

**Tenth session**

New York, 12-21 December 2011

Report of the Court on capital investment replacements***I. Introduction**

1. At its twelfth session, the Committee on Budget and Finance (hereinafter “the Committee”) recognized that potentially significant costs associated with the permanent premises and capital investment needed to be considered, and accordingly invited the International Criminal Court (hereinafter “the Court”) to analyse their budgetary impact and to report to the Committee at its thirteenth session.¹

2. The Court responded to the recommendation of the Committee and identified potential capital investment replacements for the years 2011-2015, grouped into two categories: vehicles and equipment.² At its thirteenth session, the Committee welcomed the study carried out by the Court as a commencement on the identification of known and potential cost pressures³ and recommended that the Court continue to refine the report on capital investment replacement and include therein other potential medium-term cost drivers such as parallel trials, the continuation in office of outgoing judges and costs associated with interim rent and permanent premises.⁴ The Committee further recommended that the Court use these forecasts to prepare procurement, amortization, cash management and financial plans.⁵

3. At its fifteenth session, the Committee considered the updated report of the Court on capital investment replacements and welcomed the identification of cost drivers, recommending that the proposed programme budget for replacement of capital investments should not include funds for the permanent premises, IPSAS, the extension of judges’ terms and the rent for the interim premises.⁶ In order to contain costs, the Committee further recommended that the Court explore alternative methods of financing of its capital investment replacement costs, such as leasing. It was incumbent on the Court to extend its replacement strategy over a longer period of time. The Committee requested the Court to provide an updated report at its next session.⁷

4. The present report takes stock of the Court’s progress in exploring alternative methods of financing of its capital investment replacement costs and provides a revised replacement and acquisition plan.

*Previously issued as CBF/16/5.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Eighth session, The Hague, 18-26 November 2009* (ICC-ASP/8/20), vol. II, part B.1, para. 30.

² ICC-ASP/8/27.

³ *Ibid.*, vol. II, part B.2, para. 49.

⁴ *Ibid.*, para. 52.

⁵ *Ibid.*, para. 53.

⁶ *Official Records ... Ninth session ... 2010* (ICC-ASP/9/20), vol. II, part B.1, para. 62.

⁷ *Ibid.*, para. 63.

II. Evaluation of alternative methods of financing

5. This section of the report explores the possibility of cost reductions through the replacement of one-time vehicle purchasing costs and permanent maintenance costs with rental/leasing costs.

A. Vehicle rental versus purchase (field offices)

6. The Court has carried out an exercise in cost comparison between the purchase and rental of a vehicle in the Democratic Republic of Congo (DRC) and Chad.⁸ The ongoing vehicle needs in these locations require daily vehicle use, meaning that rental would essentially have to cover 365 days in a year.

7. Based on pro forma invoices⁹ for car rental services for the Kinshasa Field Office for the year 2010, the following table shows estimated rental rates for operations in the DRC:

Table 1: Monthly and daily rental rates for vehicles in DRC

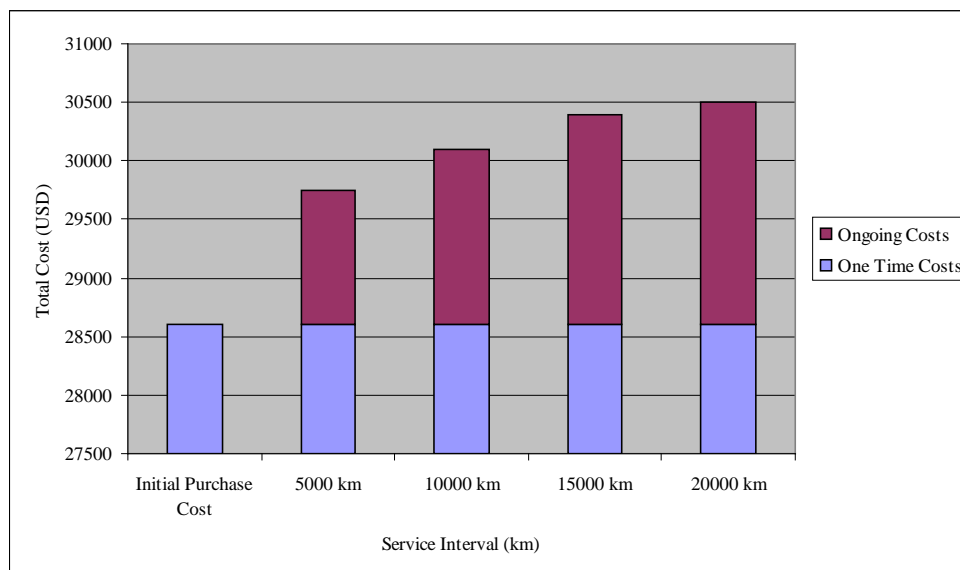
Monthly rate	Daily rate
US\$ 1,950.00 per month for a standard vehicle	US\$ 85.00 per day for a standard vehicle
US\$ 3,520.00 per month for a 4x4 vehicle	US\$ 145.00 per day for a 4x4 vehicle

