



Meeting of States Parties

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Item 11 of the provisional agenda*

**Consideration of administrative and budgetary matters
of the International Tribunal for the Law of the Sea**

Report on budgetary matters for the financial periods 2017–2018 and 2019–2020

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

I. Cash surplus for the financial period 2017–2018

A. Excess of income over expenditure

1. In June 2019, the twenty-ninth Meeting of States Parties took note of (see [SPLOS/29/9](#), para. 37) the report of the external auditor for the financial period 2017–2018 ([SPLOS/29/4](#)), which had been submitted to it by the International Tribunal for the Law of the Sea. According to the report, the final excess of income over expenditure as at 31 December 2018 amounted to €3,040,692.

2. As noted in the report on budgetary matters for the financial period 2017–2018 ([SPLOS/29/3](#), para. 2), the total expenditure for that period stands at €18,105,109, representing 85.73 per cent of the total appropriations (€21,119,900). This performance can be explained by the cost-effective management of cases Nos. 23 and 25 and by the fact that no urgent proceedings were submitted to the Tribunal during the period under consideration (2017–2018). In this respect, it may be noted that the appropriations approved for the financial period 2017–2018 were used to cover expenses relating to the judicial work of the Tribunal in the following cases:

(a) Case No. 23 (*Dispute concerning delimitation of the maritime boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*)

Public hearings were held from 6 to 16 February 2017. The Special Chamber constituted to deal with the case delivered its judgment on 23 September 2017.

(b) Case No. 25 (*The M/V “Norstar” case (Panama v. Italy)*)

The case was submitted to the Tribunal on 17 December 2015. Public hearings were held from 10 to 15 September 2018 and were followed by deliberations of the Tribunal

* [SPLOS/30/L.1/Rev.1](#).



and meetings of the drafting committee. The Tribunal continued its deliberations in 2019 and delivered its judgment on 10 April 2019.

B. Provisional cash surplus

3. 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, miscellaneous income received and additional appropriations) and charges (disbursements against appropriations and provisions for unliquidated obligations). For the financial period 2017–2018, the excess of income over expenditure amounts to €3,040,692 and is calculated as follows:

Credit	€21 145 801
Charges	(€18 105 109)
Excess of income over expenditure	€3 040 692

4. 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 2017–2018 financial period was determined to be €2,047,656. This amount was based on the report of the external auditor for the financial period 2017–2018, with financial statements of the Tribunal ([SPLOS/29/4](#)), and is calculated as follows:

Credit	€21 145 801
Charges	(€18 105 109)
Cancellation of the 2013–2014 obligations surrendered with 2013–2014 cash surplus	(€27 514)
Unpaid contributions	(€965 522)
Provisional cash surplus	€2 047 656

C. Cash surplus

5. 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 financial period and any savings from the provisions made for unliquidated obligations for the financial period.

6. The cash surplus for the financial period 2017–2018 stood at €2,956,912 as at 31 December 2019, as follows:

Provisional cash surplus of €2,047,656 + arrears of contributions from prior periods received in 2019 of €884,147 + savings from the provisions made from unliquidated obligations of €25,109 = cash surplus of €2,956,912.

7. The cash surplus, as reflected in paragraph 6, was reviewed by the external auditor on 28 January 2020. The auditor certified that the cash surplus for the 2017–2018 financial period as at 31 December 2019 amounted to €2,956,912 (see annex I).

D. Surrender of cash surplus

8. 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 financial period 2017–2018, to which the surplus relates.

(b) Surrender of cash surplus

The cash surplus for the financial period 2017–2018 thus apportioned to the States parties will:

(i) Be surrendered to the States parties, provided that their contribution for the financial period 2017–2018 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 financial period in question will be retained by the Registrar until such time as the contribution for that financial period is paid in full.

9. In accordance with regulation 4.5 of the Financial Regulations and Rules of the Tribunal, the cash surplus of €2,956,912 for the 2017–2018 financial period will be surrendered and deducted from the contributions of States parties for 2021 and for earlier periods, where applicable.

II. Provisional performance report for 2019

10. In June 2018, the twenty-eighth Meeting of States Parties approved a budgetary amount of €20,521,200 for the financial period 2019–2020 (see [SPLOS/322](#), para. 1). This amount included a provision of €2,690,100 under “Case-related costs” in order to cover the costs relating to the final deliberations in respect of case No. 25 and to enable the Tribunal to deal with two urgent proceedings in 2019–2020.

11. The performance report for the year 2019 (see annex II) is provisional since it concerns the first year of the 2019–2020 biennium budget.

12. The total expenditure for 2019 stands provisionally at €10,379,567, representing 96.55 per cent of the appropriations in the amount of €10,750,100 allocated for 2019 (see annex II).

