

**ASSEMBLY OF STATES PARTIES TO
THE ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT**

**ELEVENTH SESSION
THE HAGUE, 14 - 22 NOVEMBER 2012**

**OFFICIAL RECORDS
VOLUME I**

Note

Symbols of documents of the Assembly of States Parties to the Rome Statute of the International Criminal Court are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a document of the Assembly of States Parties to the Rome Statute of the International Criminal Court. Resolutions of the Assembly bear the letters “Res.”, while its decisions bear the letters “Decision”.

Pursuant to resolution ICC-ASP/7/Res.6, volume I of the Official Records is available in all languages of the Assembly, while volume II is available in Arabic, English, French and Spanish.

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Part I Proceedings

A. Introduction

1. In accordance with the decision of the Assembly of States Parties to the Rome Statute of the International Criminal Court (hereinafter “the Assembly”), taken at the 9th meeting of its tenth session, on 21 December 2011, the Bureau fixed 14 to 22 November 2012 as the dates for the eleventh session.
2. In accordance with the Rules of Procedure of the Assembly,¹ the President of the Assembly invited all States Parties to the Rome Statute to participate in the session. Other States that had signed the Statute or the Final Act were also invited to participate in the session as observers.
3. In accordance with rule 92 of the Rules of Procedure of the Assembly (hereinafter “the Rules of Procedure”), invitations to participate in the session as observers were also extended to representatives of intergovernmental organizations and other entities that had received a standing invitation from the General Assembly of the United Nations pursuant to its relevant resolutions,² as well as to representatives of regional intergovernmental organizations and other international bodies invited to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, June/July 1998), accredited to the Preparatory Commission for the International Criminal Court or invited by the Assembly.
4. Furthermore, in accordance with rule 93 of the Rules of Procedure, non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court, or in consultative status with the Economic and Social Council of the United Nations, whose activities were relevant to the activities of the Court or that had been invited by the Assembly, attended and participated in the work of the Assembly.
5. In addition, in accordance with rule 94 of the Rules of Procedure, the following States were invited to be present during the work of the Assembly: Bhutan, Democratic People's Republic of Korea, Equatorial Guinea, Kiribati, Lao People's Democratic Republic, Lebanon, Mauritania, Micronesia (Federated States of), Myanmar, Niue, Palau, Papua New Guinea, Rwanda, Somalia, South Sudan, Swaziland, Tonga, Turkmenistan, and Tuvalu.
6. The list of delegations to the session is contained in document ICC-ASP/11/INF.1.
7. The session was opened by the President of the Assembly of States Parties, Ms. Tiina Intelmann (Estonia), who had been elected for the tenth to twelfth session.
8. At its 1st meeting, on 14 November 2012, in accordance with rule 25 of the Rules of Procedure, the following States were appointed to serve on the Credentials Committee:
Belgium, Czech Republic, Finland, Gabon, Hungary, Kenya, Panama, Peru and Republic of Korea.
9. The Director of the Secretariat of the Assembly, Mr. Renan Villacis, acted as Secretary of the Assembly. The Assembly was serviced by the Secretariat.
10. At its 1st meeting, on 14 November 2012, the Assembly observed one minute of silence dedicated to prayer or meditation, in accordance with rule 43 of the Rules of Procedure of the Assembly.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part II.C.

² General Assembly resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3237 (XXIX), 3369 (XXX), 31/3, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6, 51/204, 52/6, 53/5, 53/6, 53/216, 54/5, 54/10, 54/195, 55/160, 55/161, 56/90, 56/91, 56/92, 57/29, 57/30, 57/31, 57/32, 58/83, 58/84, 58/85, 58/86, 59/48, 59/49, 59/50, 59/51, 59/52, 59/53, 61/43, 61/259, 63/131, 63/132, 64/3, 64/121, 64/122, 64/123, 64/124, and decision 56/475.

11. At the same meeting, the Assembly adopted the following agenda (ICC-ASP/11/1):
 1. Opening of the session by the President.
 2. Silent prayer or meditation.
 3. Adoption of the agenda.
 4. States in arrears.
 5. Credentials of representatives of States at the eleventh session:
 - (a) Appointment of the Credentials Committee; and
 - (b) Report of the Credentials Committee.
 6. Organization of work.
 7. General debate.
 8. Report on the activities of the Bureau.
 9. Report on the activities of the Court.
 10. Report of the Board of Directors of the Trust Fund for Victims.
 11. Election of the Deputy Prosecutor.
 12. Election of the members of the Board of Directors of the Trust Fund for Victims.
 13. Consideration and adoption of the budget for the eleventh financial year.
 14. Consideration of the audit reports.
 15. Premises of the Court.
 16. Recommendations concerning the election of the Registrar.
 17. Independent Oversight Mechanism.
 18. Amendments to the Rome Statute and the Rules of Procedure and Evidence.
 19. Cooperation.
 20. Review Conference follow-up:
 - (a) Complementarity;
 - (b) Peace and justice; and
 - (c) The impact of the Rome Statute system on victims and affected communities.
 21. Advisory Committee on the nomination of judges.
 22. Decision concerning the date of the next session of the Assembly of States Parties.
 23. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance.
 24. Other matters.
12. The annotated list of items included in the provisional agenda was contained in a note by the Secretariat (ICC-ASP/11/1/Add.1).
13. Also at its 1st meeting, the Assembly agreed on a programme of work and decided to meet in plenary session as well as in the working group format. The Assembly established a Working Group on the Programme Budget for 2013.
14. Mr. Håkan Emsgård (Sweden) was appointed as Coordinator of the Working Group on the Programme Budget for 2013. Ms. Ana Cristina Rodríguez Pineda (Guatemala) was appointed facilitator for the consultations on the omnibus resolution.

B. Consideration of issues on the agenda of the Assembly at its eleventh session

1. States in arrears

15. At the 1st meeting, on 14 November 2012, the Assembly was informed that article 112, paragraph 8, first sentence, of the Rome Statute was applicable to six States Parties.

16. The President of the Assembly renewed the appeal to States Parties in arrears to settle their accounts with the Court as soon as possible. The President also appealed to all States Parties to pay their assessed contributions for 2013 in a timely manner.

17. Pursuant to article 112, paragraph 8 of the Rome Statute, two States Parties in arrears submitted a request to the Assembly for exemption of the loss of their voting rights: Comoros and Gabon, with the Assembly approving their requests at its 1st plenary meeting.

2. Credentials of representatives of States Parties at the eleventh session

18. At its 8th meeting, on 21 November 2012, the Assembly adopted the report of the Credentials Committee (see annex I to this report).

3. General debate

19. At the 1st plenary meeting, the President of Senegal, H.E. Mr. Macky Sall and the United Nations Under-Secretary-General for Legal Affairs, Ms. Patricia O'Brien, addressed the Assembly. At the 2nd and 3rd plenary meetings, on 15 November 2012, statements were made by the representatives of Argentina, Austria, Bangladesh, Belgium, Bolivia (Plurinational State of), Botswana, Brazil, Burkina Faso, Canada (on behalf of CANZ), Chile, China, Colombia, Costa Rica, Croatia, Cyprus (on behalf of European Union), Czech Republic, Denmark, Democratic Republic of the Congo, Estonia, Ecuador, Finland, France, Germany, Ghana, Guatemala, Hungary, Ireland, Italy, Japan, Kenya, Liechtenstein and Jordan (joint statement), Luxembourg, Madagascar, Malta, Mexico, Namibia, Nigeria, Norway, Panama, Peru, Poland, Republic of Korea, Romania, Russian Federation, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Trinidad and Tobago, Tunisia, Uganda, Uruguay, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela (Bolivarian Republic of). Statements were also made by International Committee of the Red Cross, Organisation internationale de la Francophonie, Asian-African Legal Consultative Organization, Coalition for the International Criminal Court, Colombian Commission of Jurists, Amnesty International, Lira NGO Forum, Open Society Justice Initiative, Damascus Centre for Human Rights Studies, Georgian Young Lawyer's Association, Victim's Rights Working Group, Mouvement Ivoirien pour les Droits Humains, No Peace Without Justice, Malaysian Bar Council and Peace and Justice Initiative.

4. Report on the activities of the Bureau

20. At its 1st meeting, on 14 November 2012, the Assembly took note of the oral report on the activities of the Bureau, delivered by the President, Ms. Tiina Intelmann (Estonia). The President noted that, since the tenth session, the Bureau had held 18 meetings in order to assist the Assembly in carrying out its activities under the Rome Statute.

21. On behalf of the Bureau, the President expressed pleasure with the work conducted by its Working Groups in The Hague and New York as well as the Study Group on Governance during 2012, as they successfully had carried out the mandates of the Assembly under the leadership of their respective Coordinators, Vice-President Ambassador Markus Börlin (Switzerland) and Vice-President Ken Kanda (Ghana) and the Chair of the Study Group, Ambassador Pieter de Savornin Lohman (The Netherlands). They managed to achieve consensus among States Parties on these mandates. This had enabled the Bureau to submit for the Assembly's consideration the respective reports and recommendations on the issues within its mandate.

22. The President noted that in her activities she had been focusing especially on four high priority areas: universality, cooperation, complementarity as well as raising awareness about the functioning of the Rome Statute, through numerous bilateral and other meetings, seminars, lectures and engagement and constant dialogue with regional organizations, including in the region.

23. The President underlined the importance of the United Nations General Assembly choosing to dedicate a High-Level Meeting to the Rule of Law. She noted that States were increasingly realizing the importance of the Rule of Law both at the national and international levels. The Court, which investigated and prosecuted individuals for the most serious international crimes, was part of the nexus between these two levels.

24. In the framework of the commemoration of the 10th anniversary of the Rome Statute, the President as well as the States Parties had organized a number of events aimed at raising awareness of the Rome Statute.

25. During 2012, the Bureau had taken a number of procedural and substantive decisions, including on Legal Aid, Non-cooperation, the Advisory Committee on Nominations, recommendations concerning the election of the Registrar, follow-up to the election of the Prosecutor and Contingency Fund.

26. The President noted that as the work of the Court expands, it had become increasingly urgent for States to carry out their statutory obligations of cooperation with the Court under article 112, paragraph 2, and article 87 of the Rome Statute. The Assembly procedures on non-cooperation had been consistently implemented; instances of non-cooperation had been discussed at several Bureau meetings and the Bureau had presented a report to the Assembly, pursuant to the procedures adopted last year. The report also included a number of recommendations for action.

5. Report on the activities of the Court

27. At its 1st meeting, on 14 November 2012, the Assembly heard statements by Judge Sang-Hyun Song, President of the Court, by Ms. Fatou Bensouda, Prosecutor of the Court and by Ms. Silvana Arbia, Registrar of the Court. At the same meeting, the Assembly took note of the report on the activities of the Court.³

6. Report of the Board of Directors for the Trust Fund for Victims

28. At its 1st meeting, on 14 November 2012, the Assembly heard a statement by Ms. Elisabeth Rehn, Chairperson of the Board of Directors of the Trust Fund for Victims. The Assembly considered and took note of the report on the activities and projects of the Board of Directors of the Trust Fund for Victims for the period 1 July 2011 to 30 June 2012.⁴

7. Election of the Deputy Prosecutor

29. In a letter dated 4 September 2012 (ICC-ASP/11/17), the Prosecutor of the International Criminal Court submitted to the President of the Assembly three nominations for election to the post of Deputy Prosecutor (Prosecutions), in accordance with article 42, paragraph 4, of the Rome Statute.

30. At its 1st meeting, on 16 November 2012, the Assembly proceeded to elect the Deputy Prosecutor (Prosecutions) of the International Criminal Court on the basis of the nominations submitted by the Prosecutor (ICC-ASP/11/17).

31. The Assembly conducted five ballots. Following the withdrawal of candidates after the third and fourth rounds, respectively, and having obtained an absolute majority of the members of the Assembly of States Parties, Mr. James Stewart (Canada) was elected Deputy Prosecutor (Prosecutions) of the International Criminal Court.

³ ICC-ASP/11/21.

⁴ ICC-ASP/11/14.

32. Eighty-eight ballots were cast, of which none were invalid and 88 were valid; the number of abstentions was seven. The number of States Parties voting was 81; the required absolute majority was 61; and the number of votes obtained by Mr. James Stewart was 81.

33. Also at its 1st meeting, prior to the election, the Assembly decided that the term of office of the Deputy Prosecutor (Prosecutions) of the International Criminal Court shall commence on the date of the solemn undertaking provided in article 45 of the Rome Statute and shall run for a term of nine years, in accordance with article 42, paragraph 4 of the Rome Statute.

8. Election of the members of the Board of Directors of the Trust Fund for Victims

34. At its 1st meeting, on 14 November 2012, the Assembly proceeded to elect five members of the Board of Directors of the Trust Fund for Victims, in accordance with its resolution ICC-ASP/1/Res.7 of 9 September 2002.

35. In accordance with paragraph 10 of resolution ICC-ASP/1/Res.7, the Assembly dispensed with the secret ballot and elected by acclamation one member from the Group of African States, one member from the Group of Asia-Pacific States, one member from the Group of Eastern European States, one member from the Group of Latin American and Caribbean States, and one member from the Group of Western European and Other States as follows:

- (a) Mr. Sayeman Bula-Bula (Democratic Republic of the Congo);
- (b) Mr. Motoo Noguchi (Japan);
- (c) Ms. Elisabeth Rehn (Finland);
- (d) Mr. Denys Toscano Amores (Ecuador); and
- (e) Ms. Vaira Vīķe-Freiberga (Latvia).

36. The term of office of three years will begin to run for each member of the Board on 1 December 2012.

9. Consideration and adoption of the budget for the eleventh financial year

37. The Assembly, through its Working Group, considered the 2013 proposed programme budget on the basis of the draft proposal submitted by the Registrar, the reports of the Committee on Budget and Finance and the reports of the External Auditor.

38. At its 8th meeting, on 21 November 2012, the Assembly took note of the report of the Working Group on the programme budget (ICC-ASP/11/WGPB/CRP.1), wherein it, inter alia, conveyed the recommendation of the Working Group that the Assembly endorse the recommendations of the Committee on Budget and Finance at its nineteenth session⁵ with the modifications reflected in the annex of the report.

39. At the same meeting, the Assembly also considered and approved, by consensus, the programme budget for 2013.

40. At the same meeting, the Assembly adopted, by consensus, resolution ICC-ASP/11/Res.1, concerning the programme budget in relation to the following:

- a) Programme budget for the year 2013, including appropriations totalling €115.1 million for the major programmes and staffing tables for each of the major programmes. This amount is reduced by the contribution of the host State and Mexico to the costs for the interim premises to €112.0 million, therefore the total contributions for 2013 amount to €112.5 million, with €112.0 million for the major programmes and €0.5 million for the replenishment of the Contingency Fund;
- b) Working Capital Fund for 2013;
- c) Interim premises of the Court;
- d) Scale of assessments for the apportionment of expenses of the Court;
- e) Financing of appropriations and Contingency Fund replenishment for 2013;

⁵ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2.

- f) Contingency Fund;
- g) Transfer of funds between major programmes under the 2012 approved programme budget;
- h) Legal aid;
- i) A strategic approach to an improved budgetary process;
- j) Referrals by the Security Council; and
- k) Amendments to Financial Regulations and Rules.

10. Consideration of audit reports

41. At its 5th meeting, the Assembly took note with appreciation of the reports of the External Auditor on the audit of the financial statements of the Court for the period 1 January to 31 December 2011⁶ and of the Trust Fund for Victims for the same period.⁷

11. Premises of the Court

42. At its 1st meeting, on 14 November 2012, the Assembly took note of the oral report of the Chairperson of the Oversight Committee on permanent premises, Mr. Roberto Bellelli (Italy), and of the report on the activities of the Oversight Committee,⁸ which highlighted that, before the start of the construction, the permanent premises project is below the €190 million approved by the Assembly and that the estimated completion date for the project remains September 2015, with readiness for the Court to move into the new premises in December 2015. The report also indicated that following the tender procedure launched in December 2011, the general contract for the construction of the project had been awarded to Visser&Smit/Boele Van Eesteren, on 24 August 2012. The report highlighted that, upon authorization of the Oversight Committee, the Registrar had signed the general contract with Visser&Smit/Boele Van Eesteren on 1 October 2012, with the construction expected to start in February 2013.

