

## Part II

### Resolutions and decisions adopted by the Assembly of States Parties

#### A. Resolutions:

##### Resolution ICC-ASP/13/Res.6

*Adopted at the 16<sup>th</sup> plenary meeting, on 25 June 2015, by consensus*

##### ICC-ASP/13/Res.6 Resolution on permanent premises

*The Assembly of States Parties,*

*Recalling* its resolutions adopted with regard to the permanent premises, and *reiterating* the importance of the permanent premises to the future of the Court,

*Stressing* that in its previous resolutions the Assembly had manifested its firm intention that the unified construction and transition projects for the permanent premises should be delivered within the €195.7 million budget (at 2014 price levels) as per resolution ICC-ASP/12/Res.2, and the role of the Oversight Committee in implementing under its delegated authority any actions that might be needed to ensure that the project proceeds safely within budget, as well as that the ownership costs of the permanent premises be as low as possible,

*Noting* that the existing pressure on the strategic reserve of the project, as a result of reductions on other reserves made before 2013, had led the Assembly to delegate to the Oversight Committee the authority to make decisions, as a measure of last resort and as necessary and appropriate, for any increases of the project budget up to €4.3 million in 2015, thus bringing the budget authorization from €195.7 million up to a maximum of €200 million, to ensure the financial security of the project,

*Noting* the report of the Project Director on the status of the unified project,<sup>1</sup> and his request that the budget be increased in 2015 by an additional €8,808,725, and that €1,993,524 of this total might only be needed as an authorization to enter commitments after the end of July 2015, while at the project end no actual disbursement might take place, if the sharing mechanism of the contract with the General Contractor produces such currently expected results; *also* noting that, according to the Project Director, if such budget increase was not granted, after the end of July 2015 the Project Director will not be able to enter into additional obligations, with the result that the transition of the Court to the new premises would have to be postponed until 2016, with additional costs for the simultaneous occupation of the interim and permanent premises as well for the Court's operations,

*Further noting* that the Project Director has resigned on 27 May 2015,

*Further noting* that a substantial budget overrun has been communicated to the Oversight Committee only on 28 May 2015, and that on the same date the Oversight Committee has requested the External Auditor to provide an urgent audit of the project,

*Recalling* its objective that the permanent premises project be completed by September 2015 and that the Court be able to progressively move into and take full occupation of the new premises by December 2015,

*Also recalling* that the Assembly's objectives included that the permanent premises shall be delivered within the approved budget at a good quality standard, while avoiding elements that might not be essential to the proper performance of the core functions of the Court or that would otherwise negatively affect the total cost of ownership,

*Taking into account* the urgent need for a solution which is not to create a precedent for future decisions,

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<sup>1</sup> *Official Records ... Resumed Thirteenth session ... 2015* (ICC-ASP/13/20/Add.1), annex III, appendix II.

1. *Takes note* of the report of the Chair of the Oversight Committee to States Parties, dated 24 June 2015;<sup>2</sup>
2. *Authorizes* an increase of the unified budget envelope in the amount of €6 million, bringing the total project budget to €206,000,000, of which €1,993,524 shall not be disbursed if the sharing mechanism of the contract with the General Contractor produces such currently expected results;
3. *Decides* that the newly authorized budget envelope will only be funded through reduction of the authorized level of the Employee Benefits Liabilities fund and the Working Capital Fund and, in any case, not affect the Contingency Fund;
4. *Decides* that such budget increase shall have no direct or indirect effect on the contributions of States Parties and that, to that end, the Court shall not assess contributions of States Parties nor otherwise preempt their rights pursuant to the Rome Statute and the Financial Regulations and Rules;
5. *Requests*
  - (a) The External Auditor to provide the Bureau with a detailed report on the appropriate level of the cash reserves of the Court, and on any risks that might be attached to their reductions;
  - (b) The Committee on Budget and Finance to provide the Bureau with recommendations on such reductions;
6. *Requests* the Bureau, at a session open to all States Parties to be held in The Hague, to decide by the end of September 2015 on the level of reduction, as appropriate, of the Employee Benefit Liabilities fund and the Working Capital Fund;
7. *Requests*, without prejudice to the governance structure of the permanent premises project set out in the relevant Assembly resolutions, the Registry, the Project Director's Office and the Oversight Committee to cooperate closely in carrying the project further and report on a regular basis to the Bureau on steps to be taken with regard to the effectivity and break down of costs, including prioritising the expenses;
8. *Requests* the Project Director's Office to review the requirements of the unified project corresponding to obligations not yet entered into and, in particular, by revising construction and transition items so as to avoid that they reflect any state-of-the-art concept of quality, with the view of achieving a cost reduction in those areas of the project that do not affect the occupation by the Court by December 2015;
9. *Also requests* the Project Director's Office to report separately on expenditures of the construction and transition projects in advance of the twenty-fifth session of the Committee on Budget and Finance;
10. *Further requests* the External Auditor to carry out an independent and detailed review of the project accounts with emphasis on the cost overruns and to report to the Bureau;
11. *Invites* the Committee on Budget and Finance to analyze the cost overruns;
12. *Invites* the Oversight Committee to continue implementing a strict control on expenditures by means of the appropriate procedure for the management and control, within the strategic reserve of the project, of the budget increase herewith approved, including by authorizing in advance any obligations to be entered by the project;
13. *Requests* the Bureau to take, on the basis of the independent report by the External Auditor, the necessary steps in light of the mandate in Assembly resolution ICC-ASP/13/Res.2, as well as to consider the issue of responsibility and accountability, and to report thereon to the Assembly including proposing any actions to be taken, if appropriate;
14. *Reiterates* that the surplus pertaining to the financial period 2014 shall be allocated to funding the remaining transition costs up to €1.3 million, to be accounted for as one-time payments, and *decides* that any additional surplus pertaining to the 2014 and following

<sup>2</sup> *Official Records ... Resumed Thirteenth session ... 2015* (ICC-ASP/13/20/Add.1), annex III.

financial periods shall be allocated to offset the budget increases approved by the Oversight Committee pursuant to its delegated authority, up to the amount of €4,300,000, and *calls upon* States Parties to pay in a timely manner their assessed contributions to the Court against the regular budget and the permanent premises budget;

15. *Welcomes* that the External Auditor of the Court (*Cour des comptes*) has adopted a comprehensive approach to auditing the accounts and performances of the Court, which includes the full scope of the permanent premises project,<sup>3</sup> and their availability to assist the evaluation of the project performance under the current circumstances; and

16. *Requests* the Oversight Committee to continue to provide regular progress reports to the Bureau and to regularly inform The Hague Working Group and report back to the Assembly at its next session.

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<sup>3</sup> *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, para. 82.