Case-related costs

13. A provision in the amount of €2,690,100 was approved under “Case-related costs” for the 2019–2020 budget. Of this amount, €1,960,600 was allocated for 2019 to deal with the final part of case No. 25, as well as one urgent proceeding. In 2019, the Tribunal completed its consideration of case No. 25 and delivered its judgment on 10 April. In addition, two urgent proceedings were dealt with in 2019: case No. 26 (*Case concerning the detention of three Ukrainian naval vessels (Ukraine v. Russian Federation), Provisional Measures*) and case No. 27 (*The M/T “San Padre Pio” Case (Switzerland v. Nigeria), Provisional Measures*). The Tribunal delivered its orders on 25 May 2019 and 6 July 2019, respectively. As a result, €1,864,137 was used by the

end of 2019, which corresponds to approximately 95 per cent of the provision for the year.

14. The Tribunal managed to deal with case No. 25 and two urgent proceedings in 2019 owing to the Registry's efficient planning and the fact that the meetings in case No. 25 as well as in the two urgent proceedings were slightly shorter than anticipated.

15. The case-related provision for the year 2020 will be used to finance the costs related to the consideration of the preliminary objections raised by Maldives in case No. 28 (*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.

Recurrent expenditure

16. Under section 1, Judges, the budget lines "Annual allowances" and "Special allowances" were overspent with respect to the provisions allocated to the year 2019 of the biennium. This is due to the revision of the post adjustment multiplier for Hamburg in February and May 2019 as a result of a cost-of-living survey. In addition, the daily subsistence allowance (DSA) rate for Hamburg was fixed at €306 in January 2019, while the budget was calculated using the former DSA rate of €266. For these reasons, the final amount of overexpenditure under these two budget lines is expected to be €335,000 at the end of the budget period (December 2020).

17. Under section 3, Staff costs, the budget line "Established posts" shows a balance of €24,157 at the end of the year 2019. The salaries for Professional staff have been raised in line with the revision of the post adjustment multiplier for Hamburg in May 2019. It should be noted that the provision in the 2019–2020 budget would not have been sufficient had all positions in the Registry been filled throughout the entire financial period.

18. It would probably not be possible to compensate the overexpenditure in section 1, Judges, with the transfer between appropriation sections, as provided for in regulation 4.6. Furthermore, the total underexpenditure under part A of the budget, Recurrent expenditure, is not expected to be sufficient to cover this overexpenditure at the end of the budget period (December 2020). For this purpose, it is proposed that the Tribunal be authorized to use part of the cash surplus from the 2017–2018 budget to finance this overexpenditure in the amount of €335,000.

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

A. Investment of funds of the Tribunal

19. 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 Income derived from investments shall be credited to miscellaneous income or as provided in the rules relating to each fund or account.

20. In 2019, the Tribunal's funds were kept in bank accounts with Deutsche Bank. Interest rates in the eurozone are at an all-time minimum level. No short-term

investments (“investments made for less than 12 months”, according to rule 109.1 of the Financial Regulations and Rules of the Tribunal) in euros were made and no interest was earned.

21. The interest rates of the European Central Bank have been negative since the year 2014. As a consequence, German banks started to issue negative interest rates. Until February 2020, Deutsche Bank offered the Tribunal a threshold amount of €25,000,000 before charging interest for cash deposits. In February 2020, the Deutsche Bank lowered the threshold amount to €5,000,000. The status of contributions as at 31 January 2020 indicates that more than 75 per cent of the assessed contributions for the 2019–2020 budget have been paid. In addition, the cash surplus for the period 2017–2018 amounts to €2,956,912. If the Tribunal’s Working Capital Fund and trust funds are included, the total cash amounts to approximately €11,500,000. With this level of cash, Deutsche Bank would charge the Tribunal interest in the amount of approximately €32,500 per annum.

22. The Registry aims to invest funds in accordance with the Financial Regulations and Rules of the Tribunal (see regulation 9.1 and rule 109.1) in order to keep the negative interest cost at a minimum.

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

23. At its twenty-eighth session, 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 subsequently established the 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. Between 2010 and 2018, contributions were received from Korwind, a Hamburg-based company from the Republic of Korea working in the field of renewable energy (€25,000), the Korea Maritime Institute (€245,482) and the Government of China (€150,000). Contributions are used to provide financial assistance to applicants from developing countries wishing to participate in the Tribunal’s internship programme and the summer academy of the International Foundation for the Law of the Sea. The trust fund was also used to finance a regional workshop in Montevideo in November 2019. As at 31 December 2019, the 2019–2020 performance of the trust fund was as follows (in euros):

Contributions	–
Expenditure on participants and authorized activities	(43 282)
Gain on exchange	(157)
Total	(43 439)
Reserves from prior periods	232 461
Available balance	189 022

C. Nippon Foundation trust fund

24. In March 2007, the Tribunal and the Nippon Foundation signed the Nippon Foundation grant agreement. Pursuant to the agreement, the Nippon Foundation agreed to contribute €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.

25. 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 to finance the expenses of participants from developing countries in the aforementioned programme.