43. At its 8th meeting, on 21 November 2012, the Assembly adopted, by consensus, resolution ICC-ASP/11/Res.3, whereby it, inter alia, welcomed the completion of the award stage and the beginning of the construction stage of the project, formally approved the revised financial strategy of the Oversight Committee, as well as its cost-review strategy. The Assembly also welcomed the absorption of the integrated elements (“3gv”) within the overall budget and endorsed the decision of the Oversight Committee to set up a working group to further examine the issue of the total cost of ownership of the permanent premises. The Assembly decided to further extend the deadline for States Parties to opt for the one-time payment of their contribution to the permanent premises project, until 31 December 2014.

12. Recommendations concerning the election of the Registrar

44. At its 7th meeting, on 20 November 2012, the Assembly recalled that a list of candidates for the post of Registrar (ICC-ASP/11/19 and Add.1) had been received from the Presidency.

45. At its 8th meeting, on 21 November 2012, the Assembly, on the recommendation of the Bureau, adopted by consensus recommendation ICC-ASP/11/Rec.1 (part III.B of this report).

13. Independent Oversight Mechanism

46. At its 8th meeting, on 21 November 2012, the Assembly adopted, by consensus, resolution ICC-ASP/11/Res.4, by which it recognized the importance of a fully operational Independent Oversight Mechanism (IOM) to the efficient and effective operation of the Court, took note of the programme of work for the IOM for 2013, and decided to continue

⁶ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part C.1.

⁷ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part C.2.

⁸ ICC-ASP/11/35.

discussions on the IOM, fully respecting the Rome Statute provisions regarding judicial and prosecutorial independence and the management oversight of the Assembly.

14. Amendments to the Rome Statute and the Rules of Procedure and Evidence

47. The Working Group on Amendments held one meeting during the eleventh session to discuss the draft proposal contained in its report,⁹ based on the recommendation of the Study Group on Governance on rule 132 *bis* of the Rules of Procedure and Evidence.¹⁰

48. At its 8th meeting, on 21 November 2012, the Assembly adopted, by consensus, resolution ICC-ASP/11/Res.2, containing an amendment to insert rule 132 *bis* in the Rules of Procedure and Evidence, such that the functions of the Trial Chamber, in respect of trial preparation, may be exercised by a single judge or single judges in order to expedite proceedings and ensure cost efficiency.

15. Cooperation

49. At its 4th meeting, on Friday, 16 November 2012, the Assembly held a panel discussion to consider the topic of cooperation. Five panellists had been invited to address the following issues: arrests, and the identification, tracing, freezing and seizure of assets. The Assembly also heard a keynote speech from Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the former Yugoslavia.

50. At its 8th meeting, on 21 November 2012, the Assembly adopted, by consensus, resolution ICC-ASP/11/Res.5, on cooperation, whereby it, *inter alia*, addressed the importance of timely and effective cooperation and assistance from States Parties and other States under an obligation or encouraged to cooperate with the Court, emphasized the importance of facilitating cooperation between the Court, States Parties, other States and international organizations on the identification, tracing and freezing or seizure of proceeds, property and assets, and the corresponding obligation of States Parties to comply with such requests by the Court. The Assembly also called upon States Parties and other States, where possible, to consider entering into agreements or arrangements with the Court concerning, *inter alia*, protective measures for witnesses, and sentence enforcement, and encouraged States to consider the establishment of national focal points. The Assembly also requested the Bureau, through its Working Groups, to consider the issue of non-essential contacts and to report thereon to the Assembly at its twelfth session.

16. Review Conference follow-up

51. At its 6th and 7th meetings, on 19 and 20 November 2012, respectively, the Assembly held a panel discussion in plenary session, to consider the topic of complementarity under agenda item 20 (a), "Review Conference follow up".¹¹ The Assembly heard a keynote address by United Nations Development Programme Administrator, Ms. Helen Clark. Three panellists addressed the Assembly on, *inter alia*, practical aspects of the implementation of complementarity and challenges encountered.

52. The Assembly adopted, by consensus, resolution ICC-ASP/11/Res.6 on complementarity, by which it, *inter alia*, resolved to continue and strengthen effective domestic implementation of the Rome Statute, to enhance the capacity of national jurisdictions to prosecute the most serious crimes of international concern, pursuant to the principle of complementarity, welcomed the international community's engagement in strengthening the capacity of domestic jurisdictions to enable States to genuinely prosecute Rome Statute crimes, called on States to incorporate Rome Statute crimes as punishable offences under their national laws, and conferred mandates on the Bureau, the Secretariat and the Court.

53. Under agenda item 20 (b), the Assembly, by resolution ICC-ASP/11/Res.8, adopted by consensus at its 8th meeting, on 21 November 2012, stated that it was convinced that there can be no lasting peace without justice and that peace and justice were thus

⁹ ICC-ASP/11/36, annex II.

¹⁰ ICC-ASP/11/41.

¹¹ A co-focal points' summary would be prepared.

complementary requirements. Under item 20 (c), “The impact of the Rome Statute system on victims and affected communities”, the Assembly adopted by consensus, resolution ICC-ASP/11/Res.7 by which it took decisions on issues relating to victims’ participation, the revised victims strategy, on the Trust Fund for Victims and on reparations.

17. Advisory Committee on the nominations of judges

54. At its 1st meeting, on 14 November 2012, the Assembly, on the recommendation of the Bureau,¹² appointed by consensus the following nine members of the Advisory Committee on Nominations:

- (a) Mr. Leonardo Nemer Caldeira Brant (Brazil);
- (b) Mr. Hiroshi Fukuda (Japan);
- (c) Mr. Philippe Kirsch (Canada);
- (d) Mr. Daniel David Ntanda Nsereko (Uganda);
- (e) Mr. Ernest Petrič (Slovenia);
- (f) Ms. Mónica Pinto (Argentina);
- (g) Mr. Árpád Prandler (Hungary);
- (h) Mr. Bruno Simma (Germany); and
- (i) Mr. Raymond Claudius Sock (Gambia).

55. The establishment of the Advisory Committee on Nominations is foreseen in article 36, paragraph 4 (c), of the Rome Statute. Its terms of reference are set out in the report of the Bureau on the establishment of an Advisory Committee on nominations of judges of the International Criminal Court.¹³ In accordance with the terms of reference, Committee members would normally be designated for three-year terms, with the possibility of being re-elected only once. Four of the first members designated shall be asked to serve only for one three year term, so as to stagger membership and provide continuity.¹⁴ By the drawing of lots, the Assembly designated the following four members to serve only for one three-year term: Mr. Hiroshi Fukuda (Japan), Ms. Mónica Pinto (Argentina), Mr. Bruno Simma (Germany) and Mr. Raymond Claudius Sock (Gambia).

18. Decision concerning dates of the next session of the Assembly of States Parties

56. At its 8th meeting, on 21 November 2012, the Assembly decided to hold its twelfth session in The Hague from 20 to 28 November 2013, and decided further to hold its thirteenth and fourteenth sessions in New York and The Hague, respectively.

19. Decisions concerning dates and venue of the next sessions of the Committee on Budget and Finance

57. At its 8th meeting, on 21 November 2012, the Assembly decided that the Committee on Budget and Finance would hold its twentieth session from 22 to 26 April 2013 and its twenty-first session from 9 to 18 September 2013, in The Hague.

20. Other matters

Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly

58. The Assembly expressed its appreciation to Australia, Ireland and Poland for their contributions to the Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly.

59. The Assembly noted with satisfaction that 26 delegations had made use of the Trust Fund to attend the eleventh session of the Assembly.

¹² Report of the Bureau Working Group on the Advisory Committee on Nominations (ICC-ASP/11/47).

¹³ ICC-ASP/10/36, annex.

¹⁴ Ibid, para. 6.

Part II

External audit, programme budget for 2013 and related documents

A. Introduction

1. The Assembly of States Parties (the Assembly) had before it the 2013 proposed programme budget submitted by the Court on 9 August 2012,¹ the reports of the eighteenth² and nineteenth sessions³ of the Committee on Budget and Finance (the Committee), the financial statements for the period 1 January to 31 December 2011,⁴ and the Trust Fund for Victims financial statements for the period 1 January to 31 December 2011.⁵ The Assembly also had before it annex VI of the report of the Committee on the work of its nineteenth session, in which the Court outlines the budgetary implications of the Committee's recommendations on the budgets of major programmes.

2. At its 5th plenary meeting, the Assembly heard the statements made by the Registrar of the Court, Ms. Silvana Arbia, the Chair of the Committee, Mr. Gilles Finkelstein and the representative of the External Auditor (the National Audit Office of the United Kingdom of Great Britain and Northern Ireland).

3. The Working Group on the Programme Budget met on 17 and 20 November 2012. During these meetings the draft resolution and the report of the Working Group were considered and finalised. The Working Group was assisted in its work by the Chair, the Vice Chair and three members of the Committee.

B. External audit

4. The Assembly noted with appreciation the reports of the External Auditor and related comments of the Committee contained in the report on the work of its nineteenth session. The Assembly noted that the Committee had endorsed the External Auditor's recommendations.

C. Amount of appropriation

5. The Court's 2013 proposed programme budget amounted to €118.4 million, including €6.02 million for the rent of the interim premises.

6. The Committee's first examination of the Court's 2013 proposed programme budget, at its nineteenth session, found a number of areas where, based on actual and forecast expenditure, as well as actual experience, a number of savings could be made. Accordingly, the Committee had recommended that the budget allocation be reduced to a total of €115.12 million.

7. The Assembly endorsed the recommendations contained in the report of the Committee with the modifications reflected in the annex. The Assembly approved a budget appropriation for 2013 of €115,120,300.

8. The Assembly welcomed the generous contribution to the rent of the interim premises by the host State (€2,950,700) and by Mexico (€130,000), which brings down the total level of assessed contributions for the 2013 programme budget to €112,039,600.

D. Contingency Fund

9. The Assembly recommended keeping the minimum level of the Contingency Fund at €7 million.

¹ *Official Records ... Eleventh session ... 2012*, (ICC-ASP/11/20), vol. II, part A.

² *Ibid.*, part B.1.

³ *Ibid.*, part B.2.

⁴ *Ibid.*, part C.1.

⁵ *Ibid.*, part C.2.

10. The Assembly noted that the Registrar reported that the implementation for the 2012 approved budget is estimated to be 98.5 per cent, equivalent to €107.1 million. In addition, notifications regarding potential access to the Contingency Fund during 2012 amounted to €3.8 million with an implementation rate of 58 per cent, or €2.2 million. The estimated implementation of the 2012 approved budget and of the Contingency Fund resulted in a combined estimated expenditure for the Court of €109.3 million in 2012, representing an excess of €0.5 million over the 2012 approved budget of €108.8 million. Based on these forecasts, the estimated access to the Contingency Fund amounts to €0.5 million. Consequently, States Parties would need to replenish the Contingency Fund in the amount of €0.5 million in order to keep it at the minimum €7 million at the beginning of 2013.

11. The Assembly considered the methodology for replenishment of the Contingency Fund. The Assembly decided that the amount of replenishment would be based on an estimation provided by the Court, while recognising that the level of the Contingency Fund may differ from the approved threshold after the closure of the accounts of the Court and the publication of its financial statements for 2012, as reflected in the resolution on the programme budget for 2013.⁶

12. Following established practice, the Assembly authorized the Court to transfer funds between major programmes at year end if the costs of unforeseen activities could not be absorbed within one major programme while a surplus existed in other major programmes, to ensure that all appropriations for 2012 were exhausted before accessing the Contingency Fund.

E. Financing of appropriations and Contingency Fund replenishment for 2013

13. The Assembly noted that the contributions to the interim premises by the host State and Mexico financed a portion of the budget appropriation. The remaining part to be assessed for contributions by States Parties amounted to €112,039,600. It further noted that, in addition, an amount of €500,000 needed to be assessed for contributions by States Parties to replenish the Contingency Fund.

14. The Assembly resolved that, for 2013, the budget and Contingency Fund replenishment assessed contributions amounted to €112,539,600.

Annex

The Assembly of States Parties,

A. GTAs

1. Approves in accordance with CBF recommendation in paragraphs 123 and 124 as to the amount suggested; to allow for MPI to meet its workload requirements through the redeployment of available GTAs, thereby achieving a total saving of (€252,100).

2. Approves in accordance with CBF recommendation in paragraph 126 as to the amount suggested; to allow for MPII to meet its workload requirements through the redeployment of available GTAs, thereby achieving a total saving of (€311,700).

Total savings GTA for MPI (€252,100) and MPII (€311,700): **€563,800.**

B. Consultants (budgeted under contractual services)

3. Approves savings in accordance with CBF recommendation in paragraph 120 (€82,000).

Total savings Consultants: **€82,000.**

⁶ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. I, part III, ICC-ASP/11/Res.1.

C. ICT investment

4. Approves in accordance with CBF recommendation in paragraph 143 as to the amount suggested, but allow for the Court to prioritise within sub-programme 3260 (ICT Section) in order to ensure the efficient functioning of the Court (€170,000).

5. Requests the Court to include ICT as part of the review of the organizational structure of the Court, in order to assess the need for external support in the review of current ICT practices.

6. Requests the Court to review its procedures in place regarding writing-off of certain assets, with a view to develop a flexible period focusing on the technical status of the item, and submit the policy accompanied by a cost-benefit analysis to the CBF at its twentieth session in order to explore improvements or further possible cost savings.

Total savings ICT investment: **€170,000.**

D. Conditions of service in the field

7. Approves in accordance with CBF recommendation in paragraph 54 as to the amount suggested, but allow for the Court to prioritise within Staff Costs in order to ensure the efficient functioning of the Court (€300,200).

Total savings Conditions of service in the field: **€300,200**

E. Summary savings

<i>Line of expenditure</i>	<i>CBF recommendation</i>
GTA	MPI (€252,100) + MPIO (€311,700) = (€563,800)
Consultants	(€82,000)
ICT investments	(€170,000)
Conditions of service in the field	(€300,200)
<i>Subtotal</i>	<i>(€1,116,000)</i>
Others	(€2,162,200)
Total	(€3,278,200)

Part III

Resolutions and recommendation adopted by the Assembly of States Parties

A. Resolutions

Resolution ICC-ASP/11/Res.1

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Res.1

Programme budget for 2013, the Working Capital Fund for 2013, scale of assessments for the apportionment of expenses of the International Criminal Court, financing appropriations for 2013 and the Contingency Fund

The Assembly of States Parties,

Having considered the 2013 proposed programme budget of the International Criminal Court (‘the Court’) and the related conclusions and recommendations on the 2013 proposed programme budget for the Court contained in the report of the Committee on Budget and Finance (‘the Committee’) on the work of its eighteenth and nineteenth sessions and the statement made by the Chair of the Committee at its 5th plenary meeting on 16 November 2012.

A. Programme budget for 2013

The Assembly of States Parties,

1. *Approves* appropriations totalling €115,120,300 in the appropriation sections described in the following table, and further approves €500,000 for the replenishment of the Contingency Fund, bringing the total level of contributions to €115,620,300:

<i>Appropriation section</i>	<i>Thousands of euros</i>
Major Programme I - Judiciary	10,697.9
Major Programme II - Office of the Prosecutor	28,265.7
Major Programme III - Registry	64,520.9
Major Programme IV - Secretariat of the Assembly of States Parties	2,951.7
Major Programme V - Interim Premises	5,901.5
Major Programme VI - Secretariat of the Trust Fund for Victims	1,580.0
Major Programme VII-1 - Project Director’s Office (permanent premises)	996.7
Major Programme VII-5 - Independent Oversight Mechanism	205.9
Total	115,120.3

2. *Notes* that the host State and Mexico will generously contribute to the costs for the Court in relation to Major Programme V – Interim Premises and that these contributions amount to €2,950,700 and €130,000 respectively, as referred to in section C of this resolution;

3. *Further notes* that these contributions will bring down the level of the 2013 programme budget appropriations that need to be assessed for contributions by States Parties from €115,120,300 to €112,039,600, this amount will be assessed following the principles described in section D;

4. *Further approves* the following staffing tables for each of the above appropriation sections:

	<i>Judiciary</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Secretariat Assembly of States Parties</i>	<i>Secretariat Trust Fund for Victims</i>	<i>Project Director's Office</i>	<i>Independent Oversight Mechanism</i>	<i>Total</i>
USG		1						1
ASG		2	1					3
D-2								0
D-1		2	4	1	1	1		9
P-5	3	12	17	1	1			34
P-4	3	29	39	1		1	1	74
P-3	21	44	66	1	3			135
P-2	5	46	63	1			1	116
P-1		17	6					23
<i>Subtotal</i>	<i>32</i>	<i>153</i>	<i>196</i>	<i>5</i>	<i>5</i>	<i>2</i>	<i>2</i>	<i>395</i>
GS-PL	1	1	16	2				20
GS-OL	15	63	268	2	2	1		351
<i>Subtotal</i>	<i>16</i>	<i>64</i>	<i>284</i>	<i>4</i>	<i>2</i>	<i>1</i>		<i>371</i>
Total	48	217	480	9	7	3	2	766

B. Working Capital Fund for 2013

The Assembly of States Parties,

Resolves that the Working Capital Fund for 2013 shall be established in the amount of €7,405,983, and *authorizes* the Registrar to make advances from the Fund in accordance with the relevant provisions of the Financial Regulations and Rules of the Court.

