



---

**Eleventh session**

The Hague, 14-22 November 2012

**Report of the Court on its budgeting process\*****I. Introduction**

1. At its seventeenth session, the Committee on Budget and Finance (“the Committee”) recommended that the International Criminal Court (“the Court”) reconsider its process for establishing the proposed programme budget and report to the Committee on this matter at its eighteenth session. The Court would need to ensure that the fiscal context is well understood by all programmes and sub-programmes and that a real prioritization process is established.<sup>1</sup> The Committee also recommended that the Court produce a medium term (i.e. at least up to 2015) expenditure forecast as an annex to the 2012 proposed programme budget and for each annual budget thereafter.<sup>2</sup> In that context, the Committee also recommended that the Court review its previous report on zero-based budgeting with a view to determining the core activities of the Court, the most efficient way to deliver core activities, and whether processes and procedures implemented during the establishment phase of the Court were still appropriate.<sup>3</sup>

2. At its tenth session the Assembly of States Parties (“the Assembly”) requested that the Study Group on Governance, in consultation with The Hague Working Group, engages with the Court and the Committee, with a view to enhancing the transparency and predictability of the budgetary process and to present its preliminary recommendations to the Bureau of the Assembly before August 2012.<sup>4</sup>

3. In view of the Assembly request subsequent to the Committee recommendations, the Court’s present report is focusing on the concept of programme budgeting and the framework applied in defining budget assumptions. Furthermore, the report also explores some of the main challenges encountered by the Court while seeking to implement its approved budget, as well as the role of the different major programmes in the overall methodological achievement of the Court’s strategic objectives and goals without pre-empting on the future considerations of the Study Group.

4. As with any other evolving processes, the Court is constantly seeking ways to improve its budget process. Through its current process, the Court aims at prioritising the efficient and economic use of resources, improving the Court’s overall performance and strengthening accountability vis-à-vis stakeholders. Furthermore, in the interest of improving operational efficiency and promoting results and priority-oriented accountability,

---

\* Previously issued as CBF/18/17.

<sup>1</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Tenth session, New York, 12-21 December 2011* (ICC-ASP/10/20), vol. II, part B.2, para, 23.

<sup>2</sup> *Ibid.*, para. 22.

<sup>3</sup> *Ibid.*, vol. II, part B.1, para. 72.

<sup>4</sup> *Ibid.*, vol. I, part III, ICC-ASP/10/Res.4, “Programme budget for 2012, the Working Capital Fund for 2012, scale of assessments for the apportionment of expenses of the International Criminal Court, financing appropriations for 2012 and the Contingency Fund”.

the Court has been looking into its practices and processes with a view to transitioning from a budget system based on the control of inputs to a system focused on outputs or outcomes.

5. It should be noted that the current budget process and format has been influenced by the numerous guidelines, reviews and analysis carried out within the Court over time and in consultations with various stakeholders, in particular with the Committee, the Bureau's working groups in New York and The Hague as well as of intensive deliberations at the different sessions of the Assembly of States Parties

6. In accordance with Financial Rule 103.2, the Registrar asks the Office of the Prosecutor and relevant Heads of organizational units of other organs of the Court to prepare programme budget proposals for the following financial period. The methodology used for building up the budget proposals in the Registry area is initially based on the individual Certifying Officers' responsibility to identify their proposed needs, which are subject to further scrutiny, in accordance with their annual work plans, which are in turn based on the foreseen activities of the Court. For the Judiciary, the Chef de Cabinet (as Certifying Officer) has overall responsibility for drawing up the budget in consultation with Divisions and Chambers. In the OTP the Head of the Services Section (as Certifying Officer) has the overall responsibility for drawing up the budget in consultation with the Heads of Divisions and the Prosecutor.

7. After the approval of the programme budget and throughout the implementation phase of the Court's budget, Certifying Officers, monitor the use of the resources allocated to their operational units.

8. On this basis, the Court has developed a concept of connections between different levels of long-term goals, implementation goals as well as standards for efficiency and effectiveness indicators at the sub-programme level of selected budget users. Such a theoretical and methodological framework serves as the basis for realizing the short-term budget priorities and the three primary long-term strategic objectives...<sup>5</sup>

9. The key objectives of the present budget process are to:

(a) Maintain stable and sustained financial support to ensure adequate resources are available for effective and efficient operations of the Court;

(b) Fully leverage available resources and maximize their output and efficiency;

(c) Enforce a strict budget discipline and encourage mandate-oriented budgeting; and

(d) Achieve balance between the practical needs and the resource constraints through fiscal discipline and the adequate implementation of the Court's mandate.