26. Subsequent annual contributions totalling €2,470,000 were made by the Nippon Foundation during the period 2008–2018. In March 2019, a contribution of €226,310 for the 2019–2020 programme was received. The performance of the Nippon Foundation Grant as at 31 December 2019 is reported to the Meeting of States Parties in accordance with regulation 6.5, as follows (in euros):

Contributions	226 310
Expenditure on participants and authorized activities	(193 855)
Accounts receivable and prepaid expenses	(10 648)
Gain on exchange	146
Non-refundable tax	(814)
Prior period reserves	411 338
Available balance	432 477

27. It was agreed with the Nippon Foundation that the excesses of income over expenditure from the 2007–2008 to the 2018–2019 programmes in the amount of €354,785 would be returned to the Foundation.

D. International Tribunal for the Law of the Sea workshop for legal advisers (sponsored by the Republic of Korea)

28. In January 2020, the Ministry of Foreign Affairs of the Republic of Korea informed the Tribunal that it would make a voluntary contribution that year to the Tribunal in the amount of US\$ 200,000. According to the concept paper on the utilization of voluntary contributions to the Tribunal approved on 9 March 2020, the contribution is to be used for the capacity-building of legal advisers in the field of international dispute settlement in matters pertaining to the law of the sea.

29. In accordance with regulation 6.5 of the Financial Regulations and Rules of the Tribunal, a special euro bank account has been set up with Deutsche Bank for the workshop for legal advisers sponsored by the Republic of Korea. The contribution will cover the expenses of high-level professionals involved in decision-making related to the law of the sea to enable them to participate in a workshop to be held on the premises of the Tribunal.

Annex I

Report of the independent auditor

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 the “cash surplus”) of the International Tribunal for the Law of the Sea, located in Hamburg, Germany, for the biennial financial period 2017–2018, ending 31 December 2018.

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 ensure that the preparation of the cash surplus 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. (the Institute of Public Auditors in Germany), based in Düsseldorf. 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 Tribunal for the biennial financial period 2017–2018, ending 31 December 2018, 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 those Financial Regulations and Rules. 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 (see appendix II) and by the General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften (German Public Auditors and Public Audit Firms) dated 1 January 2017 (see appendix III).

BDO AG Wirtschaftsprüfungsgesellschaft

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

(Signed) Marko **Lüthje**
Wirtschaftsprüfer

Enclosures

Cash surplus for the financial period 2017–2018 of the International Tribunal for the Law of the Sea as at 31 December 2019 (appendix I)

BDO AG Wirtschaftsprüfungsgesellschaft Special Terms and Conditions (appendix II)

General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften (German Public Auditors and Public Audit Firms) dated 1 January 2017 (appendix III)

Appendix I

International Tribunal for the Law for the Sea: cash surplus for the financial period 2017–2018

(Euros)

Provisional cash surplus as at 31 December 2018

Final excess of income over expenditure 2017–2018	3 040 692
Cancellation of the 2015–2016 obligations surrendered with 2015–2016 cash surplus	(27 514)
Contributions receivable from States parties with respect to 2017–2018	(965 522)

Provisional cash surplus 2017–2018	2 047 656
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Cash surplus as at 31 December 2019

Prior periods' contributions received in 2019	884 147
Savings from 2017–2018 obligations	25 109

Cash surplus 2017–2018 as at 31 December 2019	2 956 912
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Appendix II

BDO AG Wirtschaftsprüfungsgesellschaft Special Terms and Conditions

1. General Provisions

(a) We render our services based on (i) the engagement letter and any attachments to the engagement letter, (ii) these Special Terms and Conditions (hereinafter the “STC”), and (iii) the General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften of the Institute of German Certified Accountants (hereinafter the “GET”) (hereinafter collectively referred to as the “Client Agreement”). The same also applies to any part of our services that may be rendered by us before the Client Agreement is signed with legal effect.

(b) Unless otherwise agreed, these STC and GET also apply if we render services in addition to those agreed upon in the engagement letter or any attachments thereto.

2. Fees, Payment Due Date

(a) Our invoices, including invoices for instalment payments or prepayments, will be issued in euros and will be due for payment immediately. We will invoice you at cost for any subcontractor services.

(b) Any demands for advance payments are subject to section 13 (1) sentence 2 of the GET. We have the right to invoice the client for reasonable advance payments on fees, charges and expenses, including incidental costs, at any time.

(c) All information we provide regarding the expected amount of fees generally is only a cost estimate, unless the Client Agreement expressly provides for a flat fee. The quoted flat fee may be exceeded, if unforeseeable events beyond our control will result in a considerable amount of additional work.

(d) If we should discontinue our services early, we shall have the right to invoice the client for the number of hours worked up to that point in time, unless termination of the contract is due to wrongful conduct on our part. However, in the latter case we may invoice you for the number of hours worked, if and to the extent that the services rendered are utilizable despite early termination.

(e) The German Regulations on Fees of Tax Advisors (StBVV) shall apply only if expressly agreed in writing. If after the Client Agreement is signed you request from our firm services that are not included in the engagement letter, we will invoice you for those services either based on a separate agreement or alternatively based on our standard hourly rates applicable to those services.