8. As there is little or no opportunity to reduce the demand for vehicle use, the monthly rate shown above would be the most cost-effective option. Thus, the yearly rates for a standard vehicle and for a 4x4 vehicle would be US\$ 23,400.00 and US\$ 42,240.00 respectively.

9. An alternative to full-time vehicle rental in DRC/Chad is to purchase a vehicle for permanent use. The costs associated with this type of investment include not only the one-time purchasing cost, but also ongoing maintenance and insurance costs.¹⁰

10. The cost of purchasing a typical 4x4 vehicle is approximately US\$30,000. Other ongoing costs include service costs as well as costs for maintenance and parts, which have been estimated based on servicing for every 5,000km of vehicle use as follows:

Graph 1: One-time and ongoing costs associated with vehicle purchase



⁸ Fuel costs have not been included in this case study as they are not relevant to the comparison, since they are the same whether the vehicle is rented or purchased.

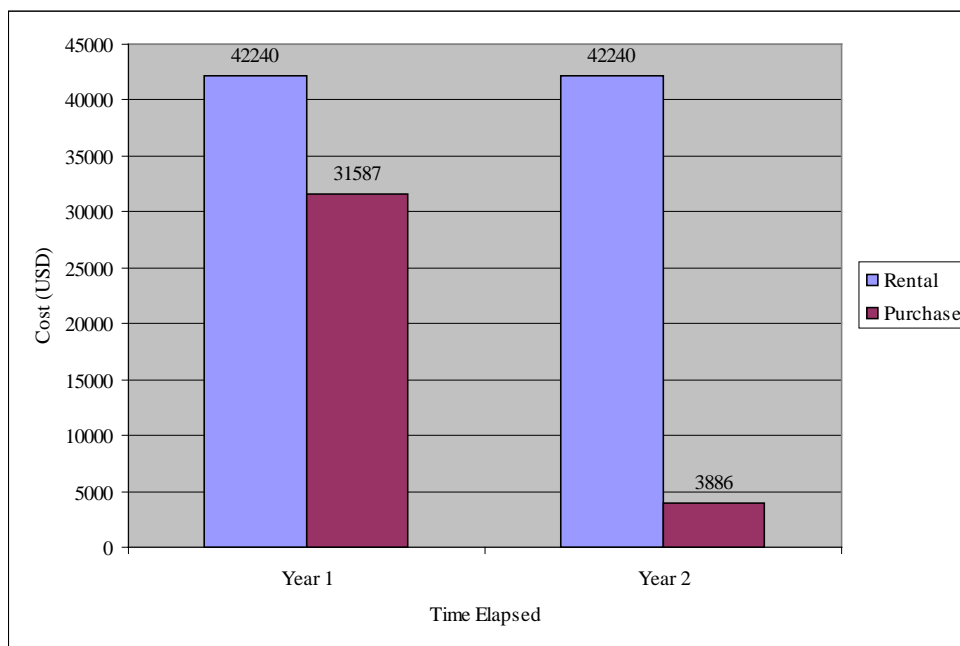
⁹ Note that all estimations were originally given in USD.

¹⁰ See note 8 above.