10. The complexity of the Court's budget process, with independent decision making, an area of common services within the Registry and one Budget, requires it to start very early in the year preceding the budget year, and to involve a wide range of actors within the different organs of the Court. Accordingly, the preparation stage of the budget commences with the determination of the assumptions at the beginning of the year and ends once it is submitted to the Committee in advance of the latter's autumn session. In thorough consultations with the Court, the Committee then considers the proposed budget and makes independent technical recommendations for the benefit of States Parties and of the Court. After the Committee has issued its recommendations, the Bureau working group in The Hague engages with the Court in a detailed facilitation process in advance of the discussions at the Assembly. The process is completed at the end of the year with the adoption by the Assembly of the approved programme budget. While these different stages are all integral parts of the budget process, this paper will focus on the first part, that is, the preparation of the budget proposal up to its submission to the Committee.

---

<sup>5</sup> According to the Court's current strategic plan, the three primary long-term strategic objectives are a) fair, effective and efficient legal proceedings applying high legal standards; b) ensuring that the Court is a well-recognized and adequately supported institution; and c) ensuring that the Court becomes a model of public administration. See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Tenth session, New York, 12-21 December 2011* (ICC-ASP/10/20), vol. II, part A, para. 17 (table 2).

## **A. Roles and responsibilities of key stakeholders in the budget process internal stakeholders**

11. Regulation 3 and Rule 103.2(1) of the Financial Regulations and Rules that the proposed programme budget for each financial period shall be prepared by the Registrar in consultation with the other organs of the Court and on the basis of programme budget proposals received from the Office of the Prosecutor and relevant Heads of organizational units of other organs of the Court, which are to be prepared at such times and in such detail as the Registrar may prescribe in accordance with the appropriate regulatory framework.<sup>6</sup> The Budget Working Group (BWG) and the Coordination Council have an instrumental coordinating role throughout the different stages of the budget process.

12. The BWG is the technical level inter-organ working group, composed by representatives of Presidency, the Office of the Prosecutor (OTP) and Registry. It facilitates and coordinates the preparation and implementation of the budget. The BWG meets on a weekly basis in order to prepare and propose budget assumptions, priorities and objectives, to set up the structure of the budget and to agree on a timeline and key dates for the preparation of the budget. The results of these consultations are then transmitted to the monthly meetings of the Coordination Council for its consideration.

13. The Coordination Council comprises the President, the Prosecutor and the Registrar and meets on a monthly basis to discuss and coordinate the administrative activities of the organs of the Court<sup>7</sup> and, in particular, to agree on the appropriate direction to take in the budget process. Accordingly, the Coordination Council is the body which ultimately agrees on the budget assumptions and on the overall budget proposal before it is finalized and submitted to States Parties and the Committee for its consideration. As such, the Coordination Council agrees on the general budgetary strategy, on the budget assumptions and objectives, and finally on the Court's proposed programme budget.

## **B. External Stakeholders**

### **1. Committee on Budget and Finance**

14. The Committee is responsible for the independent technical examination of any document submitted to the Assembly that contains financial or budgetary implications or any such other matter of a financial, budgetary or administrative nature as may be entrusted to it by the Assembly. In particular, the Committee reviews the proposed programme budget of the Court and makes the relevant recommendations to the Assembly concerning the proposed programme budget. Thus, the Committee provides a mechanism for the budgetary and financial review and monitoring of the resources of the Court.

### **2. The Hague and New York Working Groups of the Bureau**

15. At its third session, the Assembly requested the Bureau to intensify the dialogue between the Assembly and the Court by focusing on priority issues in a manner respectful of prosecutorial and judicial independence and of the special role of the Committee.<sup>8</sup> For this purpose, on 1 December 2004, the Bureau established two informal working groups, of equal standing, one based in The Hague and the other in New York.<sup>9</sup> While the Bureau has consistently entrusted the Working Group in The Hague with facilitating discussions on the Court's proposed programme budget in advance of the sessions of the Assembly, nonetheless, given the broader representation of States Parties at the United Nations

<sup>6</sup> In accordance with Regulation 1.4, all regulations shall be implemented in a manner consistent with the responsibilities of the Prosecutor and of the Registrar as set out in articles 42, paragraph 2, and 43, paragraph 1, of the Rome Statute. The Prosecutor and the Registrar shall cooperate, taking into account the independent exercise by the Prosecutor of his or her functions under the Statute.