(f) If we are requested or required (whether before or after services are rendered) to make available information about our services to a competent court, a trustee or insolvency administrator, a public, regulatory or supervisory authority (WPK, PCAOB, DPR) or to any other third party (including the hearing of our personal as witnesses), we shall have the right to invoice you for the time expended as a result thereof based on hourly rates as agreed in the Client Agreement.

3. Limitations of Our Liability

(a) Unless otherwise specified in this section 3 of the STC, our liability is governed by section 9 of the GET. In derogation of section 9 (2) and (5) of the GET, each of the liability limits stated therein shall however be replaced throughout by the amount of €5 million. Section 9 (1) of the GET shall in each case remain unaffected.

(b) If in your opinion the risk associated with our services substantially exceeds the amount of €5 million, we are prepared to discuss the possibility and costs of increasing our liability limit with you and our liability carrier. You are responsible for any additional premiums incurred in connection therewith.

(c) Contrary to section 9 (2) of the GET and section 3 (a) of the STC, our liability is unlimited only if (i) expressly agreed in writing, or (ii) as far as we have to perform our work without any limitations of liability to meet the requirements of the laws of the United States of America concerning the independence of auditors.

4. Our Work Results

Work results that must be delivered in writing and signed by us shall be binding only if the original is signed by two employees or, in case of emails, if two employees are named as signatories. Unless otherwise agreed or in violation of any applicable laws or professional standards, we may also deliver our work results to you in electronic form and/or with a qualified electronic signature.

5. Disclosure of Our Work Results, Rights to Work Results

(a) Our work results are intended solely for the agreed purpose, and they are therefore addressed exclusively to you as the client and may not be used for any other purpose. Any disclosure of our work results to third parties or any use of our work results for advertising purposes is subject to section 6 of the GET.

(b) Unless otherwise agreed in writing, we generally will consent to a disclosure of our work results to third parties only under the condition that a standard disclosure agreement (hold harmless release letter) has been signed by the third party/parties. Any disclosure of our work results must be made in full text and include all appendices. Section 334 of the German Civil Code (BGB) shall remain unaffected by any such disclosure.

(c) You agree to hold harmless and indemnify us from and against any and all losses and damages that may result from any non-compliance with the foregoing provisions.

(d) We will grant rights to use our work results to you only to the extent necessary given the purpose of the applicable Client Agreement.

6. Principles of Our Cooperation

(a) The amount of time needed to render our services and used to calculate our fees depends in substantial part on satisfaction of the requirements set forth in section 3 (1) of the GET.

(b) Unless otherwise provided by the engagement letter, binding laws to which we are subject or any other provisions or applicable standards, we shall have no obligation to review any information made available to us for accuracy or completeness.

7. Special Clause for Tax Advice

(a) You hereby instruct and authorize us to electronically submit in your name to the appropriate German tax authority directly through Datev eG all statements prepared for you that are intended and have been approved for electronic transmission to the responsible office of the German tax authority. The foregoing instruction and authorization shall be effective immediately and may be revoked at any time. Any notice of revocation must be at least in text form (§ 126 b German Civil Code).

(b) If documents requiring action by a certain deadline are submitted to us, we shall have no obligation to take any steps to meet the deadline unless the documents are transmitted to us by regular mail or fax.

8. Electronic Communication and Antivirus Protection

Electronic communication is subject to section 12 of the GET. You hereby further acknowledge that data sent via the Internet cannot be reliably protected against access by third parties, might be subject to loss, delay or viruses. To the extent permitted by law, we therefore disclaim any responsibility and liability for the integrity of emails after they leave our control, and for any damages you or any third parties may suffer as a result. This also applies if despite antivirus programs used by us, viruses enter your system as a result of receiving emails from us.

9. BDO Network, Sole Recourse

(a) We are a member of BDO International Limited, a British company with limited capital contributions, and we are part of the international BDO network of legally independent member firms. BDO is the brand name for the BDO network and for each of the BDO member firms (hereinafter "Member Firms"). To render services, we may involve other Member Firms as subcontractors. For this purpose you hereby release us from our duty of confidentiality in relation to such Member Firms.

(b) You hereby acknowledge and agree that in such cases we will bear full responsibility for both our acts and/or omissions and also all acts and/or omissions of any Member Firms assisting us as subcontractors. Accordingly, you agree that you shall bring no claims or proceedings of any kind whatsoever against any BDO subcontractors (including BDO International Limited or Brussels Worldwide Services BVBA). This shall not apply to any claim or proceeding founded on an allegation of fraud or wilful misconduct or any other claims that cannot be excluded under the laws of the Federal Republic of Germany.

(c) The liability provisions of this Client Agreement, including, without limitation, the limitations of liability, shall also apply for the benefit of any Member Firms assisting us as subcontractors. Such BDO subcontractors have the right to directly invoke the provisions of the foregoing section 9 (b) of these STC. © BDO AG Wirtschaftsprüfungsgesellschaft, last revised 1 January 2017

10. BDO Legal Rechtsanwaltsgesellschaft mbH (BDO Legal) and BDO Affiliates

(a) If in connection with our services you are also engaging BDO affiliates or BDO Legal, you hereby release us from our duty of confidentiality in relation to such other BDO affiliates, so that services can be rendered as smoothly and efficiently as possible.

