



Meeting of States Parties

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Report on budgetary matters for the financial period 2023

Presented by the Registrar of the International Tribunal for the Law of the Sea

I. Provisional budget performance report for 2023

1. In June 2022, the thirty-second Meeting of States Parties approved a budgetary amount of €23,443,900 for the budget period 2023–2024 (SPLOS/32/12, para. 1). This amount included a provision of €2,390,100 under part C of the budget, Case-related costs, to cover part of the costs in respect of case No. 28 (*Dispute concerning delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)*) and to enable the Tribunal to deal with two urgent proceedings in 2023–2024. The Meeting also decided that a floor rate of 0.01 per cent and a ceiling rate of 22 per cent would be used for establishing the rate of assessment of States parties for the budget of the Tribunal for 2023–2024 (SPLOS/32/12, para. 7). In accordance with regulation 5.3 of the Financial Regulations and Rules of the Tribunal, the assessed contributions of States parties are determined on the basis of half of the budget for each year of the two-year budget period. Accordingly, the provisional budget performance report for 2023 is also based on half of the approved budget (€11,721,950).

2. In June 2023, the Meeting of States Parties approved a supplementary budget in the amount of €2,484,900 to cover the costs of case No. 31 (*Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal)*), since case No. 31 was submitted after the 2023–2024 budget had been approved. The Meeting authorized the Tribunal to use part of the cash surplus from the 2021–2022 budget to finance an additional appropriation in the amount of €1,241,200 to cover the estimated costs of case No. 31 that could not be absorbed by the approved budget of the Tribunal for the period 2023–2024 (SPLOS/33/13). Half of the approved additional amount (€620,600) was allocated to the year 2023.

3. As shown in the performance report for financial period 2023 (see annex I to the present report), the expenditure levels for the different parts of the budget for that 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 with the supplementary budget (see para. 2).

4. As stated above, the 2023–2024 case-related budget included a total provision of €2,390,100. In 2023, meetings of the Drafting Committee and the final part of the deliberations relating to case No. 28 were held. The judgment was delivered on 28 April 2023. The expenditure against the 2023 case-related budget of the Tribunal for case No. 28 amounts to €305,323. In addition, the hearing and deliberations in case No. 31 took place in September and October 2023. An amount of €1,111,509 was spent against the 2023 case-related budget of the Tribunal. An amount of €16,880 was also spent for the translation of pleadings relating to case No. 32 (*The M/T “Heroic Idun” (No. 2) Case (Marshall Islands/Equatorial Guinea)*). The extent to which the supplementary budget (see para. 2) will be used to cover the costs of case No. 31 will depend on the level of expenditure for urgent proceedings in 2024.

5. After the 2023–2024 budget had been approved in June 2022, the post adjustment multiplier for Hamburg was revised by the International Civil Service Commission in February 2023 (increased by 8.8 per cent), in July 2023 (increased by 7.6 per cent) and in February 2024 (increased by 2.3 per cent). The revisions resulted in successive increases in judges’ annual and special allowances, which represent a total increase of 19.8 per cent compared with January 2023. The increases in 2023 resulted in an additional expenditure of approximately €198,000. In addition, case No. 31 is being dealt with by the Tribunal in its composition of September 2023. As a consequence, since October 2023 and until the end of case No. 31 in May 2024, annual allowances have been payable to 21 judges plus an additional 6 judges (whose terms of office started in October 2023). For the year 2023, this resulted in an additional expenditure of approximately €137,000. The total overexpenditure in the budget lines “Annual allowances” and “Special allowances” amounts to €337,099 and €17,413, respectively, for the year 2023.

6. In light of the above, at the end of the 2023–2024 budget period, and barring any further changes to the judges’ remuneration, the overexpenditure in the budget line “Annual allowances” is expected to be approximately €907,000. Of this amount, approximately €538,000 is due to the revisions of the post adjustment multiplier, and approximately €369,000 to the entitlement of 27 instead of 21 judges to the annual allowance from October 2023 to May 2024. The overexpenditure in the budget line “Special allowances” is expected to be approximately €93,000 at the end of the 2023–2024 budget period.

7. The budget line “Travel to sessions” under section 1, Judges, shows an overexpenditure of €43,303 at the end of the year 2023. This is mainly a result of the recent sharp increase in international airline tickets. The expenditure for the travel of judges has increased 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 fifty-sixth session of the Tribunal in September 2023. At the end of the 2023–2024 budget period, the negative balance is expected to be €51,000.