<sup>7</sup> Regulations of the Court, Regulation 3 'Coordination Council'

<sup>8</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004 (ICC-ASP/3/25)*, part III, ICC-ASP/3/Res. 8.

<sup>9</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, fourth session, New York, (ICC-ASP/4/32)*, vol. II, part B.2, para. 21.

Headquarters in New York, the Working Group in New York also provides a useful forum for these discussions.

16. Building on the work of the Committee, the Bureau's budget facilitator has the task of ensuring that all relevant issues are efficiently and effectively addressed in advance of the Assembly session. During the facilitation process, representatives of the States Parties express their views and seek clarifications from the Court on the proposed programme budget and the recommendations of the Committee when required. According to practice and in order to ensure continuity in the consultations, the Bureau's budget facilitator is normally subsequently appointed as Coordinator of the Assembly's Working Group on Budget at the Assembly sessions.

### **3. Assembly of States Parties**

17. Pursuant to Article 112.2(d) of the Rome Statute, the Assembly is mandated to consider and decide the budget for the Court. For this purpose, and on the basis of the Court's proposed programme budget and taking into account the reports of the Committee and the Bureau, the Assembly adopts a resolution authorizing budget appropriations for each of the Court's major programmes.

## **II. From strategic planning to budget process**

18. The overall context for the Court's strategic planning process is the principle that there is no higher priority than the implementation of the independent mandates and functions of the different organs set out in the Court's regulatory framework. The Court's Strategic Plan guides the planning and implementation of the Court's budget process, and the Court's budget objectives for each calendar year are linked to it. The Strategic Plan is used to link and identify yearly priorities, which are integrated as far as possible into the budget cycle and performance reporting. The Strategic Plan was first adopted in 2006 and revised in 2008. Under the present Plan the Court has identified eleven strategic objectives, which are linked to the three major goals of the Court. The Court is currently revising and updating its Strategic Plan in order to cover the period from 2012 to 2017.

19. The annual budget also serves as a tool for setting annual strategic budget priorities, which are reviewed each year by the Court. For example, in its 2012 proposed programme budget, the Court identified three strategic priorities involving clusters or areas in which the Court is currently focusing its attention.<sup>10</sup> Further to this, the Court has also identified eight primary risk categories over the past two years and has been working towards formalizing and further strengthening its risk management system.

20. Performance indicators have been used by the Court since 2004 at the major programme level to measure performance. These indicators, which are linked to the Court's strategic goals and objectives, have evolved over the years in line with the changes in both the external and internal environment. As a result, programme budgets since 2010 all contain approximately 100 performance indicators on which the yearly report to the Committee and States Parties on programme performance provides an update by indicating the level of actual achievement for each performance indicator.

## **III. Budgeting process at the Court**

### **A. Budget Planning Process: Formulation of budget assumptions, identification of key cost drivers and agreement on the budget timeline**

21. The primary objective of the Court's budget planning process is to ensure that the budget priorities are set in line with a strategic and consolidated approach of all the organs and major programmes of the Court. As a first step, the Judiciary and the Office of the Prosecutor provide informed estimates of the level of their foreseen judicial and prosecutorial activities, which includes activities at the different stages of the proceedings,

---

<sup>10</sup> See *Approved Programme Budget for 2012 of the International Criminal Court*, ICC-ASP/10/20, para. 18.

as well as investigations and analysis activities. Such information includes an estimated judicial calendar and the foreseen number of situations, investigations, cases and situations under preliminary examination, as well as of any residual investigation.

22. This information is passed to the Registry, which calculates the impact of these activities for the operations and services to be provided by different parts of the Registry itself. On the basis of all this information, the BWG assembles a list of detailed common budget assumptions which are submitted to the Coordination Council for consideration and agreement. Once these assumptions and the strategic framework of the budget have been agreed upon, the Heads of Organs define the strategies that best fit their respective operational requirements. The agreed common assumptions are used as a basis for each organ to calculate its budgetary requirements.

23. At this stage, it should be noted that some of the major programmes which fall administratively under the Registry, have budgets linked to the judicial or prosecutorial assumptions, while others such as the Secretariat of the ASP and the Project Director's Office (permanent premises) have budgets which are driven by other, independent factors.

24. In its efforts to improve the budget process in terms of budget transparency and predictability, and to capture the major cost drivers that will determine the formulation of future budgets, the past standard assumptions have been reviewed for the 2013 proposed budget and enhanced into operational assumption indicators that meaningfully reflect the key activity levels that need to be provided for in the budget.