(b) We are legally independent from BDO Legal and our affiliates. Accordingly, we assume no responsibility for their actions or omissions, nor do we form partnership under civil law (GbR) with BDO Legal or any of our affiliates, nor are we subject to joint and several liability with BDO Legal or any of our affiliates.

11. Money-Laundering

Under the provisions of the German Money-Laundering Act (Geldwäschegesetz), we are required to follow certain identification procedures with respect to our contract partners. Our contract partners are obligated to provide us, fully and truthfully, with all information and documentation that must be provided under the German Money-Laundering Act, and they are obligated to update such information and documentation without demand in the further course of the business relationship.

12. Marketing

Unless we are instructed otherwise by you in writing or highly personal matters or mandates of consumers within the meaning of § 13 of the German Civil Code (BGB) are involved, you hereby allow us to use the type and nature of our contract with you for marketing purposes. This authorization exclusively covers a factual description of

the basic nature of the contract and the client (e.g., reference lists with firm name and logo, as well as scorecards).

13. Statute of Limitations

(a) The limitation of warranty claims is subject to section 7 (2) of the GET. The limitation of all other claims is as provided in subsection (2).

(b) In cases of simple negligence not involving harm to life, body, freedom or health, all claims against us shall be subject to a general limitation period of one year.

(c) The limitation period shall begin to run at the end of the calendar year in which the claim occurred and in which you discovered or absent gross negligence would have discovered the circumstances giving rise to the claim as well as the identity of the liable party (“knowledge or grossly negligent lack of knowledge”). Irrespective of the above, claims shall be time-barred after a period of five years after they occurred, or, without regard to their occurrence and to your knowledge or grossly negligent lack of knowledge, ten years after the act, breach of duty or any other event triggering the damage. Whichever deadline expires first shall be relevant.

(d) Except as provided herein, the limitation of claims shall be governed by applicable law.

14. Jurisdiction, Miscellaneous

(a) If you are a merchant (Kaufmann), a legal entity under public law or a special fund under public law, or if you do not have a general place of jurisdiction in Germany, the place of jurisdiction for any and all disputes arising from or in connection with the Client Agreement shall, at our option, be (i) Hamburg, (ii) the place at which the work in dispute was performed, or (iii) the place of your registered office or residence.

(b) Each Client Agreement must be in written form, as shall any modifications thereto. Unless otherwise agreed or provided for by applicable law, it shall be sufficient for compliance with the requirement of written form if, at our option, (i) each party signs only one original copy of the agreement and then sends it to the other party, or (ii) the Client Agreement, including annexes, is exchanged for signature of a single document by both parties and exclusively in electronic form.

(c) If any provision of this agreement – in whole or in part – is held to be invalid or otherwise impracticable, the other provisions shall remain in full force and effect. Any invalid or impracticable provision shall be deemed to be replaced by such valid and enforceable provision as comes as close as possible to the economic intent of the invalid or unenforceable provision. The foregoing shall apply, mutatis mutandis, if any provision has been inadvertently omitted from this agreement.

Appendix III

General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften (German Public Auditors and Public Audit Firms) dated 1 January 2017

1. Scope of application

(1) These engagement terms apply to contracts between German Public Auditors (Wirtschaftsprüfer) or German Public Audit Firms (Wirtschaftsprüfungsgesellschaften) – hereinafter collectively referred to as “German Public Auditors” – and their engaging parties for assurance services, tax advisory services, advice on business matters and other engagements except as otherwise agreed in writing or prescribed by a mandatory rule.

(2) Third parties may derive claims from contracts between German Public Auditors and engaging parties only when this is expressly agreed or results from mandatory rules prescribed by law. In relation to such claims, these engagement terms also apply to these third parties.

2. Scope and execution of the engagement

(1) Object of the engagement is the agreed service – not a particular economic result. The engagement will be performed in accordance with the German Principles of Proper Professional Conduct (Grundsätze ordnungsmäßiger Berufsausübung). The German Public Auditor does not assume any management functions in connection with his services. The German Public Auditor is not responsible for the use or implementation of the results of his services. The German Public Auditor is entitled to make use of competent persons to conduct the engagement.

(2) Except for assurance engagements (betriebswirtschaftliche Prüfungen), the consideration of foreign law requires an express written agreement.

(3) If circumstances or the legal situation change subsequent to the release of the final professional statement, the German Public Auditor is not obligated to refer the engaging party to changes or any consequences resulting therefrom.

3. The obligations of the engaging party to cooperate

(1) The engaging party shall ensure that all documents and further information necessary for the performance of the engagement are provided to the German Public Auditor on a timely basis, and that he is informed of all events and circumstances that may be of significance to the performance of the engagement. This also applies to those documents and further information, events and circumstances that first become known during the German Public Auditor’s work. The engaging party will also designate suitable persons to provide information.

(2) Upon the request of the German Public Auditor, the engaging party shall confirm the completeness of the documents and further information provided as well as the explanations and statements, in a written statement drafted by the German Public Auditor.