11. The rental costs presented in this report have been estimated on a yearly basis; however, costs associated with the purchase of a new vehicle have been estimated with respect to service intervals. Based on the vehicle mileage figures for 2009, the overall average mileage per vehicle per year is approximately 12,200 kilometres. For the purposes of comparison, therefore, yearly expenses for a purchased vehicle will be based on the costs associated with service intervals of 10,000kms. Furthermore, the estimations for vehicle purchase have been made for a 4x4 Toyota Hilux Pick-Up, so the comparable rental estimates are for a 4x4 vehicle rental. In this case, the pro forma invoice lists rental costs for a Jeep Suzuki Grand Vitara, which is a comparable vehicle with similar purchasing costs to a Toyota Hilux Pick-Up. Yearly rental estimates based on monthly rates will be used here, as they represent the most cost-effective rental option provided vehicles are needed consistently each month.

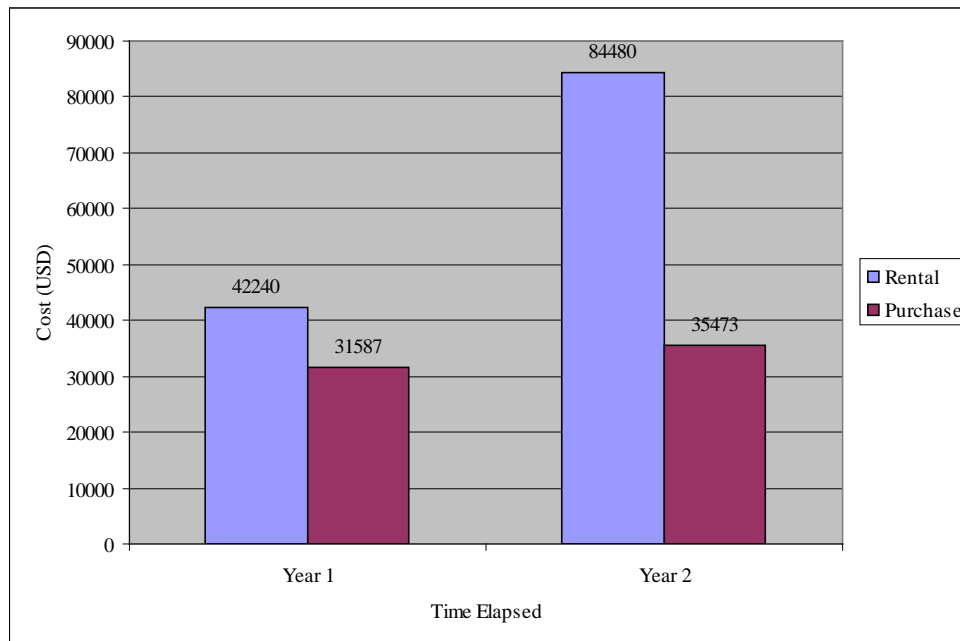
12. Starting with singular costs each year of vehicle operation, it is apparent that vehicle purchase is a more cost-effective option.¹¹

Graph 2: Cost of one vehicle each year



13. Considering the cumulative costs over two years, it is readily apparent that the purchase of a 4x4 vehicle is more economical than the rental of a comparable vehicle, as can be seen from graph 3.

¹¹ Here ‘singular costs’ means the cost for rental each year disregarding the cost from the previous year compared with the cost for purchase and subsequent maintenance, where initial purchasing cost is a one-time expense unrelated to subsequent yearly costs.

Graph 3: Cumulative cost of one vehicle over two years

B. Vehicle leasing versus purchase (Headquarters)

14. The Court has taken examples of lease contracts for vehicles offered during previous procurement actions and extrapolated the values to show the leasing costs per vehicle per year over an eight-year period. These are financial leases whereby the Court is the registered owner of the vehicles, which are accordingly free of taxes.

15. The costs of leasing from lease companies which would remain the vehicles' owners are much higher as the leasing companies would not be exempt from luxury tax (BPM),¹² which is charged an approximately 40 per cent of the catalogue price of each vehicle. This cost has to be passed on to the customer, in this case the Court.

16. A further negative factor to be borne in mind, for both rented and leased vehicles, is that they would not carry CD plates and hence would not enjoy any form of diplomatic immunity/ protection.