## **B. Other cost indicators**

25. While formulating the assumptions, the BWG also considers other important parameters that will have an impact on the budget, such as salary scales, vacancy rates, travel rates, etc. This ensures that the entire Court makes its budgetary calculations on the same operational basis.

## **C. Budget timeline**

26. The timeline is prepared on the basis of the major milestones to be achieved for key budget stages, keeping in mind the schedules of the Coordination Council and the Committee and Assembly meeting dates. A sample budget timeline for the proposed 2012 budget is attached in the Annex.

## **D. Predictability of budget assumptions**

27. It should also be noted that the decisions on the budget assumptions vis-à-vis judicial and prosecutorial activities rely on a generally accepted understanding of what is an 'unforeseen situation' or 'unavoidable expenses that could not be foreseen or could not be accurately estimated at the time of adoption of the budget' – namely any event with a significant budgetary impact on the Court which could not be accurately financially quantified with a sufficient degree of certainty prior to the adoption of the budget.<sup>11</sup> The Court also continuously monitors possible prosecutorial and judicial activities in the following year with a possible financial impact which are, while possible, not yet sufficiently certain in order to be included in the budget. This monitoring enables the Court to react swiftly when an additional activity materializes and notify its stakeholders in the most efficient manner of such.

## **IV. Budget preparation and compilation process.**

28. Pursuant to Regulation 3 of the Financial Regulations and Rules, the proposed programme budget for each financial period is prepared by the Registrar in consultation with the Presidency, Chambers and the Office of the Prosecutor. In accordance with Rule 103.2 the Registrar asks the Office of the Prosecutor and relevant Heads of organizational

<sup>11</sup> See Regulation 6.6 of the Financial Regulations and Rules.

units of other organs of the Court to prepare programme budget proposals for the following financial period as per the budget guidelines, taking into account any recommendations that the Assembly or the Committee have made. To launch the annual budget preparation exercise, the Registrar formally issues the agreed budget assumptions and timelines to all budget stakeholders and follows up with further issuance of detailed budget preparation guidelines.

#### **A. Budget guidelines**

29. On the basis of the assumptions and the additional parameters, the Registrar sends the budget guidelines, which include the budget assumptions and service requirements, to all of the different major programmes for them to prepare their respective budgets. This document contains templates, guidelines and instructions to help managers to complete the submission forms for the programme budget. It also provides guidance on what needs to be filled in by each individual section, and what will be calculated automatically. The budget guidelines contain submission sheets and schedules and cover all items of staff and non-staff costs.

#### **B. Service requirements**

30. For the purpose of the Registry, these guidelines also include the list of service requests submitted by the other organs of the Court as well as within the various Registry sections. This is essential in order to identify the exact nature and scope of the services that are to be delivered and will form the basis of the cost of delivery of such services.

#### **C. Work plans and priorities**

31. Managers within the Court adjust the work plans of the organizational units under their control to suit the budget priorities and readjust their work priorities based on the assumptions and the guidelines. Such an approach helps to prioritize allocation of resources and allows for the integration of the activities of different sections in order to avoid duplications.

#### **D. Capital investments replacements**

32. At this stage the Court also identifies the known and potential risks or cost pressures with regard to capital investment replacement requirements, and decides which items are of priority, keeping in focus medium-term replacement requirements.

#### **E. Compilation of the budget figures**

33. Rule 103.2 of the Financial Regulations and Rules<sup>12</sup> provides that the Registrar shall ask the OTP and the heads of organizations units of other organs of the Court to prepare budget proposals in such detail as the Registrar may prescribe. Accordingly, major programmes prepare and scrutinize their respective budget proposals and narratives and submit them to the Registry. The Registry then compiles the information. The compiled input received from the major programmes is then considered by the BWG.

---

<sup>12</sup> Rule 103.2

Preparation of the proposed programme budget

1. The Registrar shall ask the Office of the Prosecutor and relevant Heads of organizational units of other organs of the Court to prepare programme budget proposals for the following financial period at such times and in such details as the Registrar may prescribe, in accordance with the Financial Regulations and Rules, any prescriptions that the Assembly of States Parties or the Committee on Budget and Finance may make, as well as any further regulations, rules and instructions.

2. On the basis of these proposals, the Registrar shall elaborate a consolidated draft programme budget that he/she will submit to the Committee on Budget and Finance.