4. Ensuring independence

(1) The engaging party shall refrain from anything that endangers the independence of the German Public Auditor’s staff. This applies throughout the term of the engagement, and in particular to offers of employment or to assume an executive or non-executive role, and to offers to accept engagements on their own behalf.

(2) Were the performance of the engagement to impair the independence of the German Public Auditor, of related firms, firms within his network, or such firms

associated with him, to which the independence requirements apply in the same way as to the German Public Auditor in other engagement relationships, the German Public Auditor is entitled to terminate the engagement for good cause.

5. Reporting and oral information

To the extent that the German Public Auditor is required to present results in writing as part of the work in executing the engagement, only that written work is authoritative. Drafts are non-binding. Except as otherwise agreed, oral statements and explanations by the German Public Auditor are binding only when they are confirmed in writing. Statements and information of the German Public Auditor outside of the engagement are always non-binding.

6. Distribution of a German Public Auditor's professional statement

(1) The distribution to a third party of professional statements of the German Public Auditor (results of work or extracts of the results of work whether in draft or in a final version) or information about the German Public Auditor acting for the engaging party requires the German Public Auditor's written consent, unless the engaging party is obligated to distribute or inform due to law or a regulatory requirement.

(2) The use by the engaging party for promotional purposes of the German Public Auditor's professional statements and of information about the German Public Auditor acting for the engaging party is prohibited.

7. Deficiency rectification

(1) In case there are any deficiencies, the engaging party is entitled to specific subsequent performance by the German Public Auditor. The engaging party may reduce the fees or cancel the contract for failure of such subsequent performance, for subsequent non-performance or unjustified refusal to perform subsequently, or for unconscionability or impossibility of subsequent performance. If the engagement was not commissioned by a consumer, the engaging party may only cancel the contract due to a deficiency if the service rendered is not relevant to him due to failure of subsequent performance, to subsequent non-performance, to unconscionability or impossibility of subsequent performance. No. 9 applies to the extent that further claims for damages exist.

(2) The engaging party must assert a claim for the rectification of deficiencies in writing (Textform)¹ without delay. Claims pursuant to paragraph 1 not arising from an intentional act expire after one year subsequent to the commencement of the time limit under the statute of limitations.

(3) Apparent deficiencies, such as clerical errors, arithmetical errors and deficiencies associated with technicalities contained in a German Public Auditor's professional statement (long-form reports, expert opinions, etc.) may be corrected – also versus third parties – by the German Public Auditor at any time. Misstatements which may call into question the results contained in a German Public Auditor's professional statement entitle the German Public Auditor to withdraw such a statement – also versus third parties. In such cases, the German Public Auditor should first hear the engaging party, if practicable.

8. Confidentiality towards third parties, and data protection

(1) Pursuant to the law (§ [Article] 323 Abs 1 [paragraph 1] HGB [German Commercial Code: Handelsgesetzbuch], § 43 WPO [German Law regulating the Profession of Wirtschaftsprüfer: Wirtschaftsprüferordnung], § 203 StGB [German

¹ Translator's note: the German term "Textform" means in written form, but without requiring a signature.

Criminal Code: Strafgesetzbuch]), the German Public Auditor is obligated to maintain confidentiality regarding facts and circumstances confided to him or of which he becomes aware in the course of his professional work, unless the engaging party releases him from this confidentiality obligation.

(2) When processing personal data, the German Public Auditor will observe national and European legal provisions on data protection.

9. Liability

(1) For legally required services by German Public Auditors, in particular audits, the respective legal limitations of liability, in particular the limitation of liability pursuant to § 323 Abs. 2 HGB, apply.

(2) Insofar as neither a statutory limitation of liability is applicable, nor an individual contractual limitation of liability exists, the liability of the German Public Auditor for claims for damages of any other kind, except for damages resulting from injury to life, body or health as well as for damages that constitute a duty of replacement by a producer pursuant to § 1 ProdHaftG [German Product Liability Act: Produkthaftungsgesetz], for an individual case of damages caused by negligence is limited to €4 million pursuant to § 54 a Abs. 1 Nr. 2 WPO.

(3) The German Public Auditor is entitled to invoke demurs and defences based on the contractual relationship with the engaging party also towards third parties. All rights reserved. This form may not be reprinted, either in whole or in part, or copied in any manner, without the express written consent of the publisher. © IDW Verlag GmbH Tersteegenstraße 14 40474 Düsseldorf DokID: 35021 OJSH100 Lizenziert für/Licensed to: BDO AG Wirtschaftsprüfungsgesellschaft | 4298982.

(4) When multiple claimants assert a claim for damages arising from an existing contractual relationship with the German Public Auditor due to the German Public Auditor's negligent breach of duty, the maximum amount stipulated in paragraph 2 applies to the respective claims of all claimants collectively.