17. At Headquarters, the Court intends to purchase between one and three vehicles per year over an eight-year period, the average length of time that the Court expects to be able to economically keep vehicles in a Headquarters situation.

18. The benefits of leasing are short-term. As can be seen from table 2, leasing costs for the first vehicles are significantly lower than the outright purchase costs of new vehicles.¹³ The first three years see savings of approximately €72,000, €54,000 and €31,000 respectively. This is because the Court already owns vehicles which are still serviceable in those years. However, by the time year five is reached, leasing incurs more costs and this continues to the end of our eight-year cycle. The total estimated costs for purchasing and leasing over the entire period are €429,000 and €509,000 respectively, a difference of approximately €80,000 or €10,000 more per year for leasing vehicles.

19. However, over a 16-year period the extra cost of leasing rises to €189,000, or an average of €12,000 per year.

¹² Dutch government applies two kinds of tax on a vehicle. The first being the regular sales tax and the second an additional luxury tax called BPM. This means Belasting van Personenauto's en Motorrijwielen, which roughly translates into Tax on Passenger Vehicles and Motorbikes. This luxury tax is based on the net value of the vehicle, after which a financial compensation (both positive and negative) is applied, based on the CO2 emission of the vehicle.

¹³ The exercise carried out by the Court excludes maintenance in the interest of comparing like with like.

Table 2: Comparative costs for leasing and purchase of vehicles over a sixteen-year period

Year	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	TOTAL
Lease 1	9,992	9,992	9,992	9,992	22,200				9,992	9,992	9,992	9,992	22,200	0	0	0	
Lease 2	7,994	7,994	7,994	7,994	17,760				7,994	7,994	7,994	7,994	17,760	0	0	0	
Lease 3		9,193	9,193	9,193	9,193	20,424				9,193	9,193	9,193	9,193	20,424	0	0	
Lease 4		8,793	8,793	8,793	8,793	19,536				8,793	8,793	8,793	8,793	19,536	0	0	
Lease 5			8,393	8,393	8,393	8,393	18,648			0	8,393	8,393	8,393	8,393	18,648	0	
Lease 6			8,194	8,194	8,194	8,194	18,204			0	8,194	8,194	8,194	8,194	18,204	0	
Lease 7				7,394	7,394	7,394	7,394	16,429		0	0	7,394	7,394	7,394	7,394	16,429	
Lease 8				4,796	4,796	4,796	4,796	10,656		0	0	4,796	4,796	4,796	4,796	10,656	
Lease 9				3,797	3,797	3,797	3,797	8,436		0	0	3,797	3,797	3,797	3,797	8,436	
Lease 10					9,394	9,394	9,394	9,394	18,428	0	0	0	9,394	9,394	9,394	9,394	
Lease 11					3,797	3,797	3,797	3,797	8,436	0	0	0	3,797	3,797	3,797	3,797	
Lease 12					5,995	5,995	5,995	5,995	13,230	0	0	0	5,995	5,995	5,995	5,995	
Lease	17,986	35,972	52,559	68,547	109,708	91,722	72,027	54,708	58,081	35,972	52,559	68,547	109,708	91,722	72,027	54,708	1,046,554
Purchase	90,000	90,000	83,000	80,000	86,000	0	0	0	90,000	90,000	83,000	80,000	86,000	0	0	0	858,000
Purchase 1	50,000								50,000								
Purchase 2	40,000								40,000								
Purchase 3		46,000								46,000							
Purchase 4		44,000								44,000							
Purchase 5			42,000								42,000						
Purchase 6			41,000								41,000						
Purchase 7				37,000								37,000					
Purchase 8				24,000								24,000					
Purchase 9				19,000								19,000					
Purchase 10					37,000								37,000				
Purchase 11					19,000								19,000				
Purchase 12						30,000								30,000			

20. In addition, should it be necessary to dispose of a leased vehicle before the lease purchase is complete, financial penalties could result.

C. Leasing and purchase of machinery

21. Concerning the X-ray machines, the Court has compared the two possibilities: purchase of new equipment including yearly maintenance and the leasing of the same equipment. As the expected lifetime of such equipment is ten years, which explains the need to replace the existing ones in 2013 and 2014, it is more beneficial to purchase new equipment and maintain it, rather than leasing it. The breaking point occurs in the fifth year.