C. Interim premises of the Court

The Assembly of States Parties,

1. *Welcomes* the offer of the host State to contribute to the rent of the interim premises of the Court in the amount of 50 per cent, up to a maximum of €3 million per year for the period of 2013, 2014 and 2015, as reflected in the letter by H.E. Frans Timmermans, Minister of Foreign Affairs of the host State, dated 12 November 2012, with the 2013 contribution amounting to €2,950,700;

2. *Further welcomes* the offer of Mexico to contribute to the rent of the interim premises of the Court in the amount of €130,000 for 2013, as reflected in the letter of the Embassy of Mexico in The Hague, dated 9 November 2012;

3. *Authorizes* the Court, through the Registrar, to enter into agreement with the host State and Mexico for the implementation of the offers on the basis of the terms outlined in the letters, taking into consideration the obligations by the Court included in the lease contract.

D. Scale of assessment for the apportionment of expenses of the Court

The Assembly of States Parties,

1. *Decides* that, for 2013 the contributions to be paid by States Parties should be provisionally assessed in accordance with an agreed scale of assessment, based on the scale

adopted by the United Nations for its regular budget applied for 2012, in absence of the approved scale for 2013, and adjusted with the principles on which the scale is based;¹

2. *Further decides* that the final assessments be based on the scale adopted by the United Nations General Assembly at its 67th session for its regular budget, applied for 2013, and adjusted in accordance with the principles on which that scale is based;

3. *Notes* that, in addition, any maximum assessment rate for the largest contributors applicable for the United Nations regular budget will apply to the Court's scale of assessments.

E. Financing of appropriations and Contingency Fund replenishment for 2013

The Assembly of States Parties,

Notes that the contributions to the interim premises by the host State and Mexico finance a portion of the budget appropriations. The remaining part of the budget appropriations to be assessed for contributions by States Parties amounts to €112,039,600,

Further notes that, in addition, an amount of €500,000 needs to be assessed for contributions by States Parties to replenish the Contingency Fund,

Resolves that, for 2013, assessed contributions for the budget and the Contingency Fund replenishment amounting to €112,539,600 and the amount for the Working Capital Fund of €7,405,983, approved by the Assembly under section A, paragraph 1, and section B, respectively, of the present resolution, be financed in accordance with regulations 5.1, 5.2 and 6.6 of the Financial Regulations and Rules of the Court.

F. Contingency Fund

The Assembly of States Parties,

Recalling its resolutions ICC-ASP/3/Res.4 establishing the Contingency Fund in the amount of €10,000,000 and ICC-ASP/7/Res.4 requesting the Bureau to consider options for replenishing both the Contingency Fund and the Working Capital Fund,

Taking note of the advice of the Committee in the reports on the work of its eleventh, thirteenth and nineteenth sessions,

Taking note that the Fund should be replenished up to an amount the Assembly deems appropriate, but no less than €7 million,

Taking note that the Fund will reach a level below €7 million by the end of 2012,

1. *Decides* to replenish the Fund in the amount of €500,000 in 2013, based on an estimation provided by the Court consistent with the €7 million threshold decided by the Assembly in resolution ICC-ASP/8/Res.7;

2. *Notes* that the level of the Contingency Fund may differ from the approved threshold after the closure of the accounts of the Court and the publication of its Financial Statements for 2012;

3. *Requests* the Bureau to keep the €7 million threshold under review in light of further experience on the functioning of the Contingency Fund.

G. Transfer of funds between major programmes under the 2012 approved programme budget

The Assembly of States Parties,

Noting that in 2012, the Court will have recourse to the Contingency Fund,

¹ Rome Statute of the International Criminal Court, article 117.

Recognizing that under Financial Regulation 4.8 no transfer between appropriation sections may be made without authorization by the Assembly,

Decides that, in line with established practice, the Court may transfer funds between major programmes at the conclusion of 2012 should costs for activities which were unforeseen or could not be accurately estimated be unable to be absorbed within one major programme, whilst a surplus exists in other major programmes, in order to ensure that appropriations for each major programme are exhausted prior to accessing the Contingency Fund.

H. Legal aid

The Assembly of States Parties,

Recalling the fundamental importance of the legal aid system to ensure the fairness of proceedings and the rights of the defendants and victims to quality and professional legal representation,

Stressing the need for a revision of the legal aid system to uphold and strengthen the principles of the legal aid, namely fair trial, objectivity, transparency, continuity and economy,²

Considering that such revision of the legal aid system is intended to further strengthen the authority and standing of the Court as an effective and efficient international judicial criminal organ,

Recalling its resolution ICC-ASP/10/Res.4 requesting the Court and the Bureau to continue reviewing the legal aid system,

1. *Notes* the Supplementary Report by the Registry on four aspects of the Court's legal aid system;³
2. *Calls* on the Court to continue implementing the revised remuneration policy as adopted by the Bureau on 23 March 2012;⁴
3. *Decides* to adopt the proposals as contained in the Supplementary Report with regard to a) remuneration in the case of multiple mandates; b) legal aid travel (expense) policy; and c) remuneration during phases of reduced activity,⁵ and *requests* the Court to take all the necessary steps with a view to implementing these proposals as expediently as possible, and to report to the Committee on Budget and Finance in advance of its twentieth session;
4. *Invites* the Court to monitor and assess the implementation performance of the proposals mentioned in paragraph 2 and 3, and to report thereon to the Bureau on a quarterly basis;
5. *Requests* the Court to submit to the Bureau and the Committee on Budget and Finance by 1 March 2013 a single policy document on the legal aid system, and by 1 April 2013 a report on the comprehensive review of the legal aid system;⁶
6. *Mandates* the Bureau to - on the basis of such single policy document, report of the Court on the comprehensive review of the legal aid system and the recommendation of the Committee on Budget and Finance - elaborate and propose systemic (structural) changes to the legal aid system, to be, if necessary, adopted at the twelfth session of the Assembly, including proposing measures to further enhance the efficiency of the legal aid system, as appropriate;
7. *Requests* the Court and the Bureau to keep the legal aid system under review.

² *Official Records ... Third Session ... 2004* (ICC-ASP/3/18), para. 16.

³ ICC-ASP/11/43.

⁴ First report of the Bureau on legal aid (ICC-ASP/11/2/Add.1).

⁵ As defined in paragraph 40 of the Supplementary report of the Registry on four aspects of the legal aid system (ICC-ASP/11/43).

⁶ As outlined in paras. 20 to 22 of the report of the Bureau on legal aid (ICC-ASP/11/2).

I. A strategic approach to an improved budgetary process

The Assembly of States Parties,

1. *Welcomes* the recommendations of the Study Group on Governance contained in the report⁷ on the budget process designed to improve the transparency, predictability and efficient conduct of the entire budget process and each phase therein and, in this regard:

(a) *Endorses* that an enhanced dialogue between States Parties and the Court on the assumptions, objectives and priorities which underpin the proposed programme budget would be of benefit and that, in addition, the Court, in consultation with the Committee on Budget and Finance, should maintain a dialogue on the budget timeline and the timing of the submission of the proposed programme budget with a view to enhancing the accuracy of the assumptions and improving the process;

(b) *Welcomes* the efforts of the Court to ascertain its financial accuracy and *invites* the Court to continue its work in this regard, as well as *notes* the value in developing a forward looking judicial calendar, which would serve as a centre-piece for the dialogue between the Court and the States Parties on these matters;

(c) *Requests* the Court to develop, in 2013, guidelines relating to conditions to access to the Contingency Fund, in consultation with the Committee on Budget and Finance, to specify clearly what items can and cannot be accessed through utilization of the Fund and to report to the Assembly in this regard in advance of its twelfth session;

2. *Endorses* the recommendation of the Committee on Budget and Finance requesting the Court, within 60 calendar days following a notification to access the Contingency Fund, to send to the Committee a written report on the use of the resources requested in the notification;

3. *Welcomes* the initiative to conduct a review of the organizational structure of the Court, including a comprehensive structural review of the Court's staff profile and *looks forward* to the report of the Court on the progress of the review, and *requests* the Court to conduct a review of its policies with regard to replacement of ICT and other assets from a perspective of finding further efficiencies and effectiveness, taking into account, inter alia, periods of obsolescence, the status of assets and the adequacy for the users and to report thereon to the twentieth session of the Committee;

4. *Notes* the Court's paper "Impact of measures to bring the level of the International Criminal Court's budget for 2013 in line with the level of the approved budget for 2012",⁸ which details the Court's options where reductions would be made in order to bring the level of the approved budget for 2013 in line with the level of the approved budget for 2012 as a reference, as well as how those reductions would impact on the Court's activities;

5. *Invites* the Court to prepare such a report by incorporating its budgetary priorities, and to submit it in conjunction with its submission of the 2014 proposed budget programme.

J. Referrals by the Security Council

The Assembly of States Parties,

Noting the financial implications of the situations referred to the Court by Security Council resolutions 1593 and 1970,

Recalling that, pursuant to article 115 of the Rome Statute, expenses of the Court and the Assembly shall be provided, inter alia, by funds of the United Nations, subject to the approval of the General Assembly, in particular in relation to the expenses incurred due to referrals by the Security Council,

Mindful that, pursuant to article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations, the conditions under which any funds may be

⁷ Report of the Bureau on the Study Group on Governance (ICC-ASP/11/31), section IV.

⁸ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, annex III.

provided to the Court by a decision of the General Assembly of the United Nations shall be subject to separate arrangements,

Invites the Court to include this matter in its institutional dialogue with the United Nations and to report thereon to the twelfth session of the Assembly.

K. Amendments to Financial Regulations and Rules

The Assembly of States Parties,

Having regard to the Financial Regulations and Rules adopted at its first session on 9 September 2002,

Bearing in mind the recommendation of the Committee on Budget and Finance at its nineteenth session,⁹

1. *Approves* the amendments to financial regulations 4.6, 7.1, 11.1 and 12.7 and financial rules 110.11, 110.20, 111.2, 111.3, 111.5, 111.6, 111.7, 111.9 and annex as well as the deletion of financial rule 111.8 as set forth in the annex to this resolution;
2. *Decides* that the amendments will come into effect on 1 January of the year in which International Public Sector Accounting Standards is implemented;
3. *Requests* the Court to submit, through the Committee on Budget and Finance at its twenty-first session, further amendments to the Financial Regulations and Rules which might be necessitated by the implementation of International Public Sector Accounting Standards, should these be identified.

Annex

Amendments to the Financial Regulations and Rules necessary to implement International Public Sector Accounting Standards

A. Amendment to regulation 4 - Appropriations

Amend regulation 4.6 as follows:

In first paragraph, first sentence, third line, after “unpaid” insert the following text:

“and changes in provisions and accruals established under applicable accounting standards as referred to in rule 111.3”

In second paragraph, first sentence, fourth line, after “disbursements”, delete the following text:

“against the appropriations, for that financial period and provisions for”

and insert “,”.

In second paragraph, first sentence, fifth line, after “obligations”, insert the following text:

“, and changes in the provisions and accruals established under applicable accounting standards as referred to in rule 111.3 against the appropriations”.

⁹ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, paras. 51-53.

B. Amendment to regulation 7 – Other income

Amend regulation 7.1 as follows:

In first paragraph, subparagraph (d), second line, after “income,”, insert the following text:

“for the purpose of regulation 4.6 and 6.1.”.

C. Amendment to rule 110.11 – Writing off losses of property

Amend rule 110.11 as follows:

In paragraph (a), second sentence, third line, after “losses of”, delete the following text:

“non-expandable”,

and insert the following text:

“inventories.”.

In paragraph (a), second sentence, third line, after “property”, insert the following text:

“, plant and equipment”.

D. Amendment to rule 110.20 – Authority and responsibility on property management

Amend rule 110.20 by deleting paragraph (b).

E. Amendment to regulation 11 – The accounts

Amend regulation 11.1 as follows:

In first paragraph, first sentence, first line, after “Auditor”, delete the following word:

“accounts”,

and insert the following text:

“financial statements and statement of appropriations”.

In paragraph 1, after first sentence add the following text:

“Copies of financial statements shall also be transmitted to the Committee on Budget and Finance.”

In first paragraph, replace subparagraph (a) with the following text:

“The financial statements for the financial period shall include;

- (i) Statement of financial position;
- (ii) Statement of financial performance;
- (iii) Statement of changes in net assets/equity;
- (iv) Cash-flow statement;
- (v) Statement of comparison of budget and actual amounts for the reporting period;
- (vi) Notes, including a summary of significant accounting policies;”.

In first paragraph, subparagraph (b), first line, after “The” delete the following text:

“status of appropriations, including”,

and insert the following text:

“statement of appropriations shall include”.

In first paragraph, insert after subparagraph b(ii) the following text:

“(iii) Any supplementary budget appropriations in accordance with regulation 3.6;”

and renumber the remaining subparagraphs as follows:

b(iii) and b(iv) into b(iv) and b(v) .

In first paragraph, insert after subparagraph b(v) the following text:

“(vi) Unencumbered balances of appropriations.”.

In first paragraph, delete subparagraph (c).

F. Amendment to rule 111.2 – Principal accounts

Amend rule 111.2 as follows:

In first paragraph, subparagraph (a), first line, after “accounts,” delete the following text:

“, showing

- (i) Original appropriations;
- (ii) Appropriations as modified by transfers;
- (iii) Credits (other than appropriations made available by the Assembly of States Parties);
- (iv) Expenditures, including payments and other disbursements and unliquidated obligations;
- (v) Unencumbered balances of allotments and appropriations;

and insert the following text:

“detailing the statement of appropriations in accordance with regulation 11.1 (b);”.

In first paragraph, subparagraph (b), first line, after “accounts” delete the following text:

“, showing: all cash at banks, investments, receivables and other assets, payables and other liabilities”

and insert the following text:

“detailing all revenues, expenses, assets, liabilities and net assets/equity”.

In first paragraph, subparagraph (c), replace the word “The” with the following text:

“Funds, including the”.

G. Amendment to rule 111.3 - Accrual basis accounting

Replace rule 111.3 with the following text:

“Accounting Standards

(a) Financial statements shall be prepared on an accrual basis in accordance with International Public Sector Accounting Standards (IPSAS).

(b) The budget shall be prepared on a modified cash basis of accounting. The notes to the financial statements shall explain the budgetary basis and classification basis adopted in the approved budget.”

H. Amendment to rule 111.5 – Accounting for exchange rate fluctuations

Amend rule 111.5 as follows:

In paragraph (c), third line, after “income”, insert the following text:

“for the purposes of budgetary accounting”.

I. Amendment to rule 111.6 - Accounting for proceeds from the sale of property

Amend rule 111.6 as follows:

In first paragraph, first line, after “income”, insert the following text:

“for the purposes of budgetary accounting”.

J. Amendment to rule 111.7 – Accounting for commitments against future financial periods

Amend rule 111.7 as follows:

In the title, before the word “Accounting”, insert the word “Budgetary”.

In first paragraph, first sentence, second line, after “against a”, insert the word “budgetary”.

K. Amendment to rule 111.8 – Financial statements

Delete rule 111.8.

L. Amendment to rule 111.9 – Archives

Renumber rule 111.9 as rule 111.8

M. Amendment to regulation 12 – Audit

Amend regulation 12.7 as follows:

In first paragraph, second line, after “schedules”, insert the following text:

“referred to in Regulation 11.1”.

