



Meeting of States Parties

Distr.: General
29 March 2019

Original: English

Twenty-ninth Meeting

New York, 17–19 June 2019

Item 12 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 period 2017–2018

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

I. Budget performance report for 2017–2018

1. In June 2016, the twenty-sixth Meeting of States Parties approved the amount of €21,119,900 as the budget of the Tribunal for 2017–2018 (SPLOS/301, para. 1). That amount included a provision of €3,406,800 under part C, Case-related costs, of the budget to cover the costs relating to the consideration of case No. 23 (*Dispute concerning delimitation of the maritime boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*) and case No. 25 (*The M/V "Norstar" Case (Panama v. Italy)*) and to enable the Tribunal to deal with two urgent proceedings in 2017–2018. The Meeting also decided that a floor rate of 0.01 per cent and a ceiling rate of 22 per cent would be used in establishing the rate of assessment for States parties for the budget of the Tribunal for 2017–2018 (*ibid.*, para. 7).

2. As shown in the budget performance report for 2017–2018 (see annex), the total expenditure for that period stands at €18,105,109, representing 85.73 per cent of the total appropriations (€21,119,900). The 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.

3. With regard to case No. 23, it may be recalled that, by Order of 12 January 2015, the Tribunal formed a Special Chamber to deal with the case. The written proceedings were completed on 14 November 2016, and the public hearing was held from 6 to 16 February 2017. The Special Chamber delivered its judgment on 23 September 2017. With regard to case No. 25, proceedings were instituted by Panama on 17 December 2015 with regard to a dispute with Italy regarding the arrest and detention of the M/V *Norstar*, a Panamanian-flagged vessel. The public hearing in case No. 25 was held from 10 to 15 September 2018. The hearing was followed by judicial deliberations in October 2018 and meetings of the drafting committee in

* SPLOS/29/L.1.



November 2018. The Tribunal will continue its deliberations in 2019, and the delivery of the judgment is scheduled for April 2019.

4. Under section 2, Judges' pension scheme, of part A, Recurrent expenditure, of the budget, savings amounting to €414,276 were made. The savings resulted mainly from the fact that a provision for pension payment to six judges for 15 months (October 2017–December 2018) was included in the budget approved in June 2016, while only four judges retired in October 2017. The number of retiring judges was determined by the results of the judges' elections, which were held in June 2017.

5. Under section 3, Staff costs, of part A, savings amounting to €499,669 were made. They were achieved mainly under the budget lines "Established posts" and "Common staff costs", owing to vacant positions in the Registry in 2017–2018.

6. Under part C, Case-related costs, savings amounted to €1,875,668. The savings were mainly a result of the fact that the approved 2017–2018 budget included appropriations for two urgent cases in the amount of €739,250 per case, while no urgent proceedings were submitted to the Tribunal during the financial period.

7. The reduction in the daily subsistence allowance rate for Hamburg, Germany, from €277 to €266, in December 2017 also resulted in a decrease in the expenditure, since part of the judges' remuneration is calculated on the basis of the daily subsistence allowance rate.

8. Savings under the budget line "Travel to meetings, including judges ad hoc" were achieved owing to the fact that, during the consideration of cases Nos. 23 and 25, judicial meetings of the Tribunal were scheduled in conjunction with the regular meetings of the Tribunal on non-judicial matters.

9. The performance rate of the 2017–2018 budget stands at 85.7 per cent. It may be noted that the performance rate of only part A, Recurrent expenditure, and part B, Non-recurrent expenditure, stands at 93.6 per cent.

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

A. Cash surplus from the financial period 2015–2016

10. Pursuant to the information communicated to the Meeting of States Parties (see [SPLOS/318](#), paras. 8–9), the cash surplus for the financial period 2015–2016 was negative and no funds were surrendered to States parties.

B. Investment of funds of the Tribunal

11. 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.

12. In 2017 and 2018, the Tribunal's funds were kept in bank accounts with JP Morgan and Deutsche Bank in United States dollars and euros. Interest was gained

from short-term investments of less than 12 months, in accordance with rule 109.1 of the Financial Regulations and Rules of the Tribunal. The funds yielded interest amounting to €1,244 during 2017 and 2018. That earned interest has been credited as miscellaneous income, in accordance with regulation 9.2.