8. In light of the above increases, the overexpenditure under section 1, Judges, is expected to be approximately €975,000 at the end of the 2023–2024 budget period.

9. Six judges, whose terms of office 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 of these six judges have been suspended, which resulted in savings in the amount of €290,352 for the year 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. The pension for five outgoing judges will be payable only after the end of case No. 31 in May 2024 and the pension of one outgoing judge after the end of case No. 32.

10. The level of savings under section 2, Judges' pension scheme, is expected to be at approximately €420,000 at the end of the 2023–2024 budget period. It is proposed to use these savings to absorb part of the aforementioned overexpenditure under section 1, Judges, in accordance with regulation 4.6 of the Financial Regulations and Rules of the Tribunal.

11. The salary scales for Bonn (also applicable to Hamburg) for staff in the General Service category were revised in March 2023 by the United Nations. As mentioned above, the post adjustment multiplier for Hamburg was revised in February 2023, in July 2023 and in February 2024, which resulted in successive increases in the net pay of the salaries of staff in the Professional and higher categories (see para. 5). Furthermore, the pensionable remuneration for staff in the Professional and higher categories was revised by the United Nations in February 2023, in January 2024 and in February 2024, resulting in increases in the contributions to the United Nations Joint Staff Pension Fund.

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

13. In light of the above increases, the overexpenditure for the budget line "Established posts" at the end of the 2023–2024 budget period is expected to be approximately €413,000. As to the budget line "Common staff costs", the projected overexpenditure for the current budget period amounts to approximately €79,000. Taking into account some savings in section 3, Staff costs, the projected overexpenditure for this section at the end of the 2023–2024 budget period is expected to be approximately €327,000.

14. The Registry has made efforts to keep expenditure at low levels in section 5, Official travel; section 7, Operating expenditure; and section 9, Purchase of equipment. These efforts have resulted in respective savings of €32,354, €183,184 and €35,766 at the end of the year 2023. The Registry will try to achieve further savings in these budget lines. 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.

15. Part C, Case-related costs, shows a negative balance of €238,662 at the end of the year 2023. The overexpenditure was a result of the expenditures relating to case No. 31. The total overexpenditure under this part at the end of the 2023–2024 budget period will be financed by the supplementary budget for case No. 31 with an amount of up to €1,241,200 from the 2021–2022 cash surplus in accordance with the decision of the Meeting of States Parties (see para. 2).

II. Projected performance for the 2023–2024 budget period

16. As indicated above (see paras. 6, 7, 8 and 13), at the end of the 2023–2024 budget period, overexpenditures of up to €1,543,000 are expected 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 expected (see para. 10). In addition, the Registry will continue its efforts in 2024 to achieve savings at a similar level as in 2023 in section 5, Official travel; section 7, Operating expenditure; and section 9, Purchase of equipment. These savings would then total approximately €251,000. It is therefore proposed to use up to €872,000 ($€1,543,000 - €420,000 - €251,000 = €872,000$) from the 2021–2022 cash surplus to finance the aforementioned projected overexpenditures.

III. Report on action taken pursuant to the Financial Regulations of the Tribunal

A. Cash surplus from the budget period 2021–2022

Excess of credits over charges

17. In June 2022, the thirty-second Meeting of States Parties took note (see SPLOS/32/15, para. 30) of the report of the external auditor for the financial period 2021 (SPLOS/32/4). In June 2023, the thirty-third Meeting of States Parties took note (see SPLOS/33/15, para. 33) of the report of the external auditor for the financial period 2022 (SPLOS/33/4). Both reports had been submitted to the Meeting of States Parties by the Tribunal. According to the audit reports, the final excess of credits over charges for the 2021–2022 budget as at 31 December 2022 amounted to €4,391,882 (€3,077,349 in 2021 and €1,314,533 in 2022).

B. Provisional cash surplus

18. Under regulation 4.4 of the Financial Regulations and Rules of the Tribunal, the provisional cash surplus is 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). For the budget period 2021–2022, the excess of credits over charges amounts to €4,391,882.

19. Pursuant to regulation 4.3 of the Financial Regulations and Rules of the Tribunal, the amount of unpaid contributions should be deducted from this balance. On this basis, the provisional cash surplus for the 2021–2022 financial period was determined to be €3,405,459. This amount was based on the reports of the external auditor for the periods 2021 and 2022, with the financial statements of the Tribunal, and is calculated as follows (in euros):

Credits 2021	12,100,890
Credits 2022	12,116,231
Charges 2021	-9,023,541
Charges 2022	-10,801,698
Unpaid 2021–2022 contributions	-986,423
Provisional cash surplus for the budget period 2021–2022	3,405,459

C. Cash surplus

20. Under regulation 4.4 of the Financial Regulations and Rules of the Tribunal, the cash surplus is determined by crediting to the provisional cash surplus any arrears of contributions from prior periods received during the budget period and any savings from the provisions made for commitments as mentioned above.