N. Amendment to annex – Additional terms of reference governing the audit of International Criminal Court

Amend annex as follows:

In paragraph 6, subparagraph (b), item (v), second line, after ‘from the’, delete the following text:

“generally accepted accounting principles”,

and insert the following text:

“International Public Sector Accounting Standards”.

Resolution ICC-ASP/11/Res.2

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Res.2

Amendment of the Rules of Procedure and Evidence

The Assembly of States Parties,

Recalling the need to conduct a structured dialogue between States Parties and the Court with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence, and *inviting* the organs of the Court to continue engaging in such a dialogue with States Parties,

Recognizing that enhancing the efficiency and effectiveness of the Court is of a common interest both for the Assembly of States Parties and the Court,

Commending, in this regard, the judges of the Court, acting by absolute majority, pursuant to article 51, paragraph 2 (b), of the Rome Statute, and upon recommendation of the Advisory Committee on Legal Texts, for their initiative to amend the Rules of Procedure and Evidence such that the functions of the Trial Chamber, in respect of trial preparation, may be exercised by a single judge or single judges in order to expedite proceedings and to ensure cost efficiency,

Taking note with appreciation of the subsequent consultations undertaken by States Parties within the Study Group on Governance and the Working Group on Amendments,

Recognizing that each proposal to amend the Rules of Procedure and Evidence needs to be examined on its own merits, in conformity with the Rome Statute, and with appropriate time allocated to its analysis,

Recalling article 51, paragraph 5, of the Rome Statute, according to which in the event of conflict between the Statute and the Rules of Procedure and Evidence, the Statute shall prevail,

Bearing in mind the need to fully respect the rights accorded to the accused and to victims in the Rome Statute at all stages of proceedings before the Court,

1. *Decides* that the following be inserted after rule 132 of the Rules of Procedure and Evidence:¹

“Rule 132 *bis*

Designation of a judge for the preparation of the trial

1. In exercising its authority under article 64, paragraph 3 (a), a Trial Chamber may designate one or more of its members for the purposes of ensuring the preparation of the trial.

2. The judge shall take all necessary preparatory measures in order to facilitate the fair and expeditious conduct of the trial proceedings, in consultation with the Trial Chamber.

3. The judge may at any time, *proprio motu* or, if appropriate, at the request of a party, refer specific issues to the Trial Chamber for its decision. A majority of the Trial Chamber may also decide *proprio motu* or, if appropriate, at the request of a party, to deal with issues that could otherwise be dealt with by the judge.

4. In order to fulfil his or her responsibilities for the preparation of the trial, the judge may hold status conferences and render orders and decisions. The judge may also establish a work plan indicating the obligations the parties are required to meet pursuant to this rule and the dates by which these obligations must be fulfilled.

¹ *Official Records ... First session ... 2002* (ICC-ASP/1/3 and Corr.1), part II.A.

5. The functions of the judge may be performed in relation to preparatory issues, whether or not they arise before or after the commencement of the trial. These issues may include:

- (a) Ensuring proper disclosure between the parties;
- (b) Ordering protective measures where necessary;
- (c) Dealing with applications by victims for participation in the trial, as referred to in article 68, paragraph 3;
- (d) Conferring with the parties regarding issues referred to in regulation 54 of the Regulations of the Court, decisions thereon being taken by the Trial Chamber;
- (e) Scheduling matters, with the exception of setting the date of the trial, as referred to in rule 132, sub-rule 1;
- (f) Dealing with the conditions of detention and related matters; and
- (g) Dealing with any other preparatory matters that must be resolved which do not otherwise fall within the exclusive competence of the Trial Chamber.

6. The judge shall not render decisions which significantly affect the rights of the accused or which touch upon the central legal and factual issues in the case, nor shall he or she, subject to sub-rule 5, make decisions that affect the substantive rights of victims.”

Resolution ICC-ASP/11/Res.3

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Res.3 Permanent premises

The Assembly of States Parties,

Recalling its resolutions adopted with regard to the permanent premises, including ICC-ASP/6/Res.1,¹ ICC-ASP/7/Res.1,² ICC-ASP/8/Res.5,³ ICC-ASP/8/Res.8,⁴ ICC-ASP/9/Res.1,⁵ and ICC-ASP/10/Res.6,⁶ and *reiterating* the importance of the permanent premises to the future of the Court,

Noting the report of the Oversight Committee on the permanent premises,⁷

Noting the recommendations of the External Auditor,⁸ as well as the reports of the Committee on Budget and Finance on the work of its eighteenth and nineteenth sessions and the recommendations contained therein,⁹

Reiterating its firm intention that the permanent premises should be delivered within the €190 million budget (at 2014 price levels) as per resolution ICC-ASP/6/Res.1, and *emphasizing* the role of the Oversight Committee in implementing under its delegated authority any actions which 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,

Stressing that the permanent premises shall be delivered at a good quality standard within the approved budget, 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,

Emphasizing the importance of strict control of design, scope and requirements changes during the project's construction phase in order to ensure that the project is delivered to cost, quality and on time,

Reiterating the important role of the Court and the host State throughout the process and *noting with appreciation* their full cooperation with the project,

Reiterating the role of the Project Director in providing leadership and overall management of the project, and *recalling* his responsibility for meeting the project's goals, timeliness and costs, and quality requirements, as provided in resolution ICC-ASP/6/Res.1 and the revised governance arrangements approved by the Assembly at its tenth session,

Recalling that the total cost of ownership, currently estimated at between €13.3 to 14.8 million per year as from the year 2016, includes: financial costs for those States not having opted for one-time payments, operating costs of the premises, and funding costs for capital replacements,

Noting the recommendation of the Committee on Budget and Finance at its eighteenth session that the Oversight Committee develop, in cooperation with the Project Director, qualitative and quantitative assumptions, options and scenarios, including risk assessments and illustration concerning the total cost of ownership,¹⁰ and that such review should include the full range of possible approaches,

¹ *Official Records ... Sixth session ... 2007* (ICC-ASP/6/20), vol. I, part III.

² *Official Records ... Seventh session ... 2008* (ICC-ASP/7/20), vol. I, part III.

³ *Official Records ... Eighth session ... 2009* (ICC-ASP/8/20), vol. I, part II.

⁴ *Official Records ... Resumed eighth session ... 2010* (ICC-ASP/8/20/Add.1), part II.

⁵ *Official Records ... Ninth session ... 2010* (ICC-ASP/9/20), vol. I, part II.

⁶ *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. I, part II.

⁷ ICC-ASP/11/35.

⁸ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part C.1.

⁹ *Ibid.*, parts B.1 and B.2.

¹⁰ *Ibid.*, part B.1.

Recalling that States Parties had been requested to inform the Registrar of their final decision to select the option of a one-time payment of their assessed share in the project by 15 October 2009, and that this deadline was extended to 15 October 2012 by resolution ICC-ASP/8/Res.8,

Welcoming the fact that 33 States Parties have committed to making a one-time payment as at 1 November 2012, in an amount of €36,370,811 million, of which €34,470,490 million have already been received,

Noting that additional States Parties have expressed an interest in selecting the option of a one-time payment of their assessed share,

Noting that some States Parties have expressed an interest in selecting a combination of a one-time payment and participation in the host State loan,

Noting the advantages for all States Parties in extending the deadline to opt for one-time payments due to the lesser need to draw funds from the host State loan, the immediate discount for those States opting for a one-time payment, and the lower capital and interest to be repaid by those States not opting for a one-time payment,

Recalling the criteria applicable to the agreement on the host State loan, and the principles for one-time payments of the assessed share, contained in annexes II and III to resolution ICC-ASP/7/Res.1, respectively,

Noting that the conditions of the host State loan provide that payment of interests begins as of the time of the first utilization of the loan,¹¹ and that repayment of capital and interests will commence after expiration of the existing or future leases of the interim premises,¹²

Recalling that the trust fund for voluntary contributions dedicated to the construction of the permanent premises has been established and that voluntary contributions can also be provided through earmarked funds for special features, or in kind contributions, upon consultation with the Oversight Committee,

A. Management of the project: budget, quality and timeliness

1. *Welcomes* the report of the Oversight Committee and *expresses its appreciation* to the Oversight Committee, the Project Director, the Court and the host State for the progress made on the permanent premises project since the tenth session of the Assembly;
2. *Approves* the revised cash-flow scheme contained in annex I;
3. *Welcomes* the completion of the award stage and the beginning, on 1 October 2012, of the construction stage of the project;
4. *Also welcomes* that the project continues to remain within the approved budget of €190 million at 2014 prices, and, in this regard, *notes with satisfaction* that the integrated elements (“3gv”) have been entirely absorbed within the overall budget and that, at the present stage, the projected construction costs are estimated at €183.7 million, i.e. €6.3 million below the maximum amount allocated to the project;
5. *Approves* that the revised financial strategy of the Oversight Committee include a continued prudent management of risks and resources, and provide that any positive financial results achieved at any stage of the project should be kept as an additional reserve for unforeseen circumstances and policy decisions up to the completion of the project;
6. *Further approves* the cost-review strategy put in place by the Oversight Committee to ensure that the project continues to allow for good quality premises while avoiding elements that might not meet the necessary standard of coherence with the core functions of the Court or that would otherwise negatively affect the total cost of ownership;
7. *Requests* the Oversight Committee to ensure that any changes during the construction stage and until completion of the project be only approved on a cost neutral basis and, to this end, *requests* the Project Director to make every effort so that any new

¹¹ *Official Records ... Seventh session ... 2008* (ICC-ASP/7/20), vol. I, part III, ICC-ASP/7/Res.1, annex II, (e).

¹² *Ibid.*, (f).

change to the project that might be needed is offset by a corresponding capital or operational saving and can be implemented, wherever possible, with due regard to the minimization of additional costs related to delays and other factors;

8. *Endorses* the decision of the Oversight Committee to set up a working group chaired by the Project Director, which could include an external consultant and representatives of the Oversight Committee and the Court in order to further examine how the total cost of ownership of the permanent premises is met, by reviewing the range of possible approaches, as well as any options for future States Parties to contribute to the project costs, and *requests* the Committee to report thereon at the twelfth session of the Assembly;

9. *Welcomes* that the completion date for the permanent premises continues to be September 2015, and *stresses* the need for the project to comply with that deadline in order to prevent future cost overruns and to allow the Court to progressively move into the premises up to December 2015;

10. *Requests* the Court, working in conjunction with the Project Director, to take all preparatory measures needed to ensure its readiness to take occupation of the permanent premises by not later than December 2015 in order to avoid any additional expenditures for the States Parties, and to report thereon in detail to the Bureau and to the twentieth session of the Committee on Budget and Finance;

11. *Also requests* the Court to, in consultation with the Project Director and the Oversight Committee, elaborate new options for reducing the 2gv elements, including the suitability and extended use of existing equipment as well as the option of joint procurement with other institutions, and to report thereon in detail to the twelfth session of the Assembly of States Parties through the Oversight Committee;

12. *Welcomes* the delegation of authority made by the Registrar to the Project Director with respect to engaging funds for the permanent premises project, and *encourages* the Registrar to continue delegating authority and tasks to the Project Director, where necessary and at an appropriate level, in accordance with the Financial Regulations and Rules, in order to keep improving the management and efficiency of the project and related sub-projects;

13. *Requests* the Project Director, together with the Court, to continue working on recommendations, in accordance with resolution ICC-ASP/7/Res.1, annex V, paragraph 5, on ways to improve the current guidelines on contracts and expenditures for the purpose of expediting the execution of the project, and to submit them to the Oversight Committee for approval;

B. One-time payments

14. *Decides* to extend the deadline for States Parties to inform the Registrar and the Project Director's Office of their decision to select the option of a one-time payment until 31 December 2014;¹³

15. *Decides further* that States that deposit their instrument of ratification or accession to the Rome Statute before 31 December 2014 will be entitled to select the one-time payment option provided that they inform the Registrar of their decision to do so by 31 December 2014, notwithstanding the date upon which the Rome Statute shall enter into force for those States;

16. *Decides further* that States Parties may either opt between a full one-time payment or a partial one-time payment in combination with participation in the loan;

17. *Requests* States Parties availing themselves of the extended deadline for one-time payments to consult with the Registrar so as to determine the scheduling thereof, taking into

¹³ The principles for one-time payments of the assessed share, contained in *Official Records ... Seventh session ... 2008* (ICC-ASP/7/20), vol. I, part III, ICC-ASP/7/Res.1, annex III, shall continue to apply, *mutatis mutandis*, to States opting for one-time payments after 15 October 2012.

account, as further clarified by the explanatory note¹⁴ included as annex II to this resolution, that said one-time payments:

- (a) May be made in one or more annual instalments;
- (b) Are to be received in full by no later than 15 June 2015; and
- (c) Shall be subject to an adjustment once the final cost of the project and the full amount of the host State subsidy are known in order to ensure that all States Parties receive a fair and equal treatment;

18. *Requests* the Registrar, in coordination with the Project Director's Office, to continue to submit to the Oversight Committee, as requested, updated information on the agreed schedules for one-time payments;

19. *Decides* that the assessed contributions by States Parties towards the payment of interest and capital on the host State loan, and any accrued interest thereof, shall be held in a special account and utilized only to fulfill the obligations under the host State loan agreement;

C. Financial reporting

20. *Requests* the Project Director, in consultation with the Oversight Committee, in accordance with resolution ICC-ASP/6/Res.1, to continue to submit annually, for consideration by the Assembly at its regular session, a detailed cost estimate for the project on the basis of the most recent information, and incorporating the schedule for the use of funds deriving from one-time payments;

21. *Further requests* the Project Director to continue to report annually to the Assembly, through the Oversight Committee, on the realization of the previous years' estimates and the level of expenditure;

D. Audit strategy

22. *Welcomes* the adoption by the Oversight Committee of an audit strategy for the project, and *requests* the Court's Internal Audit Section to manage its implementation on behalf of the Oversight Committee, taking into account the recommendation of the Committee on Budget and Finance concerning the expertise for the internal audit of the project;¹⁵

E. Voluntary contributions

23. *Reiterates* the invitation to States Parties and members of civil society with a proven track record of commitment to the mandate of the Court to raise funds for the permanent premises project;

F. Future reporting by the Oversight Committee

24. *Requests* the Oversight Committee to continue to provide regular progress reports to the Bureau and to report back to the Assembly at its next session.

¹⁴ The explanatory note clarifies the principles for one-time payments in connexion with the criteria applicable to the agreement on the loan, including as regards those States Parties that would select the one-time payment option, or make their payments, after the host State loan has been accessed and payment of interest has commenced.

¹⁵ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, para. 82.