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

13. 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 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 the trust fund are used to provide financial assistance for the participation of applicants from developing countries in the Tribunal's internship programme and the summer academy.

14. Several contributions to the trust fund were received by the Tribunal. The first contribution, in the amount of €25,000, was made in 2010 by Korwind, a Hamburg-based company from the Republic of Korea working in the field of renewable energy. Between 2011 and 2016, the Korea Maritime Institute made several contributions, totalling €141,000. During the financial period 2017–2018, contributions from the Institute in the amount of €104,482 and a contribution from China in the amount of €150,000 were received. During 2017–2018, 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 two regional workshops, the first in Costa Rica in May 2017 and the second in Cabo Verde in May 2018. The performance of the trust fund as at 31 December 2018 is summarized as follows (in euros):

| | |
|---|-----------------|
| Contributions | 254 482 |
| Gain on exchange | 35 |
| Total income | 254 517 |
| Expenditure on participants and authorized activities | (52 570) |
| Bank charges | (1 401) |
| Total expenditure | (53 971) |
| Excess of income over expenditure | 200 546 |
| Reserves from prior periods | 31 915 |
| Available balance | 232 461 |

D. Nippon Foundation trust fund

15. 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.

16. 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.

17. In March 2008 and March 2009, the Nippon Foundation made a second and a third contribution in the amount of €200,000 each. It made nine more contributions in the amount of €230,000 each in March 2010, March 2011, March 2012, March 2013, March 2014, March 2015, March 2016, April 2017 and March 2018. The performance of the Nippon Foundation Grant as at 31 December 2018 is reported to the Meeting of States Parties in accordance with regulation 6.5, as follows (in euros):

| | |
|---|------------------|
| Grants from the Nippon Foundation | 460 000 |
| Loss on exchange | (26) |
| Total income | 459 974 |
| Expenditure on participants and authorized activities | (395 331) |
| Bank charges | (1 680) |
| Non-refundable tax | (2 074) |
| Total expenditure | (399 085) |
| Excess of income over expenditure | 60 889 |
| Reserves from prior periods | 350 449 |
| Available balance | 411 338 |

E. China Institute of International Studies trust fund

18. Following the signing of a memorandum of understanding between the Tribunal and the China Institute of International Studies (CIIS) on 3 May 2012, a trust fund, designated the CIIS Grant, was set up to support the Tribunal’s internship programme, the summer academy of the International Foundation for the Law of the Sea and other projects, including regional workshops. A contribution from the Institute to the Grant in the amount of €100,000 was received on 20 June 2012 and used to support the internship programme and the summer academy. As at 1 January 2017, €15,542 was available for the organization of the regional workshop in Cabo Verde. As at 31 December 2018, the funds had been fully utilized, the bank account having already been closed in August 2018.

F. Twentieth anniversary trust fund

19. At its fortieth session, in October 2015, the Tribunal decided to establish a trust fund to finance its events and activities in celebration of its twentieth anniversary and to disseminate information on its role in the settlement of disputes relating to the law of the sea. In total, four contributions were received in 2016. Two contributions of €25,000 each were received from the Korea Maritime Institute in May 2016 and July 2016, respectively, a contribution of €109,443 was received from the Government of Japan in July 2016, and a contribution of €7,000 was received from the Government of Germany in December 2016. The contributions were used to finance activities to celebrate the anniversary of the Tribunal in New York during the twenty-sixth Meeting of States Parties and in Hamburg.

20. At the beginning of the financial period, the amount of €28,047 was still available. In March 2017, the funds were used to finance further activities relating to the Tribunal's twentieth anniversary. The bank account was closed in May 2017.

III. Projections of the pension scheme of the members of the Tribunal

21. The twenty-eighth Meeting of States Parties requested the Registrar to submit a report, at its next meeting, on the future projections of the section of the budget relating to the judges' pension scheme, on the basis of the decision on Pension Scheme Regulations for Members of the International Tribunal for the Law of the Sea (SPLOS/47) and other relevant decisions taken by the Meeting of States Parties (SPLOS/322, para. 4). The present section has been prepared in response to that request.