III. Replacements and acquisitions

22. Capital investment replacements and acquisitions have been grouped into two categories: vehicles and equipment. Both categories include assets at Headquarters and in the field offices.

A. Vehicles

23. As capital investment decisions are often driven by funding availability, the Court has continued cutting costs by extending vehicle replacement cycles, even though assets are ideally replaced in five-year cycles. This is the standard used by Common System Agencies, in particular taking into consideration the rigours of the terrain/conditions in the field in which said assets are used.

24. Given the ever-changing operational environment in which the Court works, a series of factors have been considered in order to extend replacement cycles. These factors include the planned closure of the Abeche Field Office and the subsequent reduction in operational usage and possible subsequent relocations; as well as the possible reduction in Kampala based operations with additional possible relocations to Kenya. Some relocations have already taken place and two Kinshasa-based vehicles have been redeployed to Bunia.

25. The replacement plan for vehicles at Headquarters and in the field has been carefully revised, resulting in the extension of vehicle lifetimes and the subsequent substantial reduction in capital investment requirements for 2012 from €1,494,964 to €480,852 and in 2013 from €305,211 to 208,629.

26. Table 3 shows a revised replacement and acquisition plan for vehicles for field offices and Headquarters for the years 2011-2015.

Table 3: Capital investment replacements - vehicles

Item	Qty	Year of purchase	Expected year of replacement / acquisition									
			2011		2012		2013		2014		2015	
			Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan	Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan	Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan	Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan	Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan
Field offices												
Vehicle, Toyota Land Cruiser - N'Djamena	3	2005			50,285	0			0	182,621		
Vehicle, Toyota Corolla - N'Djamena	1	2009						25,000	0	0	23,824	
Vehicle, Toyota Land Cruiser - Abeche	3	2005			286,071	0			0	190,303		
Vehicle, Toyota Land Cruiser- Bunia	2	2004			216,089	0			0	239,582		
Vehicle, Nissan Patrol - Bunia	2	2004	34,182	0	34,182	0			0	75,797		
Vehicle, Nissan Patrol - Bunia (moved from Kinshasa)	2	2008			216,089	0			121,249	0	0	128,054
Vehicle, Nissan (3 Terrano, 1 Patrol) – Kampala ¹⁴	4	2004	50,000	46,591	150,000	96,443	0	49,909				
Vehicle, Toyota Land Cruiser- Kampala ¹⁵	2	2004			216,089	223,652						
Vehicle, Nissan Patrol - Kampala ¹⁶	2	2006			73,159	0	0	75,720				
Vehicle, Toyota Land Cruiser- Bangui	5	2007					250,211	0			0	263,591
Vehicle, Toyota (1 Mini Bus Hiace, 1 Avanza) - Bangui	2	2009							50,000	0	0	49,492
Vehicle, Nissan (1 Terrano, 2 Patrol) - Kinshasa	3	2004	50,000	46,591	100,000	70,757						
Vehicle, Toyota Mini Bus Hiace - Kinshasa	1	2009							35,000	0	0	28,663
Vehicle, Nissan Patrol – Kinshasa	2	2010							121,249	0		

¹⁴ In line with ever-changing operational requirements, it is very possible that from 2012 onwards, some Kampala-based vehicles may be relocated in support of operations in Kenya and other locations to be determined.

¹⁵ Ibid.

¹⁶ Ibid.

Item	Qty	Year of purchase	Expected year of replacement / acquisition									
			2011		2012		2013		2014		2015	
			Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan	Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan	Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan	Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan	Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan
Headquarters												
Vehicle, BMW 530i (passenger)	1	2003	0	50,000	45,000	0						
Vehicle, Mercedes Benz Viano 7 (passenger)	1	2009							37,000	37,000		
Vehicle, BMW 530i (passenger)	1	2003			45,000	46,000						
Van, Renault Espace (passenger)	1	2004	0	44,000								
Van, Renault Espace (passenger)	1	2004			0	44,000						
Vehicle BMW 520D (passenger)	1	2009							37,000	0	0	37,000
Chrysler Voyager 7 (passenger)	1	2008					36,000	42,000				
Van, Renault Modus (passenger)	1	2005							19,000	0	0	19,000
Van, Renault Trafic 8 (passenger)	1	2004			39,000	0	0	41,000				
Van, Renault Trafic 9 (passenger)	1	2004							31,500	0	0	30,000
Van, Renault Trafic (cargo)	1	2004			24,000	0			0	24,000		
Van, Renault Kangoo (passenger)	1	2004					19,000	0	0	19,000		
Total €			134,182	187,182	1,494,964	480,852	305,211	208,629	355,749	768,303	0	579,624