Annex I

Cash-flow scheme

Budget ICC permanent premises (in million EU)

Items	Total costs	Overall total	2009	2010	2011	2012		2013	2014	2015		2016	Total	
			PD	FD	FD+ and tendering	Construction			Moving					
1. Construction Costs		147.04						2.8	46.5	85.3	12.2	0.1	0.1	147.1
1a. Construction costs	140.64							1.6	43.3	84.1	11.4	0.1	0.1	140.7
1b. Fees design team (after tendering)	6.40							1.2	3.2	1.2	0.8	-	-	6.4
2. Risks		12.89						-1.5	1.7	10.7	0.8	0.5	0.8	12.9
2a. Project risk (all issues incl. design or third parties)	3.79							0.0	0.4	1.4	0.7	0.5	0.8	3.8
2b. Client risk (outside project e.g. municipality)	9.10							-1.5	1.3	9.2	0.1	-	-	9.1
3. Permit and dues		2.60						2.5	0.1					2.6
Permits and dues	2.60									-	-	-		-
4. Fees		19.60	1.3	3.6	6.9	2.8	0.9	1.6	1.6	0.8	0.1	0.1	0.1	19.6
4a. Design related	10.55			2.7	5.1	2.0	0.5	0.2	-	-	-	-	-	10.5
4b. Projectmanagement	7.40		0.9	0.7	1.3	0.5	0.3	1.3	1.3	0.7	0.0	0.1	0.1	7.4
4c. Other consultants	1.62		0.4	0.2	0.4	0.2	0.1	0.1	0.2	0.1	-	-	-	1.6
4d. Operational fees (e.g bank fees)	0.03		0.0	0.0	0.0	0.0	0.0	-	0.0	-	0.0	-	-	0.0
5. Other costs	1.50	1.50		1.5										1.5
6. Residue (projected underspend/additional reserve)	6.37	6.37							5.6	0.7				6.4
Total	190.0	190.0	1.3	5.1	6.9	2.8	4.8	49.9	103.1	14.5	0.6	1.0	1.0	190.0
Total	-	-	1.3	5.1	6.9		7.5	49.9	103.1		15.14	1.0	1.0	190.0
cumulative			1.28	6.41	13.29		20.79	70.71	173.85		188.99	190.0		

Annex II

Explanatory note on one-time payments¹

A. Introduction

1. This explanatory note provides States Parties with further clarifications on the principles for one-time payments, in connexion with the criteria applicable to the agreement on the loan, in view of the proposed extension for States Parties to opt for one-time payments until 31 December 2014. It includes some indicative figures, comparing one-time payments to the participation in the loan repayment over a 30-year period at an interest rate of 2.5 per cent, through annual payments. This is illustrated for each State Party individually in the table included as an annex in the report of the Oversight Committee.²

B. One-time payments: modalities

2. Annex III to resolution ICC-ASP/7/Res.1 provides the criteria applicable to the agreement on the loan and the principles for one-time payments of the assessed share (extract included as appendix I to this note). The following points are aimed at operationalizing these provisions:

(a) The amount of a one-time payment for State Party A can be calculated according to the following formula:

$$\text{One-time payment A} = (\text{building cost})^3 \times (\text{share of assessed contributions of State Party A}) - (\text{Discount 1}) - (\text{Discount 2})$$

Where:

$$(\text{Discount 1})^4 = (\text{share of assessed contributions of State Party A}) \times 17.5\% \times (\text{building cost})$$

$$(\text{Discount 2})^5 = (\text{share of assessed contributions of State Party A}) \times (\text{amount of the 17.5\% host State subsidy on the difference between maximum loan amount (€200 million) and the building cost.})$$

Explanation: as indicated in resolution ICC-ASP/6/Res.1, the overall construction costs of the project, are to be no more than €190 million. The host State agreed in its original offer to deduct a subsidy of 17.5 per cent of the amount not utilized under the maximum ceiling of the loan facility (€200 million) from the total amount borrowed, i.e. the difference between 200 million and the final drawn amount of the loan. Since one-time payments will directly lower the need to make use of the host State loan, it is reasonable to deduct this percentage from the beginning to the benefit of the contributing States Party. Otherwise, this would have to be done at the time of the adjustment on completion of the project.⁶

(b) One-time payments shall be subject to a final adjustment once the final cost of the project⁷ and the amount drawn on the host State subsidy are known at completion of the project.

¹ This is an update of the explanatory note contained in document ICC-ASP/8/34, annex II, which referred to the Court's original letter, dated 9 April 2009, requesting States Parties to indicate their interest in making one-time payments by 30 June 2009.

² ICC-ASP/11/35, annex I, appendix VIII.

³ Although the current building construction cost estimate is €183.7 million, all calculations, subject to the final adjustment, will continue to be made on the basis of the €190 million approved maximum budget in order to keep consistency with States Parties having selected the one-time payment option at an earlier stage.

⁴ Discount 1 is only applicable to States Parties having opted for one-time payments.

⁵ Discount 2 is applicable to all States Parties, whether or not they make a one-time payment. The only difference is that those making a one-time payment would obtain this discount in advance based on the €190 million estimate (subject to the final adjustment), while others would obtain a reduction in the loan according to their share of assessed contributions at the time of the final adjustment on completion of the project.

⁶ See point (b).

⁷ The final cost of the project is expected to be available by the end of 2015.

Final adjustment of Discounts 1 and 2 on completion of the project:

Should the entire loan of €200 million need to be utilised,⁸ both Discount 1 and Discount 2 would be reduced to zero;

Should the building costs exceed the maximum loan of €200 million,⁹ then Discount 1 would be apply only to the part of the one-time payment that actually reduces the loan below €200 million. Discount 2 would be reduced to zero; and

Should the building costs come under the current €190 million estimate, Discount 2 would be increased for all States Parties to reflect the increased host State subsidy as the result of the increased amount on the unused portion of the loan facility. Discount 1 would remain unchanged in order not to apply the same discount twice to States Parties having opted for one-time payments.

Explanation: a final correction is required to ensure that all States Parties will pay the correct amount. States Parties having already opted for one-time payments or contemplating a one-time payment should be cautioned that, at the completion of the project, additional funds might be required, although all efforts are being undertaken to complete the building on time and within budget, and, in this regard, the current project estimate is €183.7 million. For the purpose of the final adjustment, the scale of assessments at the time the final cost envelope of the project is determined, i.e. the completion of the project (December 2015), will be utilized to make the corrections. The scale of assessment will differ from the original 2009 scale of assessment calculation used for one-time payments,¹⁰ for example, due to changes in the number of States Parties having occurred or occurring between 2009 and the time of the final adjustment. Changes in the scale of assessments after the completion of the project (December 2015) will not be applicable to the calculation of States Parties' assessed contributions to the project.

(c) With the new extension of the deadline, States Parties may opt for the one-time payment option from 1 December 2012 until 31 December 2014 and one-time payments may be made in one or more yearly instalments, between December 2012 and 15 June 2015.

One-time payments should be made in accordance with regulation 5.6 of the Financial Regulations and Rules of the Court. In case of a one-time payment in two or more yearly instalments, all instalments should be made accordingly.

According to the conditions of the host State loan, payment of interests begins as of the time of the first utilization of the loan,¹¹ while repayment of capital and interests will commence after expiration of the existing or future leases of the interim premises.¹²

Accordingly, should any of the instalments of the one-time payment by a State Party be received by the Court after the commencing of the draw down of the host State loan (currently estimated at the end of the second quarter of 2013), that State Party would be liable for the apportioned share of the interest on the host State loan, applicable up to the end of the month in which the one-time payment (instalment) is received.

The calculation mechanism is further detailed in appendix II to this note, which illustrates the different scenarios for States Parties opting for one-time payments or repayment of the loan, in accordance with the recommendation of the Committee on Finance and Budget at its nineteenth session.¹³

⁸ This is highly unlikely in view of the current state of the project.

⁹ This is unlikely since the current project cost estimate is €183.7 million.

¹⁰ Used as the basis of the original calculation for one-time payments (ICC-ASP/8/Res.8) and still used for new one-time payments, for the sake of consistency, subject to the final adjustment.

¹¹ *Official Records ... Seventh session ... 2008* (ICC-ASP/7/20), vol. I, part III, ICC-ASP/7/Res.1, annex II, (e).

¹² *Ibid.*, (f).

¹³ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, para. 167.

Estimated interest to be paid during the construction phase (2013-2015)

The total annual interest costs related to the draw down of the host State loan during the construction phase of the project are currently estimated as follows:¹⁴

2013: € 204,568

2014: € 1,659,706

2015: € 3,627,525

These amounts are only payable by States Parties that have not opted to make a one-time payment or, having done so, have not disbursed all their instalments before the commencing of the draw down on the host State loan (currently estimated at the end of the second quarter of 2013).

States Parties liable for the payment of interest during the construction phase shall be assessed in accordance with the same scale of assessment applying to the Court's regular budget applicable at the time of the assessment, with the necessary corrections in order to exclude States Parties having made their full one-time payments before the draw down on the loan.

Appendix I

Criteria applicable to the agreement on the loan, and principles for one-time payments of the assessed share (extract), as contained in resolution ICC-ASP/7/Res.1

The Assembly of States Parties,

[...]

Annex II

Criteria applicable to the agreement on the loan

The agreement with the host State regarding its offer to provide a loan for the permanent premises project will stipulate that:

(a) A loan of up to a maximum of €200 million will be provided to the Court by the host State, to be repaid over a period of 30 years at an interest rate of 2.5 per cent.

(b) The agreement does not create for the Court any legal obligation to borrow the full amount (i.e. €200 million) from the host State or in any way restrict the Court's discretion in deciding on the amount that is to be borrowed.

(c) The agreement does not in any way restrict the authority and discretion of the Court to seek funds for the same purposes from any other source if the Court chooses to do so.

(d) In the event of the €200 million not being fully utilized at the end of the project, the host State will reduce the amount of the loan to be repaid by an amount that corresponds to 17.5 per cent of the non-utilized part of the loan.

(e) Interest is to be paid annually, as of the first utilization of the host State loan.

(f) Repayment of the loan, through regular annual instalments, will commence after expiration of the existing or future leases of the interim premises.

¹⁴ These amounts may differ depending on further one-time payments being received as well as any changes in the cash flow of the project.

Annex III Principles for one-time payments of the assessed share

[...]

3. States Parties not opting for a one-time payment shall be assessed annually for the payment of interest and for the repayment of the host State loan, according to the scale of assessments to the Court's regular budget applicable at the time of the assessment.

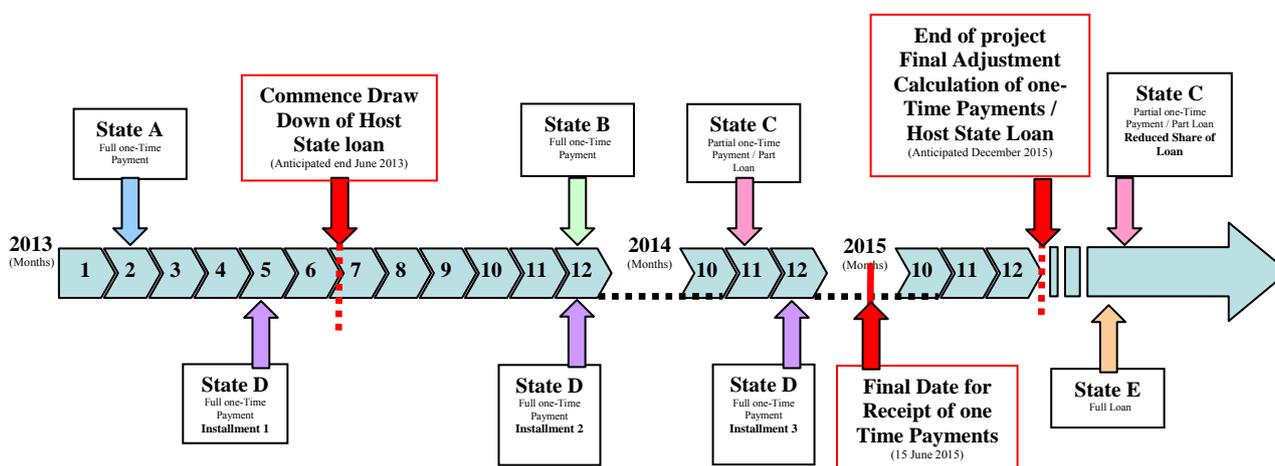
4. The Registrar will inform States Parties wishing to make a one-time payment, as soon as possible, of their assessed share, based on the most recent estimates of the final cost envelope referred to in paragraph 13 of the resolution.

5. One-time payments shall be subject to an adjustment once the final cost of the project and the amount of the host State subsidy are known.

[...]

Appendix II

Examples: States Parties one Time Payment / Project Financing Calculation Scenarios



Assumptions

The anticipated date for drawing down of the loan is end of June 2013.

Final adjustment in all cases in December 2015 based on final cost of the project, one-time payments received and scale of assessment at completion of the project.

Repayment of capital and interest on host State loan from January 2016 to December 2045.

Examples

State A – Full one time payment prior to commencing draw down of host State loan

One –time payment disbursed in February 2013:

- (a) no interest due for period 2012 – 2015; and
- (b) no interest and capital repayment due for period 2016 – 2045.

State B – Full one time payment after commencement of draw down of host State loan

One-time payment disbursed in December 2013:

- (a) proportional share of interest on host State loan, up to the end of year and month of receipt of payment, i.e., months 7 through to 12 in 2013 only (i.e. 6 months); and
- (b) no interest due for period 2016 – 2045.

State C – Partial one-time payment / Part loan

Partial one-time payment disbursed in November 2014:

(a) Proportional share of interest on host State loan applicable up to the end of the year and month of receipt of payment: no interest paid until first draw down of the loan, proportional share of interest for 2013 (months 7 through to 12), and 2014 (months 1 through to 11) taking account of the one-time payment made + interest on the remaining assessed contribution until finalization of the construction project; and

(b) Outstanding balance of assessed contribution financed via the loan option i.e. 30 years capital and interest repayments from January 2016 onwards.

State D – Full one-time payment in 3 installments; 1 installment prior to draw down of host State loan, and 2 installments following draw down of the loan

(a) Installment 1 paid in May 2013: no interest to be paid on this amount;

(b) Installment 2 paid in December 2013: proportion of interest on host State loan applicable up to the end of the month of receipt of installment 2, i.e. proportional share of interest for 2013 (months 7 through to 12);

(c) Installment 3 paid in December 2014: proportion of interest on host State loan applicable up to the end of the month of receipt of installment 3, i.e. proportional share of interest for 2013 (months 7 through to 12), and 2014 (months 1 through to 12); and

(d) No interest or capital repayment due for period 2016 – 2045.

State E – Full host State loan

(a) Proportional share of interest applicable from July 2013 to December 2015 over assessed contribution; and

(b) Assessed contribution financed via the loan option i.e. 30 years capital and interest repayments from January 2016 onwards.

Annex III

Members of the Oversight Committee

African States

1. Kenya

Asian and Pacific States

2. Japan
3. Republic of Korea

Eastern European States

4. Romania

Group of Latin American and Caribbean States

5. Argentina
6. Venezuela (Bolivarian Republic of)

Western European and Other States

7. Germany
8. Ireland
9. Italy
10. United Kingdom

Resolution ICC-ASP/11/Res.4

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Res.4 Independent Oversight Mechanism

The Assembly of States Parties,

Recalling the Rome Statute of the International Criminal Court and, in particular article 112, paragraphs 2(b) and 4, of the Rome Statute,

Recalling its resolutions ICC-ASP/8/Res.1, ICC-ASP/9/Res.5, and ICC-ASP/10/Res.5 on the Independent Oversight Mechanism,

Welcoming the report of the Bureau on the Independent Oversight Mechanism,

1. *Recognizes* the importance of a fully operational Independent Oversight Mechanism in accordance with resolutions ICC-ASP/8/Res.1, ICC-ASP/9/Res.5 and ICC-ASP/10/Res.5 to the efficient and effective operation of the Court;
2. *Takes note of* the report of the Bureau on the Independent Oversight Mechanism and the programme of work for the Independent Oversight Mechanism for 2013 attached to that report;
3. *Decides* to continue discussions on the Independent Oversight Mechanism, fully respecting the provisions in the Rome Statute regarding judicial and prosecutorial independence and the management oversight of the Assembly of States Parties, including articles 40, 42 and 112, with a view to the Bureau submitting to the twelfth session of the Assembly a comprehensive proposal that would make possible the full operationalization of the Independent Oversight Mechanism;
4. *Acknowledges with satisfaction* information concerning the anti-retaliation/whistleblower draft policy developed by the Court in close consultation with the Independent Oversight Mechanism and the Staff Union Council, and *invites* the Court to adopt it at the earliest time possible;
5. *Decides further* to delegate to the Bureau the following decisions, after taking into consideration possible budgetary implications and operational requirements and, if necessary, consulting the Committee on Budget and Finance:
 - (a) The extension of the mandate of the Temporary Head of the Independent Oversight Mechanism and, when appropriate, the hiring of the Head of the Independent Oversight Mechanism; and
 - (b) The timing of the commencement of the recruitment of the P-2 staff member for the Independent Oversight Mechanism.