A. Pension Scheme Regulations for Members of the International Tribunal for the Law of the Sea

22. The Pension Scheme Regulations were adopted by the ninth Meeting of States Parties in June 1999 (SPLOS/47) and amended by the nineteenth Meeting of States Parties in June 2009 (SPLOS/200). The pensions of the former members of the Tribunal are financed through appropriations in the budgets of the Tribunal. Section 2, Judges' pension scheme, was included in the Tribunal's budget under part A, Recurrent expenditure, for the first time with regard to the budget approved for 1999. Since then, all the budgets of the Tribunal have included appropriations to cover expenses relating to the pensions of former judges of the Tribunal.

B. Pensions in payment from 2000 to 2018

23. Pursuant to the Pension Scheme Regulations, the following expenditures were incurred with regard to the payment of pensions to former judges and surviving spouses (in United States dollars):

| | |
|------|---------|
| 2000 | 18 672 |
| 2005 | 138 648 |
| 2010 | 420 252 |
| 2015 | 679 500 |
| 2018 | 936 168 |

C. Projections for future financial periods

24. Further to the request of the Meeting of States Parties, the Registrar has contracted with BDO AG Wirtschaftsprüfungsgesellschaft, the auditor of the Tribunal for the financial periods 2017–2018 and 2019–2020, to calculate pension projections for future financial periods. The calculations have been made on the basis of the composition of the Tribunal since 1996 and the corresponding pension entitlements. In addition, the probability of a judge retiring at the end of his or her term was calculated as being 66.7 per cent, which, together with actuarial estimates available in Germany, was used to produce the projections.

25. In preparing the projections, the auditor underlined the fact that the amount of data available is limited, owing to the small number of persons concerned and the fact that the Tribunal is a relatively young institution. Accordingly, the projections constitute a rough estimate of the Tribunal's future commitments.

26. On that basis, according to the auditor, the amount of pensions in payment would reach a steady level around 2027 and the annual pension payments would then plateau at approximately \$1,300,000 per year.¹

¹ For purposes of comparison, the 2018–2019 budget of the International Court of Justice, which is composed of 15 judges, included an appropriation of \$4,756,800 for judges' pensions, and its 2016–2017 budget included an amount of \$4,889,800.

Annex

Budget performance report for 2017–2018

(Euros)