B. Equipment

27. This category includes mainly information and telecommunications equipment, audio-visuals, X-ray machines and security systems.

28. After careful technical consideration, the life-span of V-SAT equipment (terminal, trailer-mounted) in field offices has been prolonged from 2012 to 2015. The V-SAT presently based in Abeche is due for relocation on closure of the field office no later than 30 June 2011.

29. Another factor that has been considered is the planned/expected transfer of the Court to new permanent premises in 2015. Due to the characteristics of the new premises, new X-ray machines will certainly have to be purchased to respond to the new needs (for example the machine model 100/110 will have to be replaced by a bigger one).

30. Based on the evaluation the Court has made, it is proposed to postpone the replacement of the X-ray machines from 2013 and 2014 to 2015. Nevertheless, as all the equipment mentioned will be over 10 years old, additional yearly funds of approximately €20,000 will have to be allocated for maintenance of all X-ray machines.

31. The Court is also rationalising its capital investments in infrastructure to allow for the move to permanent premises in 2015. Only essential replacements of either irreparable equipment, or where costs of repair dictate replacement, are being undertaken. Changes to premises are being kept to a minimum.

32. With regard to the fixed videoconference system/Satellite, the costs have been spread over four years by buying equipment for one field office at a time, in order to deliver the solution in a phased approach that is more aligned with resource availability and operational need. The risk of not having this infrastructure in place is that every time a remote witness has to give evidence, temporary audiovisual equipment has to be moved from one location to another. The equipment is very fragile and difficult to move on commercial or United Nations flights. The Court runs the risk that it may not meet its obligations for videolink technology in all its areas of operations.

33. The Court recommends a leasing option over a five-year period for the Storage Area Network (SAN) as shown in table 4. This will incur a long-term commitment by the Court, since the rental of the equipment for the long-term will be ring-fenced and these funds cannot be cut midway through the contract.

34. There is also a need to be pro-active in the archiving of data and public key infrastructure. All Court data is stored online, and if the Court does not start archiving data, the size of the SAN will increase exponentially. It is not cost-effective to keep all historic data online. This is in line with industry standards and will reduce the risk of data loss in future.

35. As reported to the Committee at its fifteenth session,¹⁷ the Court continuously reviews future compatibility of equipment with the new permanent premises. As a result, the Court predicts that audiovisual capture and distribution systems in place in 2015-2016 will be fully digital as opposed to the mix of analogue and digital AV equipment currently in place. Digital equipment and digitized data will be cheaper in the long-term and will have lower replacement costs.

36. With regard to the video-on-demand system, the Court is utilizing a commercial option for this. A study is underway to see if it will be more cost effective to provide the service in-house.

37. Table 4 shows a revised replacement and acquisition plan for equipment for field offices and Headquarters for the years 2011-2015. As a result of the Court's strategy of extending equipment lifetimes whenever possible and exploring alternative methods of financing, capital requirements have been reduced substantially by €2,697,971 in 2012, and by €95,000 in 2013.

Table 4: Capital investment replacements – equipment

Item	Qty	Year of purchase	Expected year of replacement / acquisition									
			2011		2012		2013		2014		2015	
			Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan	Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan	Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan	Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan	Revised Acquisition/ Replacement Plan as reported to CBF 15th session	New Revised Plan
Field offices												
Terminal, trailer-mounted 3.9 – Abeche	1	2006			122,603		0					0 140,689
Terminal, trailer-mounted 3.9 – Bangui	1	2007			119,809		0					0 132,835
Terminal, trailer-mounted 3.9 – Bunia	1	2007			119,809		0					0 132,835
Fixed videoconference system at all field offices	5	new			250,000	50,000	0	50,000	0	50,000	0	50,000

¹⁷ ICC-ASP/9/19, para. 21.