Resolution ICC-ASP/11/Res.5

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Res.5 Cooperation

The Assembly of States Parties,

Recalling the provisions of the Rome Statute, the Declaration on Cooperation (RC/Dec.2) agreed by States Parties at the Review Conference in Kampala and previous resolutions and declarations of the Assembly of States Parties with regard to cooperation, including ICC-ASP/8/Res.2, ICC-ASP/9/Res.3, ICC-ASP/10/Res.2, and the sixty-six recommendations annexed to ICC-ASP/6/Res.2,

Determined to put an end to impunity for the perpetrators of the most serious crimes of concern to the international community as a whole, and *reaffirming* that the effective prosecution of such crimes must be strengthened, inter alia, by enhancing international cooperation,

Stressing the importance of effective and comprehensive cooperation and assistance by States Parties, other States, and international and regional organizations, to enable the Court to fulfil its mandate as set out in the Rome Statute,

Noting that contacts with persons in respect of whom an arrest warrant issued by the Court is outstanding should be avoided when such contacts undermine the objectives of the Rome Statute,

1. *Welcomes* the acknowledgement in paragraph 80 of the Report on the activities of the Court that “[t]he Court’s cooperation with States Parties has been generally forthcoming”,¹
2. *Emphasizes* the importance of timely and effective cooperation and assistance from States Parties and other States under an obligation or encouraged to cooperate with the Court pursuant to Part 9 of the Rome Statute or a United Nations Security Council resolution, as the failure to provide such cooperation in the context of judicial proceedings affects the efficiency of the Court, and *underlines* the negative impact that non-execution of Court requests can have on the ability of the Court to execute its mandate, in particular when it concerns the arrest and surrender of individuals subject to arrest warrants;
3. *Stresses* the value of the lessons learned from international ad hoc and mixed tribunals on the enforcement of arrest warrants;
4. *Emphasizes also* the ongoing efforts made by the Court in providing focused requests for cooperation and assistance which contribute to enhancing the capacity of States Parties and other States to respond expeditiously to requests from the Court, and *invites* the Court to also continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance;
5. *Requests* the Bureau, through its Working Groups, to consider, in light of the further views obtained from the relevant organs of the Court, the issue of non-essential contacts, and to report thereon to the Assembly well in advance of its twelfth session;
6. *Welcomes* the efforts of the President of the Assembly in implementing the non-cooperation procedures adopted by the Assembly in ICC-ASP/10/Res.5, and *encourages* the Assembly to keep said procedures and their implementation under review in order to secure their effectiveness;
7. *Expresses* serious concern regarding the detention of four officials of the Court from 7 June to 2 July 2012 and *notes with appreciation* the assistance provided by States Parties, other States, and international organizations in connection with securing their release;
8. *Stresses* the importance of respect for the privileges and immunities of the Court’s staff and officials in accordance with article 48 of the Rome Statute, and the necessity of

¹ ICC-ASP/11/21, para. 80.

securing the respect for such privileges and immunities in all situations, inter alia by adopting relevant national legislation;

9. *Calls upon* States Parties as well as non-States Parties that have not yet done so to become parties to the Agreement on Privileges and Immunities of the International Criminal Court as a matter of priority and to incorporate it in their national legislation, as appropriate;

10. *Welcomes* the increased cooperation between the Court and the United Nations, and other international and regional organizations, and other inter-governmental institutions;

11. *Emphasizes* the importance of States Parties enhancing and mainstreaming diplomatic, political and other forms of support for, as well as promoting greater awareness and understanding of the activities of the Court at the international level, and *encourages* States Parties to use their capacity as members of international and regional organizations to that end;

12. *Encourages* States Parties to explore possibilities for facilitating further cooperation and communication between the Court and international and regional organizations, including by securing adequate and clear mandates when the United Nations Security Council refers situations to the Court, ensuring support and cooperation to follow up such referrals, as well as taking into account the Court's mandate in the context of other areas of work of the Security Council, including the drafting of Security Council resolutions on sanctions and relevant thematic debates and resolutions;

13. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, in particular through implementing legislation and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such legislative and other measures so as to ensure that they can fully meet their obligations under the Rome Statute;

14. *Acknowledges* efforts by States and by the Court, including through the Legal Tools Project, to facilitate exchange of information and experiences, with a view to raising awareness and facilitating the drafting of national implementing legislation;

15. *Encourages* States to consider the establishment of a national focal point and/or a national central authority or working group tasked with the coordination and mainstreaming of Court-related issues, including requests for assistance, within and across government institutions;

16. *Acknowledges* the importance of protective measures for witnesses for the execution of the Court's mandate, and *notes with concern* that despite continuous efforts, the Court has not succeeded to establish sufficient arrangements or ensure other measures for the expeditious temporary relocation of witnesses facing imminent threat;

17. *Calls upon* all States Parties and other States, where possible, to consider strengthening their cooperation with the Court by entering into agreements or arrangements with the Court or any other means concerning, inter alia, protective measures for witnesses, their families and others who are at risk on account of testimony given by witnesses, and sentence enforcement;

18. *Encourages* all States Parties to consider making voluntary contributions to the Special Fund for Relocations and to consider entering into relocation agreements or arrangements with the Court, including on a cost neutral basis;

19. *Commends* the work of the Court on framework agreements or arrangements or any other means in areas such as interim release, final release, witness relocation, and sentence enforcement, *encourages* the Court to continue its work in this regard, and *urges* all States Parties to consider strengthening voluntary cooperation in these areas;

20. *Underlines* the importance of further improving communication through established, and possibly new, channels, with a view to facilitate cooperation between the Court, States Parties, other States and international organizations on the identification, tracing and freezing or seizure of proceeds, property and assets, and the corresponding obligation of States Parties, and other States under an obligation to cooperate with the Court pursuant to

Part 9 of the Rome Statute or a United Nations Security Council resolution, to comply with such requests by the Court, as envisaged in article 93, paragraph 1(k), of the Rome Statute;

21. *Emphasizes* the advantage of transmitting requests for assistance to States and organizations to identify, track, freeze or seize proceeds, property and assets as expeditiously as possible;

22. *Welcomes* the enhanced dialogue between States Parties, the Court and civil society offered by the plenary discussion on cooperation held for the first time during the eleventh session of the Assembly, with a special focus on arrests and the identification, tracing, freezing and seizure of assets, and, *mindful* of the importance of full and effective cooperation with the Court in accordance with the Rome Statute, *notes with appreciation* the fruitful exchange of views on, inter alia, practical measures to enhance implementation of requests for cooperation, and the need to include cooperation as a standing agenda item for future sessions of the Assembly;

23. *Requests* the Bureau to establish a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court and non-governmental organizations as well as other interested States and relevant organizations in order to further strengthen cooperation with the Court;

24. *Decides* that the Assembly of States Parties shall continue to monitor cooperation with a view to facilitating States Parties in sharing their experiences and considering other initiatives to enhance cooperation, and, to this end, *decides* that the Assembly will include a specific item on cooperation on the agenda of its twelfth session;

25. *Recalls* the request to the Court by the Assembly of States Parties at its tenth session to submit an updated report on cooperation to the Assembly at its twelfth session, in accordance with paragraph 15 of resolution ICC-ASP/10/Res.2.

Resolution ICC-ASP/11/Res.6

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Res.6 Complementarity

The Assembly of States Parties,

Reaffirming its commitment to the Rome Statute of the International Criminal Court and its determination to combat impunity for the most serious crimes of international concern, and *underlining* the importance of the willingness and ability of States to genuinely investigate and prosecute such crimes,

Welcoming the efforts and achievements of the Court in bringing those most responsible for these crimes to justice and *noting* the jurisprudence of the Court on the issue of complementarity,

Recalling the primary responsibility of States to investigate and prosecute the most serious crimes of international concern and that, to this end, appropriate measures need to be adopted at the national level, and international cooperation and judicial assistance need to be strengthened, in order to ensure that national legal systems are capable of genuinely prosecuting such crimes,

Recalling further that the application of articles 17 and 19 of the Rome Statute concerning the admissibility of cases before the Court is a judicial matter to be determined by the judges of the Court,

Recalling further that greater consideration should be given to how the Court will complete its activities in a situation country and that such exit strategies could provide guidance on how a situation country can be assisted in carrying on national proceedings when the Court completes its activities in a given situation,

1. *Resolves* to continue and strengthen effective domestic implementation of the Rome Statute, to enhance the capacity of national jurisdictions to prosecute the perpetrators of the most serious crimes of international concern in accordance with internationally recognized fair trial standards, pursuant to the principle of complementarity;
2. *Welcomes* the international community's engagement in strengthening the capacity of domestic jurisdiction to enable States to genuinely prosecute Rome Statute crimes;
3. *Welcomes further* the commitment by United Nations bodies to continue to mainstream capacity building activities aimed at strengthening national jurisdictions with regard to investigating and prosecuting Rome Statute crimes into existing and new technical assistance programmes and instruments, and *strongly encourages* further efforts in this regard by other international and regional organizations, States and civil society;
4. *Welcomes* the Declaration adopted by the High-Level Meeting of the 67th session of the United Nations General Assembly on the rule of law at the national and international levels;
5. *Welcomes* the constructive exchange between States Parties, observer States, the United Nations Development Programme, civil society and the Court during the plenary discussion on complementarity held during the eleventh session of the Assembly, *notes* the growing realization, as expressed in the course of the debate, of the critical need for States, international and regional organizations and civil society to engage and work with relevant countries to strengthen their capacities to investigate and prosecute the most serious international crimes and to share experiences and best practices in this regard, and *recognizes* the need to enhance the dialogue with the rule of law and development communities on these issues and to include complementarity on the agenda of future sessions of the Assembly;
6. *Stresses* that the proper functioning of the principle of complementarity entails that States incorporate the crimes set out in articles 6, 7 and 8 of the Rome Statute as punishable

offences under their national laws, to establish jurisdiction for these crimes and to ensure effective enforcement of these laws, and *calls on* States to do so;

7. *Welcomes* the report of the Bureau on complementarity and the progress made in implementing the Review Conference resolution on complementarity, and *requests* the Bureau to remain seized of this issue and continue the dialogue with the Court and other stakeholders on complementarity, in accordance with resolution RC/Res.1 and as set out in the report of the Bureau on complementarity: “Taking stock of the principle of complementarity – Bridging the impunity gap”,¹ including with regard to complementarity related capacity-building activities by the international community to assist national jurisdictions, and possible exit-strategies of the Court and related issues;

8. *Welcomes* the report of the Secretariat of the Assembly of States Parties on the progress of giving effect to its mandate to facilitate the exchange of information between the Court, States Parties, and other stakeholders including international organizations and civil society, aimed at strengthening domestic jurisdictions,² *welcomes further* the work that has already been undertaken by the Secretariat and *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information in this regard, including through inviting States to submit information on their capacity-needs for the consideration of States and other actors in a position to provide assistance, and to report on the practical steps taken in this regard to the twelfth session of the Assembly;

9. *Encourages* States, international and regional organizations and civil society to submit to the Secretariat information on their complementarity-related activities, and *requests* the Secretariat to report to the twelfth session of the Assembly in this regard;

10. *Welcomes* the report of the Court on complementarity and, while recalling the Court’s limited role in strengthening national jurisdictions, its contribution to the efforts of the international community in this regard, including the Court’s Legal Tools Project, and *requests* the Court to, within the existing mandate, continue cooperation with the Secretariat on complementarity and report, as appropriate, to the twelfth session of the Assembly.

¹ ICC-ASP/8/51.

² Report of the Secretariat on complementarity (ICC-ASP/11/25).

Resolution ICC-ASP/11/Res.7

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Res.7 Victims and Reparations

The Assembly of States Parties,

Reaffirming the importance of the Rome Statute to the victims and affected communities in its determination to put an end to impunity for the perpetrators of the crime of genocide, crimes against humanity and war crimes, thus contributing to their prevention,

Recognizing that victims' rights to equal, expeditious and effective access to justice, protection and support, adequate and prompt reparation for harm suffered, and access to relevant information concerning violations and redress mechanisms are essential components of justice,

Emphasizing the importance of the protection of victims' and affected communities' rights and interests, in order to give effect to the unique mandate of the International Criminal Court,

1. *Takes note of* the Court's Revised strategy in relation to victims,¹ and of the "Report on the Court's Revised strategy in relation to victims: Past, present and future";²
2. *Acknowledges* the Court's final "Report on review of the system for victims to apply to participate in the proceedings";³
3. *Notes with continued concern* reports from the Court on the persistent backlogs the Court has had in processing applications from victims seeking to participate in proceedings, a situation which impacts on the effective implementation and protection of the rights and interests of victims under the Rome Statute;
4. *Underlines* the urgent need to modify the system for victims to apply to participate in proceedings in light of the existing situation, in order to ensure the sustainability, effectiveness and efficiency of the system, including any necessary amendments to the legal framework, while preserving the rights of victims under the Rome Statute;
5. *Takes note* with appreciation of all efforts to enhance the efficiency and effectiveness of victim participation, including in particular by encouraging a more collective approach and *requests* the Bureau to prepare, in consultation with the Court, any amendments to the legal framework for the implementation of a predominantly collective approach in the system for victims to apply to participate in the proceedings;
6. *Invites* the Bureau to report to the Assembly at its twelfth session on any appropriate measures;
7. *Takes note* of the decision of Trial Chamber I establishing the principles and procedures for reparations in the case against Thomas Lubanga Dyilo,⁴ dated 7 August 2012, *recalls* the need for the Court to ensure that coherent principles relating to reparations continue to be established in accordance with article 75, paragraph 1, of the Rome Statute and *further requests* the Court to report back to the Assembly at its twelfth session;
8. *Highlights* that liability for reparations is exclusively based on the individual criminal responsibility of a convicted person, therefore under no circumstances shall States be ordered to utilize their properties and assets, including the assessed contributions of States Parties, for funding reparations awards, including in situations where an individual holds, or has held, any official position;
9. *Calls upon* States Parties where crimes under the Court's jurisdiction have been committed, to adopt victims-related provisions as appropriate, consistent with the 1985

¹ ICC-ASP/11/38.

² ICC-ASP/11/40.

³ ICC-ASP/11/22.

⁴ No. ICC-01/04-01/06 66/94.

United Nations General Assembly resolution 40/34 “Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power”, the 2005 United Nations General Assembly resolution 60/147 “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law” and other relevant instruments;

10. *Encourages* States Parties where crimes under the Court’s jurisdiction have been committed, to act in solidarity with victims by, inter alia, playing an active role in sensitizing communities on the rights of victims in accordance with the Rome Statute in general and victims of sexual violence in particular, speaking against their marginalization and stigmatization, assisting them in their social reintegration process and in their participation in consultations, and combating a culture of impunity for these crimes;

11. *Stresses* that as the freezing and identification of any assets of the convicted person are indispensable for reparations, it is of paramount importance that the Court should seek to take all measures to that end, including effective communication with relevant States so that they are in a position to provide timely and effective assistance pursuant to article 93, paragraph 1 (k), of the Rome Statute;

12. *Recalls* that the declaration of indigence of the accused for the purpose of legal aid bears no relevance to the ability of the convicted person to provide reparations,⁵ which is a matter for judicial decision in each particular case, and further *requests* the Court to review this matter and to report to the Assembly at its twelfth session;

13. *Calls upon* States, international and intergovernmental organizations, individuals, corporations and other entities to contribute voluntarily to the Trust Fund for Victims also in view of imminent reparations, in order to substantively increase the volume of the Trust Fund for Victims, broaden the resource base and improve the predictability of funding; and *expresses its appreciation* to those that have done so;

14. *Expresses* its appreciation to the Board of Directors and the Secretariat of the Trust Fund for Victims for their continuing commitment towards victims, and *encourages* the Board and the Secretariat to continue to strengthen its ongoing dialogue with the Court, States Parties and the wider international community, including donors as well as nongovernmental organizations, who all contribute to the valuable work of the Trust Fund for Victims, so as to ensure increased strategic and operational visibility and to maximize its impact;

15. *Recalls* the responsibility, under the Regulations of the Trust Fund for Victims, of the Board of Directors to endeavour to manage its resources originating from voluntary contributions in such a way as to ensure an adequate reserve to complement any Court-ordered reparations awards, without prejudice to its activities under the Trust Fund’s assistance mandate including those funded by earmarked contributions.

⁵ *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. I, part III, ICC-ASP/10/Res.3, para.3.