## **F. Budget narratives**

34. The budget narratives set out the workload indicators, concrete objectives of each sphere of activity and expected outcomes and justify the resources that are requested to carry out the work plans of the different organizational units. The Registrar monitors the implementation of the budget during the financial period in consultation with the other organs and reports in the context of the next proposed budget on actual performance attained during the financial year to the Committee and Assembly.<sup>13</sup>

## **G. Budget proposal review**

35. The compiled proposed programme budget document is finally reviewed on an inter-organ basis.

## **V. Budget submission, review, and approval process**

36. During the entire budget process, the issue of the budget remains on the agenda at the Coordination Council monthly meetings. The BWG, which constantly monitors all developments at every stage of the process, feeds information to the Coordination Council in advance of each of its meetings. The overall budget is compiled by the Registrar, subsequently considered by the BWG and finally submitted to the Coordination Council for discussion and approval. Once the Coordination Council agrees on the overall budget, Registry finalizes the preparation of the budget before its final submission to States Parties and the Committee.<sup>14</sup>

## **VI. Conclusion**

37. As the Assembly of States Parties and the wider international community celebrate the Court's tenth anniversary, it is appropriate for the Court to look for improved ways of meeting the challenges facing it, particularly in the area of its budget. A meaningful review of its current budget process needs to address at least the following challenges to the system which has evolved over the last ten years:

### **A. To enhance budget predictability**

38. The unpredictable nature of the Court's judicial work makes it extremely difficult to produce fully reliable assumptions a year in advance of the financial period for which the Court is budgeting. Faced with a variety of possibilities, the Court has adopted a relatively conservative approach to assumptions, so as to avoid over-budgeting and a possible consequent underspend. Nevertheless, it should be noted that basing the preparation of the budget on conservative assumptions equally runs the risk of under-budgeting and that this approach is only warranted in combination with the existence of a properly funded contingency fund.

### **B. To ensure budget sustainability**

39. In the context of increasing resource constraints and the difficulty of expanding the donor base.

### **C. To identify and forecast long-term cost implications**

40. In areas such as capital investment replacements, staff costs and major project costs.

<sup>13</sup> The Registry's periodic performance report is created through an inter-organ drafting and consultation process.

<sup>14</sup> See Rule 103.2 of the Financial Regulations and Rules.

**D. To prioritize key areas of activities**

41. As many of the mandated activities are triggered by judicial or prosecutorial activities, over which the Court internal management may have little or no control.

**E. To integrate activities and avoid overlaps**

42. Within and between major programmes.

**F. To increase transparency of the budget process**

43. For example, a recent attempt to improve the budget process has been the introduction of budget options analysis in the 2013 budget preparation. Accordingly, a split is introduced between the assumptions for the 'Regular Budget' and 'Scenario' assumptions to present additional scenarios with the associated likely activities for that scenario. This approach is intended to give more transparency to the budget process by also indicating the uncertainties which may trigger supplementary budget proposals or lead to contingency fund notifications. Further, the scrutiny of the Court's budgeting process in the Study Group on Governance will render the Court's budget more transparent to the States Parties.

**G. To achieve cost containment**

44. Through sustainable efficiency measures, achieved with minimal resources and through streamlined structures and processes. Efficiency and effectiveness are cross-cutting values, which will continued to be realized through the flexible use of resources, the review and standardization of procedures, cooperation and learning from other similar organizations, the re-engineering of processes and the appropriate use of new technologies and effective external relations.

## Annex

### Example of budget timeline: 2012 Budget Timeline

<i>Who</i>	<i>Item</i>	<i>Deadline</i>
CoCo	Approve budget assumptions, objectives and priorities 2012 and growth strategy	27-Jan
Budget Unit	Send out guidelines with deadline for submission	04-Feb
Budget Working Group	Approve introduction structure, set tasks	27-Feb
MP3, MP4, MP6, MP7-1, MP7-5	Prepare and submit budget data and narratives	11-Mar
MP1 and MP2	Prepare and submit budget data and narratives	23-Mar
CoCo	First review draft data	27-Apr
MP1 and MP2	Final narratives	6-May
Budget Working Group	Submit introduction for inclusion in budget document	20-May
Budget Unit	Prepare budget document	24-May
Budget holders	Review of narrative and data (final)	24-May
CoCo	Approve data	26-May
Review panels	Review of budget document: content and data	21-Jun
CoCo	Final approval proposed budget	23-Jun
Budget	Full edit of budget document, final corrections and formatting	30-Jun
Budget	Submit FULL document to SASP	01-Jul