| Part/ section | Object of expenditure | 2017–2018 approved budget | 2017 expenditure (as at 31 December 2017) | 2018 expenditure (as at 31 December 2018) | 2017–2018 total expenditure (as at 31 December 2018) | Balance | Total expenditure/ approved budget (percentage) |
|------------------|--|---------------------------------|---|---|---|------------------|---|
| A | Recurrent expenditure | | | | | | |
| 1 | Judges | 4 393 000 | 2 129 284 | 2 111 336 | 4 240 620 | 152 380 | |
| 1.1 | Annual allowances | 3 124 400 | 1 522 531 | 1 564 860 | 3 087 391 | 37 009 | 98.82 |
| 1.2 | Special allowances | 851 400 | 382 183 | 397 690 | 779 873 | 71 527 | 91.60 |
| 1.3 | Travel to sessions | 276 700 | 121 542 | 114 994 | 236 536 | 40 164 | 85.48 |
| 1.4 | Common costs | 140 500 | 103 028 | 33 972 | 136 820 | 3 680 | 97.38 |
| 2 | Judges' pension scheme | 1 857 300 | 651 586 | 791 438 | 1 443 024 | 414 276 | |
| 2.1 | Pension in payment | 1 857 300 | 651 586 | 791 438 | 1 443 024 | 414 276 | 77.69 |
| 3 | Staff costs | 7 749 600 | 3 709 774 | 3 540 157 | 7 249 931 | 499 669 | |
| 3.1 | Established posts | 5 088 000 | 2 489 352 | 2 382 806 | 4 872 158 | 215 842 | 95.76 |
| 3.2 | Common staff costs | 2 249 000 | 1 080 631 | 948 473 | 2 024 104 | 220 696 | 90.19 |
| 3.3 | Overtime | 25 000 | 11 260 | 8 688 | 19 948 | 5 052 | 79.79 |
| 3.4 | Temporary assistance for meetings | 205 500 | 78 724 | 86 802 | 165 526 | 39 974 | 80.55 |
| 3.5 | General temporary assistance | 107 900 | 21 535 | 71 529 | 93 064 | 14 836 | 86.25 |
| 3.6 | Training | 73 400 | 28 272 | 41 859 | 70 131 | 3 269 | 95.55 |
| 4 | Representation allowance | 13 600 | 6 765 | 6 437 | 13 202 | 398 | 97.07 |
| 5 | Official travel | 181 600 | 87 382 | 83 955 | 171 337 | 10 263 | 94.35 |
| 6 | Hospitality | 14 400 | 5 706 | 7 239 | 12 945 | 1 455 | 89.90 |
| 7 | Operating expenditure | 3 022 400 | 1 309 444 | 1 654 385 | 2 963 829 | 58 571 | |
| 7.1 | Maintenance of premises (including security) | 2 289 900 | 998 835 | 1 290 570 | 2 289 405 | 495 | 99.98 |
| 7.2 | Rental and maintenance of equipment | 358 200 | 156 602 | 177 647 | 334 249 | 23 951 | 93.31 |
| 7.3 | Communications | 190 600 | 105 882 | 70 069 | 175 951 | 14 649 | 92.31 |
| 7.4 | Miscellaneous services and charges (including bank charges) | 41 300 | 14 142 | 16 489 | 30 631 | 10 669 | 74.17 |
| 7.5 | Supplies and materials | 123 300 | 33 983 | 88 010 | 121 993 | 1 307 | 98.94 |
| 7.6 | Special services (external audit) | 19 100 | 0 | 11 600 | 11 600 | 7 500 | 60.73 |
| 8 | Library and related costs | 325 600 | 156 988 | 168 400 | 325 388 | 212 | |
| 8.1 | Library – procurement of books and publications | 247 000 | 117 747 | 129 064 | 246 811 | 189 | 99.92 |
| 8.2 | External printing and binding | 78 600 | 39 241 | 39 336 | 78 577 | 23 | 99.97 |
| B | Non-recurrent expenditure | | | | | | |
| 9 | Furniture and equipment | | | | | | |
| 9.1 | Purchase of equipment | 155 600 | 62 900 | 90 801 | 153 701 | 1 899 | 98.78 |
| C | Case-related costs | 3 406 800 | 713 055 | 818 077 | 1 531 132 | 1 875 668 | |
| 10 | Judges | 2 221 000 | 280 407 | 576 535 | 856 942 | 1 364 058 | |
| 10.1 | Special allowances | 1 666 200 | 170 739 | 494 142 | 664 881 | 1 001 319 | 39.9 |
| 10.2 | Compensation to judges ad hoc | 306 100 | 92 275 | 62 717 | 154 992 | 151 108 | 50.63 |
| 10.3 | Travel to meetings, including judges ad hoc | 248 700 | 17 393 | 19 676 | 37 069 | 211 631 | 14.91 |

| <i>Part/ section</i> | <i>Object of expenditure</i> | | | | | | <i>Total expenditure/ approved budget (percentage)</i> |
|--------------------------|-----------------------------------|--|--|--|---|------------------|--|
| | | <i>2017–2018 approved budget</i> | <i>2017 expenditure (as at 31 December 2017)</i> | <i>2018 expenditure (as at 31 December 2018)</i> | <i>2017–2018 total expenditure (as at 31 December 2018)</i> | <i>Balance</i> | |
| 11 | Staff costs | 1 185 800 | 432 648 | 241 542 | 674 190 | 511 610 | |
| 11.1 | Temporary assistance for meetings | 1 140 800 | 428 688 | 234 178 | 662 866 | 477 934 | 58.11 |
| 11.2 | Overtime | 45 000 | 3 960 | 7 364 | 11 324 | 33 676 | 25.16 |
| | Total | 21 119 900 | 8 832 884 | 9 272 225 | 18 105 109 | 3 014 791 | 85.73 |