Resolution ICC-ASP/11/Res.8

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Res.8

Strengthening the International Criminal Court and the Assembly of States Parties

The Assembly of States Parties,

Mindful that each individual State has the responsibility to protect its population from genocide, war crimes, and crimes against humanity, that the conscience of humanity continues to be deeply shocked by unimaginable atrocities in various parts of the world, and that the need to prevent the most serious crimes of concern to the international community and to put an end to the impunity of the perpetrators of such crimes is now widely acknowledged,

Convinced that the International Criminal Court (“the Court”) is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law, as well as to the prevention of armed conflicts, the preservation of peace and the strengthening of international security and the advancement of post-conflict peacebuilding and reconciliation with a view to achieving sustainable peace, in accordance with the purposes and principles of the Charter of the United Nations,

Convinced also that there can be no lasting peace without justice and that peace and justice are thus complementary requirements,

Convinced further that justice and the fight against impunity are, and must remain, indivisible and that in this regard universal adherence to the Rome Statute of the International Criminal Court is essential,

Welcoming the Court's central role as the only permanent international criminal court within an evolving system of international criminal justice,

Underscoring the importance of the tenth anniversary of the entry into force of the Rome Statute and the establishment of the International Criminal Court in 2012 and the contribution of the International Criminal Court to guarantee lasting respect for and the enforcement of the international justice,

Noting the primary responsibility of national jurisdictions to prosecute the most serious crimes of international concern and the increased need for cooperation in ensuring that national legal systems are capable of prosecuting such crimes,

Underscoring its respect for the judicial independence of the Court and its commitment to ensuring respect for and the implementation of its judicial decisions,

Taking note with appreciation of the annual United Nations General Assembly resolutions concerning the Court,

Recalling the success of the first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010, as well as the renewed spirit of cooperation and solidarity and the firm commitment to fighting impunity for the most serious crimes of international concern to guarantee lasting respect for the enforcement of international criminal justice, reaffirmed by the States Parties in the Kampala Declaration,

Recalling the decision by the Assembly of States Parties (“the Assembly”) to establish a representation of the Court at the African Union Headquarters in Addis Ababa,¹

Reiterating that the presence of a liaison office of the Court at the Headquarters of the African Union in Addis Ababa would promote dialogue with the Court and the understanding of its mission within the African Union and among African States, individually and collectively,

¹ *Official Records ... Eighth session ... 2009* (ICC-ASP/8/20), vol. I, part II, ICC-ASP/8/Res.3, para. 28.

Appreciating the invaluable assistance that has been provided by civil society to the Court,

Conscious of the importance of equitable geographical representation in the organs of the Court, and in the work of the Assembly and its subsidiary bodies,

Conscious also of the importance of gender balance in the organs of the Court, and to the extent possible, in the work of the Assembly and its subsidiary bodies,

Mindful of the need to encourage the full participation of States Parties, Observers and States not having observer status in the sessions of the Assembly and to ensure the broadest visibility of the Court and the Assembly,

Recognizing that victims' rights to equal and effective access to justice protection and support; adequate and prompt reparation for harm suffered; and access to relevant information concerning violations and redress mechanisms are essential components of justice, and *emphasizing* the importance of effective outreach to victims and affected communities in order to give effect to the unique mandate of the Court towards victims,

Conscious of the vital role of field operations in the Court's work in situation countries and the importance of stakeholders working together to create suitable conditions for field operations,

Conscious of the risks faced by personnel of the Court in the field,

Recalling that the Court acts within the constraints of an annual programme budget approved by the Assembly,

Rome Statute of the International Criminal Court

1. *Welcomes* the State that has become a Party to the Rome Statute of the International Criminal Court since the tenth session of the Assembly and *invites* States that are not yet parties to the Rome Statute to become so as soon as possible;

2. *Decides* to keep the status of ratifications under review and to monitor developments in the field of implementing legislation, inter alia, with a view to facilitating the provision of technical assistance that States Parties to the Rome Statute, or States wishing to become parties thereto, may wish to request from other States Parties or institutions in relevant areas;

3. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, notably through implementing legislation, in particular in the areas of criminal law, criminal procedural law and international cooperation and judicial assistance with the Court and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such implementing legislation as a priority and *encourages* the adoption of victims-related provisions, as appropriate;

4. *Welcomes* the report of the Bureau regarding the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute,² *notes with appreciation* the efforts of the Court's President, the Office of the Prosecutor, the President of the Assembly of States Parties, the Assembly of States Parties, States Parties, and of the civil society to enhance the effectiveness of universality related efforts and to encourage States to become parties to the Rome Statute, *endorses* the recommendations of the report, and *requests* the Bureau to continue to monitor its implementation and to report thereon to the Assembly during its twelfth session;

Cooperation

5. *Notes* its resolution ICC-ASP/11/Res.5 on cooperation;

² Report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute of the International Criminal Court (ICC-ASP/11/26).

6. *Calls upon* States Parties to comply with their obligations under the Rome Statute, in particular the obligation to cooperate in accordance with Part 9, *encourages* cooperation between States Parties to the Rome Statute particularly in situations where it is being challenged, *further calls upon* States Parties to continue and strengthen their efforts to ensure full and effective cooperation with the Court in accordance with the Rome Statute, in particular in the areas of implementing legislation, enforcement of Court decisions and execution of arrest warrants;
7. *Encourages* States Parties to express their political and diplomatic support to the Court;
8. *Calls upon* States Parties to give concrete expression in actions to the commitments made in the statements, declarations and pledges made at Kampala;
9. *Recalls* the sixty-six recommendations annexed to resolution ICC-ASP/6/Res.2, and *encourages* States Parties and the Court to consider further measures to enhance their implementation;
10. *Recognizes* the negative impact that the non-execution of Court requests can have on the ability of the Court to execute its mandate, *welcomes* the report of the Bureau on non-cooperation,³ *requests* the President of the Assembly to continue to engage actively and constructively with all relevant stakeholders, in accordance with the Bureau procedures on non-cooperation, both to prevent instances of non-cooperation and to follow up on a matter of non-cooperation referred by the Court to the Assembly, and *decides* to amend paragraph 16 of the Assembly procedures on non-cooperation⁴ as reflected in annex I to this resolution;

Agreement on Privileges and Immunities

11. *Welcomes* the States Parties that have become a Party to the Agreement on the Privileges and Immunities of the International Criminal Court and *calls upon* States Parties as well as non-States Parties that have not yet done so to become parties to this Agreement as a matter of priority and to incorporate it in their national legislation, as appropriate;
12. *Recalls* that the Agreement on the Privileges and Immunities of the International Criminal Court and international practice exempt salaries, emoluments and allowances paid by the Court to its officials and staff from national taxation and *calls upon* States that have not yet become parties to this Agreement to take the necessary legislative or other action, pending their ratification or accession, to exempt their nationals employed by the Court from national income taxation with respect to salaries, emoluments and allowances paid to them by the Court, or to grant relief in any other manner from income taxation in respect of such payments to their nationals;
13. *Reiterates* the obligations of States Parties to respect on their territories such privileges and immunities of the Court as are necessary for the fulfilment of its purposes and *appeals* to all States which are not party to the Agreement on the Privileges and Immunities of the International Criminal Court in which the Court's property and assets are located or through which such property and assets are transported, to protect the property and assets of the Court from search, seizure, requisition and any other form of interference;

Host State

14. *Recognizes* the importance of the relationship between the Court and the host State in accordance with the terms of the Headquarters agreement and *notes with appreciation* the ongoing commitment of the host State to the Court with a view to its more efficient functioning;

³ ICC-ASP/11/29.

⁴ *Official Records ... Tenth session ... 2011*, (ICC-ASP/10/20), vol. I, part III, ICC-ASP/10/Res.5, annex.

Relationship with the United Nations

15. *Recognizes* the need for enhancing the institutional dialogue with the United Nations, including on Security Council referrals,
16. *Welcomes* the exchange of views arising from the open debate of the Security Council on “Peace and Justice with a Special Focus on the Role of the International Criminal Court” of 17 October 2012 and *encourages* further developments in this regard;
17. *Invites* the Court to continue its institutional dialogue with the United Nations, and to report on the status of ongoing cooperation between the two organizations, including in the field, based on the Relationship Agreement between the United Nations and the International Criminal Court, to the twelfth session of the Assembly;

Strengthening of the International Criminal Court

18. *Takes note* of the statements presented to the Assembly by the heads of the organs of the Court, including the President, the Prosecutor and the Registrar, as well as by the Chair of the Board of Directors of the Trust Fund for Victims, the Chair of the Committee on Budget and Finance, and the Chair of the Oversight Committee on permanent premises;
19. *Takes note* of the latest report on the activities of the Court to the Assembly;⁵
20. *Notes with satisfaction* the fact that owing, not least, to the dedication of its staff, considerable progress continues to be made in the Court’s activities including its preliminary examinations, investigations and judicial proceedings in various situations which either States Parties or the United Nations Security Council⁶ referred to the Court or which the Prosecutor initiated proprio motu;
21. *Takes note* of the experience already gained by other relevant international organizations in solving operational challenges similar to those encountered by the Court and, while reiterating its respect for the independence of the Court, *invites* the Court to continue to take note of best practices of other relevant international organizations and tribunals;
22. *Takes note of* the report of the Working Group of the Bureau on the Advisory Committee on Nominations,⁷ *welcomes* the appointment of the nine members of the Advisory Committee as recommended by the Working Group, and *requests* the Advisory Committee to report to the twelfth session on the progress of its work;
23. *Emphasizes* the importance of nominating and electing the most highly qualified judges in accordance with article 36 of the Rome Statute; for this purpose *encourages* States Parties to conduct thorough and transparent processes to identify the best candidates, and *decides* to continue to review the procedure for the election of judges as set forth in section B of the resolution ICC-ASP/3/Res.6 on the occasion of future elections with a view to making any improvements as may be necessary, and *requests* the Bureau to report thereon to the Assembly at its twelfth session;
24. *Welcomes* the election of the Deputy Prosecutor of the International Criminal Court;
25. *Notes* the process established by the Bureau of the Assembly of States Parties for the election of the second Prosecutor of the International Criminal Court and *requests* the Bureau to finalize, through open-ended consultations, its evaluation of the process followed, and present recommendations with regard to how the process to elect the Prosecutor could be strengthened in the future, by the start of the twelfth session of the Assembly;
26. *Notes with appreciation* the efforts undertaken by the Office of the Prosecutor to achieve the efficiency and transparency of its preliminary examinations, investigations and prosecutions;

⁵ ICC-ASP/11/21.

⁶ United Nations Security Council resolution 1593 (2005) and 1970 (2011).

⁷ Report of the Bureau Working Group on the Advisory Committee on Nominations (ICC-ASP/11/47).

27. *Notes with appreciation* the efforts undertaken by the Registrar to mitigate the risks faced by the Court in relation to its field offices and to enhance the Court's field operations with a view to increasing their efficiency and flexibility and *encourages* the Court to continue to optimize its field offices in order to ensure the Court's continued relevance and impact in States in which it carries out its work;
28. *Recognizes* the important work done by the field-based staff of the Court in difficult and complex environments and *expresses its appreciation* for their dedication to the mission of the Court;
29. *Commends* the important work of the New York Liaison Office of the Court, which enables regular and efficient cooperation and exchange of information between the Court and the United Nations and the effective conduct of the Bureau as well as of the New York Working Group and *expresses* its full support for the work of the New York Liaison Office;
30. *Emphasizes* the need to pursue efforts aimed at intensifying dialogue with the African Union and to strengthen the relationship between the Court and the African Union and *commits* to the Court's further regular engagement in Addis Ababa with the African Union and diplomatic missions in anticipation of establishing its liaison office;
31. *Welcomes* the presentation of the eighth report of the Court to the General Assembly of the United Nations;⁸
32. *Recognizes* the important work done by the Secretariat of the Assembly of States Parties ("the Secretariat"), *reiterates* that the relations between the Secretariat and the different organs of the Court shall be governed by principles of cooperation and of sharing and pooling of resources and services, as set out in the annex to resolution ICC-ASP/2/Res.3, and *welcomes* the fact that the Director of the Secretariat participates in the meetings of the Coordination Council when matters of mutual concern are considered;
33. *Welcomes* the efforts undertaken by the Court to implement the One-Court principle, and to coordinate its activities among its organs at all levels, including through the implementation of measures to increase clarity on the responsibility of different organs in line of the report of the Court, while respecting the independence of the judges and the Prosecutor and the neutrality of the Registry, and *encourages* the Court to undertake all necessary efforts to fully implement the One-Court principle, inter alia, with a view to ensuring full transparency, good governance and sound management;
34. *Requests* the Bureau in consultation with the Court and relevant bodies to continue to consider the proper arrangement of salary and all allowances for judges, whose terms have been extended in accordance with article 36(10), and to report thereon to the Assembly at its twelfth session;
35. *Recalls* the contribution that the International Humanitarian Fact-finding Commission, established by article 90 of the Additional Protocol I to the 1949 Geneva Convention, could make in ascertaining facts related to alleged violations of international humanitarian law, and facilitating, where appropriate, the prosecution of war crimes, both at the national level and before the Court;

Counsel

36. *Notes* the important work of independent representative bodies of counsel or legal associations, including any international legal association relevant to rule 20, sub-rule 3, of the Rules of Procedure and Evidence;
37. *Notes* the need to improve gender balance and equitable geographical representation on the list of counsel, and thus *continues to encourage* applications to the list of counsel established as required under rule 21(2) of the Rules of Procedure and Evidence with a particular view to ensuring equitable geographical representation and gender balance, as well as legal expertise on specific issues such as violence against women or children, as appropriate;

⁸ United Nations document A/67/308.

Governance

38. *Welcomes* the continued structured dialogue between States Parties and the Court with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence and *invites* the organs of the Court to further engage in a such a dialogue with States Parties;

39. *Takes note of* the Bureau report on the Study Group of Governance⁹ and the recommendations contained therein;

40. *Requests* the Bureau to extend for another year the mandate of the Study Group, within the Hague Working Group, provided in resolution ICC-ASP/9/Res.2 and extended in resolution ICC-ASP/10Res.5, and *requests* the Study Group to report back to its twelfth session;

41. *Endorses* the proposed “Roadmap” which facilitates the establishment of a structured dialogue between all stakeholders within the Rome Statute system to consider proposals aimed at expediting the criminal process of the International Criminal Court;

42. *Endorses* the recommendations contained in the report on the budget process designed to improve the transparency, predictability and efficient conduct of the entire budget process and each phase therein;

43. *Encourages* the Court, the Committee on Budget and Finance and States Parties to build on the positive experiences from this year for the benefit of future budget processes;

44. *Recognizes* the important work of the Hague Working Group, including through its Study Group on Governance, and the New York Working Group and also *notes* the benefits in rationalizing their working methods in order to cope with the increasing work load;¹⁰

45. *Requests* the Bureau, through the Hague Working Group, including its Study Group on Governance, and the New York Working Group to make an evaluation of the respective Groups’ working methods, including on the relationship between this resolution and other resolutions, and to report back to the Assembly at its twelfth session on their findings, including proposals for rationalization, prioritization, regular scheduling and increased efficiency of their work;

Strategic planning process of the International Criminal Court

46. *Emphasizes* the need for the Court to continue to improve and adapt outreach activities with a view to further developing and implementing effectively and efficiently the Strategic Plan for Outreach¹¹ in affected countries, including, where appropriate, by early outreach from the outset of the Court’s involvement, including during the preliminary examination stage;

47. *Recalls* that the issues of public information and communication about the Court and its activities constitute a shared responsibility of the Court and States Parties, while acknowledging the significant contribution of other stakeholders;

48. *Notes with appreciation* the initiatives undertaken to celebrate, in the context of its information and communication strategy¹² the 17 July as the Day of International Criminal Justice¹³ and *recommends* that, on the basis of lessons learned, all relevant stakeholders, together with the Court and other international Courts and Tribunals, engage in preparing the 2013 celebration with a view to reinforcing the international fight against impunity;

49. *Notes with appreciation* the activities undertaken and those being planned by stakeholders to mark the tenth anniversary of the entry into force of the Rome Statute, and *encourages* States Parties to engage in those activities, as well as in other significant

⁹ ICC-ASP/11/31.

¹⁰ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, para. 154 (d).

¹¹ ICC Strategic Plan for Outreach (ICC-ASP/5/12).

¹² ICC-ASP/9/29.