(5) An individual case of damages within the meaning of paragraph 2 also exists in relation to a uniform damage arising from a number of breaches of duty. The individual case of damages encompasses all consequences from a breach of duty regardless of whether the damages occurred in one year or in a number of successive years. In this case, multiple acts or omissions based on the same source of error or on a source of error of an equivalent nature are deemed to be a single breach of duty if the matters in question are legally or economically connected to one another. In this event the claim against the German Public Auditor is limited to €5 million. The limitation to the fivefold of the minimum amount insured does not apply to compulsory audits required by law.

(6) A claim for damages expires if a suit is not filed within six months subsequent to the written refusal of acceptance of the indemnity and the engaging party has been informed of this consequence. This does not apply to claims for damages resulting from scienter, a culpable injury to life, body or health as well as for damages that constitute a liability for replacement by a producer pursuant to § 1 ProdHaftG. The right to invoke a plea of the statute of limitations remains unaffected.

10. Supplementary provisions for audit engagements

(1) If the engaging party subsequently amends the financial statements or management report audited by a German Public Auditor and accompanied by an auditor's report, he may no longer use this auditor's report. If the German Public Auditor has not issued an auditor's report, a reference to the audit conducted by the German Public Auditor in the management report or any other public reference is

permitted only with the German Public Auditor's written consent and with a wording authorized by him.

(2) If the German Public Auditor revokes the auditor's report, it may no longer be used. If the engaging party has already made use of the auditor's report, then upon the request of the German Public Auditor he must give notification of the revocation.

(3) The engaging party has a right to five official copies of the report.

Additional official copies will be charged separately.

11. Supplementary provisions for assistance in tax matters

(1) When advising on an individual tax issue as well as when providing ongoing tax advice, the German Public Auditor is entitled to use as a correct and complete basis the facts provided by the engaging party – especially numerical disclosures; this also applies to bookkeeping engagements. Nevertheless, he is obligated to indicate to the engaging party any errors he has identified.

(2) The tax advisory engagement does not encompass procedures required to observe deadlines, unless the German Public Auditor has explicitly accepted a corresponding engagement. In this case the engaging party must provide the German Public Auditor with all documents required to observe deadlines – in particular tax assessments – on such a timely basis that the German Public Auditor has an appropriate lead time.

(3) Except as agreed otherwise in writing, ongoing tax advice encompasses the following work during the contract period:

(a) preparation of annual tax returns for income tax, corporate tax and business tax, as well as wealth tax returns, namely on the basis of the annual financial statements, and on other schedules and evidence documents required for the taxation, to be provided by the engaging party;

(b) examination of tax assessments in relation to the taxes referred to in (a);

(c) negotiations with tax authorities in connection with the returns and assessments mentioned in (a) and (b);

(d) support in tax audits and evaluation of the results of tax audits with respect to the taxes referred to in (a);

(e) participation in petition or protest and appeal procedures with respect to the taxes mentioned in (a).

In the aforementioned tasks the German Public Auditor takes into account material published legal decisions and administrative interpretations.

(4) If the German Public auditor receives a fixed fee for ongoing tax advice, the work mentioned under paragraph 3 (d) and (e) is to be remunerated separately, except as agreed otherwise in writing.

(5) Insofar as the German Public Auditor is also a German Tax Advisor and the German Tax Advice Remuneration Regulation (Steuerberatungsvergütungsverordnung) is to be applied to calculate the remuneration, a greater or lesser remuneration than the legal default remuneration can be agreed in writing (Textform).

(6) Work relating to special individual issues for income tax, corporate tax, business tax, valuation assessments for property units, wealth tax, as well as all issues in relation to sales tax, payroll tax, other taxes and dues requires a separate engagement. This also applies to:

(a) work on non-recurring tax matters, e.g. in the field of estate tax, capital transactions tax, and real estate sales tax;

(b) support and representation in proceedings before tax and administrative courts and in criminal tax matters;

(c) advisory work and work related to expert opinions in connection with changes in legal form and other re-organizations, capital increases and reductions, insolvency related business reorganizations, admission and retirement of owners, sale of a business, liquidations and the like;

(d) support in complying with disclosure and documentation obligations.

(7) To the extent that the preparation of the annual sales tax return is undertaken as additional work, this includes neither the review of any special accounting prerequisites nor the issue as to whether all potential sales tax allowances have been identified. No guarantee is given for the complete compilation of documents to claim the input tax credit.

12. Electronic communication

Communication between the German Public Auditor and the engaging party may be via email. In the event that the engaging party does not wish to communicate via email or sets special security requirements, such as the encryption of emails, the engaging party will inform the German Public Auditor in writing (Textform) accordingly.

13. Remuneration

(1) In addition to his claims for fees, the German Public Auditor is entitled to claim reimbursement of his expenses; sales tax will be billed additionally. He may claim appropriate advances on remuneration and reimbursement of expenses and may make the delivery of his services dependent upon the complete satisfaction of his claims. Multiple engaging parties are jointly and severally liable.

(2) If the engaging party is not a consumer, then a set-off against the German Public Auditor's claims for remuneration and reimbursement of expenses is admissible only for undisputed claims or claims determined to be legally binding.

