time, while the pandemic led to some savings under the budget line "Travel to sessions", the organization of hybrid meetings led to some additional expenses under the budget lines "Temporary assistance for meetings", "Rental and maintenance of equipment", "Communications" and "Purchase of equipment".

Section 5 "Official travel" also shows under-expenditure (€69,208), which was caused by the travel restrictions imposed by the Covid-19 pandemic.

On the other hand, the budget lines "Communications" and "Miscellaneous services & charges (incl. bank charges)" show over-expenditures (€2,574 and €47,642 respectively). The slight over-expenditure under "Communications" is due to the rise in the prices for telephone, Internet, website, email and courier services. As regards "Miscellaneous services & charges (incl. bank charges)", it may be noted that in 2014 the European Central Bank started charging commercial banks interest on cash deposits. In 2019, Deutsche Bank and most other commercial banks in Germany and in other countries in the euro zone began to pass these charges on to their customers. As has already been mentioned, since April 2020 the Tribunal has been required to pay interest on its cash funds, and the amount paid in 2021 was €38,900. As things stand, the bank will continue charging interest on cash deposits, while there are currently no options for reducing these charges. It may be noted that the 2021-2022 budget did not provide for those charges, since the Tribunal was required to start paying them after the budget had been approved. For this reason, it is estimated that the provision approved for the budget period 2021-2022 in the

budget line “Miscellaneous services & charges (incl. bank charges)” will be overspent at the end of that budget period. If the over-expenditure cannot be covered within Section 7, a request for authorization of transfer between appropriation sections will be submitted to the next Meeting of States Parties.

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

There are four items under this heading: Investment of funds of the Tribunal; the trust fund for the law of the sea; the Nippon Foundation trust fund; and the International Tribunal for the Law of the Sea workshop for legal advisers (sponsored by the Republic of Korea). The necessary information can be found in paragraphs 19 to 26 of document SPLOS/32/3.

**Report of the external auditor for the financial period 2021**

Madam President,

Lastly, I would like to draw your attention to document SPLOS/32/4. The audit of the financial statements of the Tribunal for the financial period 2021 was carried out at the end of January 2022 and the report of the external auditor was submitted to the Tribunal on 17 February 2022. It was examined by the Tribunal during its March session and the Tribunal decided to submit it to the Meeting of States Parties. The 2021 financial statements represent the first IPSAS-compliant financial statements of the Tribunal.

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 2021 and of its financial performance for the period from 1 January 2021 to 31 December 2021 in accordance with the International Public Sector Accounting Standards (IPSAS).”

**Nomination of a member and an alternate member to the staff pension committee of the International Tribunal for the Law of the Sea**

Before concluding, I wish to refer to document SPLOS/32/6 which contains a proposal to the Meeting in respect of the nomination of a member and an alternate member to the staff pension committee of the Tribunal. It is therein proposed that the Meeting take a decision to ensure the filling of these two posts for a three-year term of office starting on 1 January 2023. To that end, a draft decision is submitted in the annex to the document.

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.