21. The cash surplus for the budget period 2021–2022 stood at €4,166,064 as at 31 December 2023, as follows:

Provisional cash surplus of €3,405,459 + arrears of contributions from prior periods received in 2023 of €760,605 = cash surplus of €4,166,064.

22. The cash surplus, as reflected in paragraph 21, was reviewed by the external auditor in February 2024. On 23 February 2024, the auditor certified that the cash surplus for the budget period 2021–2022 as at 31 December 2023 amounted to €4,166,064 (see annex II).

D. Surrender of cash surplus

23. Under regulation 4.5 of the Financial Regulations and Rules of the Tribunal, the cash surplus will be surrendered as follows:

(a) *Apportionment of cash surplus*

The cash surplus, determined as outlined above, will be apportioned among the States parties in proportion to their contributions as determined for the budget period 2021–2022, to which the surplus relates.

(b) *Surrender of cash surplus*

The cash surplus for the financial period 2021–2022 thus apportioned to the States parties will:

- (i) be surrendered to the States parties, provided that their contribution for the budget period 2021–2022 has been paid in full;
- (ii) be applied to liquidate first, in whole or in part, any arrears in contributions.

(c) *Retention of cash surplus apportioned but not surrendered*

Any cash surplus apportioned to the States parties but not surrendered owing to non-payment or partial payment of the contribution for the budget period in question will be retained by the Registrar until such time as the contribution for that budget period is paid in full.

24. As indicated above, the thirty-third Meeting of States Parties authorized the Tribunal to use part of the cash surplus from the 2021–2022 budget to finance an additional appropriation in the amount of €1,241,200 in order to cover the estimated costs of case No. 31 that could not be absorbed by the approved budget of the Tribunal for the period 2023–2024 (see para. 2).

25. In addition, it is proposed to use up to an amount of €872,000 from the 2021–2022 cash surplus to finance the expected overexpenditures in relation to the 2023–2024 budget (see para. 16).

26. In accordance with regulation 4.5 of the Financial Regulations and Rules of the Tribunal, an amount of €2,052,864 (€4,166,064 - €1,241,200 - €872,000) will be surrendered and deducted from the contributions of States parties for 2025 and for earlier periods, where applicable. Any unused balance from the supplementary budget and from the amount to cover the expected overexpenditure is to be surrendered to States parties.

E. Investment of funds of the Tribunal

27. In respect of the investment of funds of the Tribunal, regulation 9 of the Financial Regulations and Rules of the Tribunal stipulates the following:

9.1 The Registrar may make prudent short-term investments of moneys not needed for immediate requirements and shall inform the Tribunal and the Meeting of States Parties periodically of such investments.

...

9.2 Revenue derived from investments shall be credited to investment revenue or as provided in the rules relating to each fund or account.

28. During 2023, the Tribunal's funds were held at Deutsche Bank. Short-term investments in euros, which are investments made for less than 12 months according to rule 109.1 of the Financial Regulations and Rules of the Tribunal, were made through Deutsche Bank in May, July and December 2023. The funds yielded €112,293 in interest during 2023 and has been credited to investment revenue in compliance with regulation 9.2.

F. International Tribunal for the Law of the Sea trust fund

29. At its twenty-eighth session in September 2009, the Tribunal approved the Registrar's proposal to establish a trust fund for the law of the sea in accordance with the Financial Regulations and Rules of the Tribunal. The Registrar established the new International Tribunal for the Law of the Sea trust fund with Deutsche Bank in Hamburg. The trust fund is intended to promote the advancement of human resources in developing countries in the law of the sea and maritime affairs in general. Contributions to be made to the trust fund are used to give financial assistance for the participation of applicants from developing countries in the Tribunal's internship programme and the summer academy.