14. Dispute Settlement

The German Public Auditor is not prepared to participate in dispute settlement procedures before a consumer arbitration board (Verbraucherschlichtungsstelle) within the meaning of § 2 of the German Act on Consumer Dispute Settlements (Verbraucherstreitbeilegungsgesetz).

15. Applicable law

The contract, the performance of the services and all claims resulting therefrom are exclusively governed by German law.

Annex II

Provisional performance report for 2019

(Euros)

<i>Part/ section</i>	<i>Object of expenditure</i>	<i>2019–2020 approved budget</i>	<i>2019 approved budget</i>	<i>2019 expenditure (as at 31 December 2019)</i>	<i>2019 unliquidated obligations (as at 31 December 2019)</i>	<i>2019 total expenditure (as at 31 December 2019)</i>	<i>Balance</i>	<i>Total expenditure/ approved budget (percentage)</i>
A	Recurrent expenditure							
1	Judges	4 393 000	2 177 100	2 233 231	110	2 233 341	(56 241)	102.58
1.1	Annual allowances	3 124 400	1 566 700	1 667 825	–	1 667 825	(101 125)	106.45
1.2	Special allowances	851 400	416 800	422 007	–	422 007	(5 207)	101.25
1.3	Travel to sessions	276 700	149 400	128 087	–	128 087	21 313	85.73
1.4	Common costs	140 500	44 200	15 312	110	15 422	28 778	34.89
2	Judges' pension scheme	1 857 300	827 200	794 416	–	794 416	32 784	96.04
3	Staff costs	7 749 600	3 853 650	3 753 461	4 440	3 757 901	95 749	97.52
3.1	Established posts	5 088 000	2 518 400	2 494 243	–	2 494 243	24 157	99.04
3.2	Common staff costs	2 249 800	1 135 100	1 101 399	1 058	1 102 457	32 643	97.12
3.3	Overtime	25 000	12 500	9 877	–	9 877	2 623	79.02
3.4	Temporary assistance for meetings	205 500	96 300	91 860	–	91 860	4 440	95.39
3.5	General temporary assistance	107 900	53 950	35 134	1 750	36 884	17 066	68.37
3.6	Training	73 400	37 400	20 948	1 632	22 580	14 820	60.37
4	Representation allowance	13 600	7 350	6 234	–	6 234	(34)	100.55
5	Official travel	181 600	92 500	85 089	–	85 089	7 411	91.99
6	Hospitality	14 400	7 350	4 884	–	4 884	2 466	66.45
7	Operating expenditure	3 022 400	1 578 550	1 297 399	123 298	1 420 697	157 853	90.00
7.1	Maintenance of premises (including security)	2 289 900	1 204 600	1 032 876	99 161	1 132 037	72 563	93.98
7.2	Rental and maintenance of equipment	358 200	187 250	141 070	16 543	157 613	29 637	84.17
7.3	Communications	190 600	97 050	75 405	2 892	78 297	18 753	80.68
7.4	Miscellaneous services and charges (including bank charges)	41 300	21 050	15 660	220	15 880	5 170	75.44
7.5	Supplies and materials	123 300	62 800	32 388	4 482	36 870	25 930	58.71
7.6	Special services (external audit)	19 100	5 800	–	–	–	5 800	0.00

20/20

<i>Part/ section</i>	<i>Object of expenditure</i>	<i>2019–2020 approved budget</i>	<i>2019 approved budget</i>	<i>2019 expenditure (as at 31 December 2019)</i>	<i>2019 unliquidated obligations (as at 31 December 2019)</i>	<i>2019 total expenditure (as at 31 December 2019)</i>	<i>Balance</i>	<i>Total expenditure/ approved budget (percentage)</i>
8	Library and related costs	325 600	168 200	165 289	1 145	166 434	1 766	98.95
8.1	Library – procurement of books and publications	247 000	128 150	125 628	1 145	126 773	1 377	98.93
8.2	External printing and binding	78 600	40 050	39 661	–	39 661	389	99.03
B	Non-recurrent expenditure							
9	Furniture and equipment							
9.1	Purchase of equipment	155 600	78 750	46 434	–	46 434	32 316	58.96
10	Implementation of IPSAS	140 000	70 000	7 966	15 053	23 019	46 981	32.88
C	Case-related costs	3 406 800	1 960 600	1 864 137	–	1 864 137	96 463	95.08
11	Judges	2 221 000	1 460 900	1 474 350	–	1 474 350	(13 450)	100.92
11.1	Special allowances	1 666 200	1 101 400	1 153 811	–	1 153 811	(52 411)	104.76
11.2	Compensation to judges ad hoc	306 100	124 100	107 290	–	107 290	16 810	86.45
11.3	Travel to meetings, including judges ad hoc	248 700	235 400	213 249	–	213 249	22 151	90.59
12	Staff costs	1 185 800	499 700	389 787	–	389 787	109 913	78.00
12.1	Temporary assistance for meetings	1 140 800	477 100	373 106	–	373 106	103 994	78.20
12.2	Overtime	45 000	22 600	16 681	–	16 681	5 919	73.81
Total		21 119 900	10 750 100	10 250 574	144 046	10 379 567	370 533	96.55

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