		Expected year of replacement / acquisition										
		2011		2012		2013		2014		2015		
Item	Year of Qty purchase	Revised Acquisition/ Replacement Plan as reported to CBF 15th session		Revised Acquisition/ Replacement Plan as reported to CBF 15th session		Revised Acquisition/ Replacement Plan as reported to CBF 15th session		Revised Acquisition/ Replacement Plan as reported to CBF 15th session		Revised Acquisition/ Replacement Plan as reported to CBF 15th session		
		New Revised Plan	New Revised Plan	New Revised Plan	New Revised Plan	New Revised Plan	New Revised Plan	New Revised Plan	New Revised Plan			
Headquarters												
X-ray machine – 5030 (will be replaced by 6040 or equivalent)	2	2003				120,000	0			0	120,000	
X-ray machine – 6040	1	2003				60,000	0			0	60,000	
X-ray machine – 100/100	1	2003				100,000	0			0	100,000	
X-ray machine – 6040	2	2004						120,000	0	0	120,000	
X-ray machine – 5030 (will be replaced by 6040 or equivalent)	2	2004						120,000	0	0	120,000	
X-ray machine – 6040	1	2004						60,000	0	0	60,000	
Access control system (upgrade of access cards and card readers)	1	2003-04		75,000	75,000							
Power/data pillars for power and data connection				100,000	0							
Cooling units Security Control room - Arc				0	15,000							
CCTV recording memory		2004		55,750	25,000							
Traka renovation (key safe system)						0	50,000					
Adaptation of electrical supply to Haagse/ Arc elevators			0	33,000								
Ventilation for FMU, SSS, LTU and Cleaning Contractor areas in basement - Arc				0	50,000							
Replace/repair cooling systems for Main Equipment Room (MER) I			0	50,000								
Burglar system hardware computers		2004		50,000	0	0	60,000					
Heating entrance booth - Arc				0	25,000							
Storage Area Network (for storage and retrieval of all documents and transactional data)	1	2005-06	0	200,000	2,020,000	400,000	0	400,000	0	400,000	0	400,000
Courtroom equipment (staggered) replacement: all audio-visuals and network equipment	1	2003-04		425,000	250,000	675,000	200,000	675,000	100,000	675,000	0	
Public Key Infrastructure (safe encrypted method for sending confidential documents)	1	2006						200,000	200,000			
Video Matrix at all input points	1	new				400,000	0					
Long-term archive system	1	new		500,000	500,000							
Video on demand system	1	new		250,000	0							
Online disclosure platform	1	new				270,000	270,000					
Integrated analysis platform	1	new		200,000	200,000							
Total €			0	283,000	4,287,971	1,590,000	1,625,000	1,030,000	1,175,000	750,000	675,000	1,436,359

IV. Conclusion

38. The Court has carried out an extensive exercise to identify alternative methods of financing of its capital investment requirements, namely vehicles and equipment. While short-term it would be cheaper to rent or lease vehicles, it is apparent that over a prolonged period of time the most economical option is to purchase vehicles.

39. Alternative methods of financing equipment, combined with the Court's strategy of extending its replacement and acquisition plan for vehicles and equipment over a longer period of time, has resulted in a substantial reduction in potential capital investment requirements from €5,782,935 to €2,070,852 in 2012; from €1,930,211 to €1,238,629 in 2013, and from €1,530,749 to €1,518,303 in 2014. However, the postponement of the replacement of some assets due to the planned move to new permanent premises has led to an increase in requirements in 2015 from €75,000 to €2,015,983.

40. The Court will continue exploring alternative methods of financing and monitoring its resources in order to maximize utilization and extend investment cycles whenever possible.

41. Table 5 provides an updated summary of the potential capital investment replacements for vehicles and equipment for the years 2012-2015.

Table 5: General summary of potential capital replacements for vehicles and equipment

<i>Capital replacement requirement</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Vehicles	480,852	208,629	768,303	579,624
Equipment	1,590,000	1,030,000	750,000	1,436,359
Total €	2,070,852	1,238,629	1,518,303	2,015,983