30. Several contributions to the trust fund from States (the People's Republic of China, the Republic of Cyprus and France) and other sources (the Korea Maritime Institute and Korwind, a Korean renewable energy company based in Hamburg) were received between 2009 and 2022. During the financial period 2023, the Tribunal received a

contribution from the Republic of Cyprus in the amount of €15,000 and two contributions from the Korea Maritime Institute totalling €31,000. During the same financial period, the trust fund was used to support the Tribunal’s internship programme and to provide financial assistance to interns from developing countries. The trust fund was also used to finance a regional workshop held in Nice in June 2023. The performance of the trust fund for 2023 is summarized below (in euros):

Surplus for prior periods	282,320
Revenue	46,000
Expenditure on participants and authorized activities	
Surplus from prior periods	(56,376)
Total	271,944

G. Nippon Foundation trust fund

31. In March 2007, the Tribunal and the Nippon Foundation signed the Nippon Foundation grant agreement. Pursuant to the agreement, the Nippon Foundation contributed an amount of €200,000 to the Nippon Foundation-International Tribunal for the Law of the Sea Capacity-Building and Training Programme on Dispute Settlement under the United Nations Convention on the Law of the Sea.

32. In accordance with regulation 6.5 of the Financial Regulations and Rules of the Tribunal, a trust fund was subsequently established and a special euro bank account named “Nippon Foundation Grant” was set up with Deutsche Bank. The purpose of the grant is to finance the expenses of participants from developing countries in the aforementioned programme.

33. Since 2007, the Nippon Foundation has made annual contributions to the grant totalling €3,832,740, including a contribution in the amount of €242,500 made in March 2023 for the 2023–2024 programme. The performance of the Nippon Foundation grant as at 31 December 2023 is reported below (in euros), in accordance with regulation 6.5:

Revenue	242,515
Expenditure on participants and authorized activities	(216,063)
Surplus for the period	26,452
Surplus from prior periods	100,606
Surrender of surplus	(23,122)
Total	103,936

H. Republic of Korea trust fund

34. On 28 February 2020, the Tribunal established a trust fund to provide financial assistance for the organization of an International Tribunal for the Law of the Sea workshop for legal advisers (sponsored by the Republic of Korea). Three contributions

totalling €517,688 were received between then and the end of the year 2022. In 2023, a voluntary contribution from the Republic of Korea in the amount of €170,684 was received. Workshops were held in September 2022 and in July 2023 at the seat of the Tribunal in Hamburg. The 2023 performance of the trust fund is summarized below (in euros):

Surplus from prior periods	227,268
Revenue	172,576
Expenditure	(227,921)
Total	171,923

Annex I

Provisional budget performance report for 2023 as at 31 December 2023 (in euros)

Part/ section	Object of expenditure	2023 approved budget	2023 expenditure (cash)	2023 balance	2023 supplementary budget
A	Recurrent expenditure				
1	Judges	2,574,050	2,984,220	-410,170	
1.1	Annual allowances	1,835,200	2,172,299	-337,099	
1.2	Special allowances	486,000	503,413	-17,413	
1.3	Travel to sessions	149,400	192,703	-43,303	
1.4	Common costs	103,450	115,805	-12,355	
2	Judges' pension scheme	1,272,250	981,898	290,352	
3	Staff costs	4,435,100	4,426,633	8,467	
3.1	Established posts	3,032,200	3,075,198	-42,998	
3.4	Common staff costs	1,158,100	1,197,554	-39,454	
3.5	Overtime	12,500	9,445	3,055	
3.6	Temporary assistance for meetings	130,050	103,166	26,884	
3.7	General temporary assistance	58,950	18,912	40,038	
3.8	Training	43,300	22,358	20,942	
4	Representation allowance	6,950	7,031	-81	
5	Official travel	92,500	60,146	32,354	
6	Hospitality	7,350	4,741	2,609	
7	Operating expenditure	1,880,450	1,697,266	183,184	
7.1	Maintenance of premises (incl. security)	1,434,800	1,372,726	62,074	
7.2	Rental and maintenance of equipment	209,750	161,410	48,340	
7.3	Communications	99,900	89,281	10,619	
7.4	Misc. services and charges (incl. bank charges)	66,000	19,969	46,031	
7.5	Supplies and materials	62,800	47,280	15,520	
7.6	Special services (external audit)	7,200	6,600	600	
8	Library and related costs	177,150	151,957	25,193	
8.1	Library – procurement of books and publications	133,000	128,774	4,226	
8.3	External printing and binding	44,150	23,183	20,967	

B	Non-recurrent expenditure				
9	Purchase of equipment				
9.1	Furniture and equipment	81,100	45,334	35,766	
C	Case-related costs	1,195,050	1,433,712	-238,662	620,600
12	Judges	846,050	968,220	-122,170	475,200
12.1	Special allowances	629,750	872,747	-242,997	434,300
12.2	Compensation to judges ad hoc	102,350	44,904	57,446	0
12.3	Travel to meetings, incl. judges ad hoc	113,950	50,569	63,381	40,900
13	Staff costs	349,000	465,492	-116,492	145,400
13.1	Temporary assistance for meetings	334,000	458,966	-124,966	141,000
13.2	Overtime	15,000	6,526	8,474	4,400
Total		11,721,950	11,792,938	-70,988	620,600

Annex II

Independent Auditor's Report

To the International Tribunal for the Law of the Sea,

We have audited the accompanying cash surplus including the corresponding information (hereinafter referred to as "cash surplus") of the International Tribunal for the Law of the Sea, Hamburg, Germany, for the biennial financial period 2021–2022, ending 31 December 2022.

Management's responsibility for the financial statements

The management of the International Tribunal for the Law of the Sea (hereinafter referred to as "the Tribunal") is responsible for the preparation of the cash surplus in accordance with the Financial Regulations and Rules of the Tribunal. The management is also responsible for such internal control as management determines necessary to enable the preparation of the cash surplus that is free from material misstatements, whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on the cash surplus. We conducted our audit of the cash surplus in accordance with the German generally accepted standards for the audit of financial statements promulgated by the Institut der Wirtschaftsprüfer in Deutschland e. V. (Institute of Public Auditors in Germany), Düsseldorf (IDW). Those standards require that we comply with professional ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the cash surplus is free from material misstatement.

The audit involves performing procedures to obtain audit evidence about the amounts and the corresponding information in the cash surplus. The procedures selected depend on the auditor's judgment. This includes the assessment of the risk of material misstatement of the cash surplus, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Tribunal's preparation of the cash surplus in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion of the effectiveness of the Tribunal's internal control. The audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation for the cash surplus.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, based on the findings of our audit, the cash surplus of the International Tribunal for the Law of the Sea, Hamburg, Germany, for the biennial financial period 2021–2022, ending 31 December 2022, and the corresponding information are prepared, in all material respects, in accordance with the Financial Regulations and Rules of the Tribunal.

Basis of accounting and restriction on use

Without modifying our opinion, we draw attention to the Financial Regulations and Rules of the Tribunal, which describe the basis of accounting. The cash surplus is prepared to comply with the financial regulations referred to above. As a result, the cash surplus may not be suitable for another purpose.

Restriction of distribution and limitation of liability

Our report is intended solely for the Tribunal and the Meeting of States Parties. Our report may not be used for other purposes or distributed to other parties without our prior consent.

We prepared the present report exclusively based on the engagement by the Tribunal. The services we performed for the Tribunal in this engagement are governed by the BDO AG Wirtschaftsprüfungsgesellschaft Special Terms and Conditions and by the General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften (German Public Auditors and Public Audit Firms) dated 1 March 2021.

Lübeck, 23 February 2024

BDO AG Wirtschaftsprüfungsgesellschaft

(Signed) Marko **Lüthje**
Wirtschaftsprüfer

(Signed) Dr. Ralf **Wißmann**
Wirtschaftsprüfer

Appendices

Cash surplus for the financial period 2021–2022 (hereinafter also referred to as “cash surplus”) of the International Tribunal for the Law of the Sea as at 31 December 2022 (see below)

BDO AG Wirtschaftsprüfungsgesellschaft Special Terms and Conditions (appendix II) [The appendix is not included; for the le text, see SPLOS/30/3, annex 1, appendix II]

General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften (German Public Auditors and Public Audit Firms) dated 1 March 2021 (appendix III) [The appendix is not included; for the le text, see, SPLOS/30/3, annex 1, appendix III]

International Tribunal for the Law of the Sea: cash surplus for the financial period 2021–2022

(Euros)

Provisional cash surplus as at 31 December 2022

Credits 2021	12,100,890
Credits 2022	12,116,231
Charges 2021	9,023,541
Charges 2022	10,801,698
Final excess of credits over charges 2021–2022	4,391,882

Contributions receivable from States Parties with respect to 2021-2022	-986,423
Provisional cash surplus 2021-2022	3,405,459
Prior periods' contributions received in 2023	760,605
Cash surplus 2021-2022, 31 December 2023¹	4,166,064
To be used to finance expenses for Case No. 31, 2023-2024 supplementary budget, SPLOS/33/13	-1,241,200
To be surrendered to States Parties	2,924,864

¹In accordance with financial regulation 4.4