¹³ *Official Records ... Review Conference ... 2010* (RC/11), part II.B, Kampala Declaration (RC/Decl.1), para. 12.

activities to implement the Court's Public Information Strategy 2011-2013,¹⁴ including in consultation with the Court and other relevant stakeholders;

50. *Takes note* of the presentation by the Court of its "Draft Guidelines governing the Relations between the Court and Intermediaries" and *invites* the Bureau to engage in a more in-depth discussion with the Court on this issue;

51. *Reiterates* the importance of strengthening the relationship and coherence between the strategic planning process and the budgetary process, which is crucial for the credibility and sustainability of the longer-term strategic approach and, in this regard, *requests* that the Court, in consultation with States Parties, continues to work towards setting a hierarchy of its priorities in order to facilitate strategic and budgetary choices;

52. *Invites* the Court to present, based on a thorough and transparent assessment of results achieved through Court activities in reaching the priorities set, an appropriate set of performance indicators, including the horizontal parameters of efficiency and effectiveness, for the Court activities and on the retroaction of lessons learned into the strategic planning process;

53. *Reiterates* its willingness to engage in constructive dialogue with the Court on emerging issues, including the adequate management of priority risks, and the development of a Court strategy on field operations;

54. *Notes* the introduction of the draft revised Strategic Plan for 2013-2017 and *invites* the Bureau to consult with the Court thereon, where appropriate, in the context of the budgetary process, which is intended to strengthen and operationalize the impact of strategic planning on the development of the Court and its activities;

55. *Requests* the Bureau to engage in constructive dialogue with the Court on the emerging issues of risk management and development of a Court strategy on field operations,¹⁵

Victims and affected communities and Trust Fund for Victims

56. *Notes* its resolution ICC-ASP/11/Res.7 on victims and reparations issues;

57. *Notes* the ongoing work of the Court in reviewing its Strategy in relation to victims and its report thereon and *requests* the Court to finalize the review in consultation with States Parties and other relevant stakeholders and report thereon in advance of the Assembly at its twelfth session;

58. *Notes with concern* reports from the Court on the continued backlogs the Court has had in processing applications from victims seeking to participate, a situation which might impact on effective implementation of the rights of victims under the Rome Statute, and *underlines*, in this regard, the need to continue to consider reviewing the victim participation system with a view to ensuring its sustainability, effectiveness and efficiency; *requests* the Bureau to continue consulting with the Court and relevant stakeholders and to report thereon to the Assembly at its twelfth session;

59. *Calls upon* States, international and intergovernmental organizations, individuals, corporations and other entities to contribute voluntarily to the Trust Fund for Victims also in view of possible imminent reparations, in order to substantively increase the volume of the Trust Fund for Victims, broaden the resource base and improve the predictability of funding; and *expresses its appreciation* to those that have done so;

60. *Expresses its appreciation* to the Board of Directors and the Secretariat of the Trust Fund for Victims for their continuing commitment towards victims, and *encourages* the Board and the Secretariat to continue to strengthen its ongoing dialogue with the Court, States Parties and the wider international community, including donors as well as non governmental organizations, who all contribute to the valuable work of the Trust Fund for Victims, so as to ensure increased strategic and operational visibility and to maximize its impact;

¹⁴ ICC-ASP/9/29.

¹⁵ *Official Records ... Tenth session ... 2011*, (ICC-ASP/10/20), vol. I, part III, ICC-ASP/10/Res.5, para. 46.

61. *Recalls* the responsibility, under the Regulations of the Trust Fund for Victims, of the Board of Directors to endeavour to manage its resources originating from voluntary contributions in such a way as to ensure an adequate reserve to complement any Court-ordered reparations awards, without prejudice to its activities under the Trust Fund's assistance mandate including those funded by earmarked contributions;
62. *Requests* the Court and the Trust Fund for Victims to develop a strong collaborative partnership, mindful of each other's roles and responsibilities, to implement Court-ordered reparations;
63. *Decides* to continue to monitor the implementation of the rights of victims under the Rome Statute, with a view to ensuring that the exercise of these rights is fully realized and the continued positive impact of the Rome Statute system on victims and affected communities;
64. *Acknowledges* the requirement for the Board of Directors of the Trust Fund for Victims, in accordance with its Regulation 56, to provide adequate resources to complement payments for reparations awards; and *takes note* of the request of the Trust Fund for Victims' Board of Directors to the Assembly of States Parties, in its Annual Report¹⁶, to strengthen the Fund's reserve for reparations;
65. *Invites* States Parties to consider making earmarked voluntary contributions to the Trust Fund for the purpose of strengthening its reparations reserve, in addition to any regular voluntary contributions to the Fund;
66. *Decides* to include a specific item on victims and affected communities on the agenda of its twelfth session;

Recruitment of staff

67. *Welcomes* the Court's continued efforts, in the recruitment of staff, to seek equitable geographical representation and gender balance and the highest standards of efficiency, competency and integrity, as well as to seek expertise on specific issues, including, but not limited to, trauma and violence against women or children and *encourages* further progress in this regard;
68. *Stresses* the importance of the dialogue between the Court and the Bureau with regard to ensuring equitable geographical representation and gender balance in the recruitment of staff members, *welcomes* the report of the Bureau,¹⁷ and *recommends* that the Bureau continue to engage with the Court to identify ways to improve equitable geographical representation and increase the recruitment and retention of women in higher level professional posts, without prejudice to any future discussions on the suitability, or otherwise, of the current model, as well as to remain seized of the issue of geographical representation and gender balance and to report thereon to the twelfth session of the Assembly;
69. *Requests* the Court to submit a comprehensive report on Human Resources and distribute a list of Court contact points for the purpose of external representation for easy access by States Parties to the Assembly at its twelfth session, which would include an update on the implementation of the recommendations on the topic which would be made by the Committee on Budget and Finance in April 2013;
70. *Urges* the Court, in recruiting officers in charge of victims and witnesses affairs, to ensure that they have the necessary expertise to take into account the cultural traditions and sensitivities and the physical and social needs of victims and witnesses, particularly when they are required to be in The Hague or outside their country of origin to take part in Court proceedings and requests the Court to report to the Assembly at its twelfth session on the implementation of this paragraph;

¹⁶ ICC-ASP/11/14, paras. 36-37.

¹⁷ Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court (ICC-ASP/11/33).

Complementarity

71. *Notes* its resolution ICC-ASP/11/Res.6 on complementarity;
72. *Resolves* to continue and strengthen effective domestic implementation of the Rome Statute, to enhance the capacity of national jurisdictions to prosecute the perpetrators of the most serious crimes of international concern in accordance with internationally-recognized fair trial standards, pursuant to the principle of complementarity;
73. *Stresses* that the proper functioning of the principle of complementarity entails that States include the crimes set out in articles 6, 7 and 8 of the Rome Statute as punishable offences under their national laws, establish jurisdiction for these crimes, ensure effective enforcement of those laws, and *calls upon* States to do so;

Independent Oversight Mechanism

74. *Recognizes* the importance of a fully operational Independent Oversight Mechanism, in accordance with ICC-ASP/8/Res.1 and ICC-ASP/9/Res.5, to the efficient and effective operation of the Court and *notes* its resolution ICC-ASP/11/Res.4 on the Independent Oversight Mechanism;

Committee on Budget and Finance

75. *Takes note* of the important work done by the Committee on Budget and Finance, and *reaffirms* the independence of the members of the Committee;
76. *Recalls* that, according to its Rules of Procedure,¹⁸ the Committee on Budget and Finance shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications, *emphasizes* the importance of ensuring that the Committee on Budget and Finance is represented at all stages of the deliberations of the Assembly at which such documents are considered, and *requests* the Secretariat, together with the Committee on Budget and Finance, to continue to make the necessary arrangements;

Assembly of States Parties

77. *Recalls also* that at the successful first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010, States Parties adopted amendments to the Rome Statute, in accordance with article 5, paragraph 2, of the Rome Statute to define the crime of aggression and to establish conditions under which the Court could exercise jurisdiction with respect to that crime;¹⁹ adopted amendments to the Rome Statute to expand the jurisdiction of the Court to three additional war crimes when committed in armed conflicts not of an international character,²⁰ and decided to retain, for the time being, article 124 of the Rome Statute;²¹
78. *Notes* that those amendments are subject to ratification or acceptance and shall enter into force in accordance with article 121, paragraph 5, of the Rome Statute;
79. *Notes with satisfaction* that the Depositary has notified the States Parties of the adoption of these amendments by the Review Conference, *calls upon* all States Parties to consider ratifying or accepting these amendments and *resolves* to activate the Court's jurisdiction over the crime of aggression as early as possible, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Rome Statute;
80. *Welcomes* the report of the Bureau on the Working Group on Amendments,²² *invites* the Working Group to continue its consideration of amendment proposals, *decides* to adopt the terms of reference of the Working Group on Amendments annexed to the present resolution, and *requests* the Bureau to submit a report for the consideration of the Assembly at its twelfth session;

¹⁸ *Official Records ... Second session ... 2003* (ICC-ASP/2/10), annex III.

¹⁹ *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.6.

²⁰ *Ibid.*, RC/Res.5.

²¹ *Ibid.*, RC/Res.4.

²² ICC-ASP/11/36.

81. *Recalls* with appreciation pledges of increased assistance to the Court made by thirty-five States Parties, one observer State, and one regional organization, *calls on* these States and the regional organization to ensure the swift implementation of these pledges, and further *calls on* States and regional organizations to submit additional pledges and to inform, as appropriate, on the implementation thereof at future sessions of the Assembly;
82. *Welcomes* the substantive discussions carried out within the framework of the stocktaking exercise on international criminal justice to identify opportunities and challenges presented to the Court and the Rome Statute system and *commits* to the implementation of the resolutions on “Complementarity,” “Impact of the Rome Statute system on victims and affected communities,” and “Enforcement of Sentences,”²³ and the declaration on “Cooperation” as critical next steps in meeting these challenges;
83. *Recalls* that the Review Conference also conducted, as part of its stocktaking exercise, a panel discussion on peace and justice, *takes note with appreciation* of the moderator’s summary and *commends* this topic for further exploration and development;
84. *Welcomes* the robust participation of civil society in the Review Conference, *welcomes* the opportunity provided by the Review Conference to bring States Parties closer to the work of the Court in situations under investigation, including through visits to the Court’s field offices, and *encourages* States Parties to continue to take opportunities to raise awareness, including among State officials, of the Court’s activities in situations under preliminary examination and investigation;
85. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute in a timely manner and voluntarily to the Trust Fund to allow the participation of least developed countries and other developing States in the annual session of the Assembly and *expresses its appreciation* to those that have done so;
86. *Emphasizes* the importance of endowing the Court with the necessary financial resources, and *urges* all States Parties to the Rome Statute to transfer their assessed contributions in full and by the deadline for contributions or, in the event of pre-existing arrears, immediately, in accordance with article 115 of the Rome Statute, rule 105.1 of the Financial Regulations and Rules, and other relevant decisions taken by the Assembly;
87. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily to the Court, and *expresses its appreciation* to those that have done so;
88. *Takes note* of the report of the Bureau on the arrears of States Parties²⁴ and *decides* that the Bureau should continue to monitor the status of payments received throughout the financial year of the Court, consider additional measures to promote payments by States Parties, as appropriate, and continue to engage in dialogue with States Parties in arrears;
89. *Requests* the Secretariat to inform States Parties periodically of States that have recovered their voting rights following payment of their arrears;
90. *Welcomes* the work by the Bureau and its two informal working groups and *invites* the Bureau to create such mechanisms as it considers appropriate and to report back to the Assembly on the result of their work;
91. *Welcomes* the substantial and constructive discussions on complementarity and cooperation during this session and *expresses* its intention to have dedicated plenary sessions on these critical topics on the agenda for future sessions of the Assembly;
92. *Welcomes* the high-level diplomatic support in the consideration and facilitation of topics within the Assembly and *encourages* the continuation and enhancement of such high-level support;
93. *Also welcomes* the efforts of the Bureau to ensure communication and cooperation between its subsidiary bodies and *invites* the Bureau to continue such efforts;
94. *Decides* that the Committee on Budget and Finance shall hold its twentieth session from 22 to 26 April 2013 and its twenty-first session from 9 to 18 September 2013;
95. *Decides* that the Assembly shall hold its twelfth session in The Hague from 20 to 28 November 2013. The thirteenth and fourteenth sessions shall be held in New York and The Hague, respectively.

²³ *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.3.

²⁴ ICC-ASP/11/23.

Annex I

The Assembly of States Parties

Decides to replace paragraph 16 of the Assembly procedures on non-cooperation¹ with the following text:

“(a) Regional focal points for cooperation

16. In order to assist the President in his or her good offices, the Bureau would appoint four, or, if so requested by the President of the Assembly, five focal points from among States Parties, on the basis of the principle of equitable geographical representation.”

Annex II

Terms of reference of the Working Group on Amendments

The following **terms of reference** govern the work of the Working Group on Amendments (WGA):

Mandate

1. The WGA considers amendments to the Rome Statute and to the Rules of Procedure and Evidence, with a view to identifying amendments to be forwarded to the Assembly of States Parties (“the Assembly”) for consideration.

Procedural framework

2. Articles 51, 121 and 122 of the Rome Statute determine the procedure to be followed for amendments to the Rome Statute or the Rules of Procedure and Evidence. Nothing in the present terms of reference can take precedence over these or other provisions of the Rome Statute.

3. The WGA is a subsidiary body of the Assembly according to article 112(4) of the Rome Statute. The WGA is governed by the same rules applicable to other subsidiary bodies of the Assembly, as provided for in rule 84 of the Rules of Procedure of the Assembly of States Parties.

4. The WGA may establish sub-groups in order to discuss amendment proposals simultaneously or more in detail.

5. The WGA makes every effort to reach decisions by consensus, in accordance with the Rules of Procedure of the Assembly of States Parties.

Consideration of amendment proposals

6. The WGA undertakes a preliminary examination of amendment proposals to inform the decision of the Assembly as to whether to take up a proposal according to article 121(2) of the Rome Statute or as to whether to adopt the proposed amendments according to articles 51(2), 121(3) and 122(2) of the Rome Statute.

7. States Parties are encouraged, on a voluntary basis, to bring the text of a proposed amendment to the attention of the WGA before formally submitting it for circulation to all States Parties.

8. The WGA considers with special attention amendment proposals that aim to improve the effective and efficient functioning of the Court.

¹ *Official Records ... Tenth session ... 2011*, (ICC-ASP/10/20), vol. I, part III, ICC-ASP/10/Res.5, annex.

9. In the case of a proposal for a new crime, the WGA particularly considers whether the crime can be characterized as one of the most serious crimes of concern to the international community as a whole and whether the crime is based on an existing prohibition under international law.

Report and recommendation to the Assembly

10. Once the WGA determines that it has completed its consideration of a proposal, it formulates a recommendation to the Assembly as to whether to take up a proposal according to article 121(2) of the Rome Statute or as to whether to adopt the proposed amendments according to articles 51(2), 121(3) and 122(2) of the Rome Statute.

11. The WGA reports to the Assembly on the progress of its discussions.

Amendments to the terms of reference

12. Amendments to the present terms of reference are subject to a decision by the Assembly.

B. Recommendation

Recommendation ICC-ASP/11/Rec.1

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Rec.1

Recommendation concerning the election of the Registrar of the International Criminal Court

The Assembly of States Parties,

Bearing in mind article 43, paragraph 4, of the Rome Statute of the International Criminal Court,

Having received a list of candidates¹ from the Presidency in accordance with rule 12 of the Rules of Procedure and Evidence,

Taking into account the recommendations of the Bureau of the Assembly,

1. *Recommends* that the judges proceed to elect the Registrar on the basis of the list submitted by the Presidency in accordance with rule 12 of the Rules of Procedure and Evidence,
2. *Recommends also* that, in considering the list of candidates with a view to electing the Registrar, the judges take into account the following elements, which include criteria governing the employment of staff of the Court provided in the Rome Statute:
 - (a) The highest standards of efficiency, competency and integrity;²
 - (b) The criteria set forth in article 36, paragraph 8, on the election of judges, which apply *mutatis mutandis* to the employment of staff,³ namely:
 - (i) the representation of the principal legal systems of the world;
 - (ii) equitable geographical representation;
 - (iii) a fair representation of female and male persons; and
 - (iv) the need for a candidate with legal expertise on specific issues, including, but not limited to, violence against women, will be considered an asset.
 - (c) Proven managerial skills, whether acquired within relevant international or national organizations, including leadership experience through having dealt effectively with complex and sensitive situations under pressure;
 - (d) Familiarity with both governmental and intergovernmental processes, and possession of requisite diplomatic skills;
 - (e) The candidate should be a national of a State Party and, in the case of a candidate with dual or multiple nationalities, application of the principle set out in resolution ICC-ASP/1/Res.10, as amended by resolution ICC-ASP/4/Res.4;
 - (f) Essential qualifications of the candidate, including relevant experience, particularly regarding financial and budgetary competencies, as well as the management of public funds;
 - (g) The ability to liaise effectively with the Assembly, its subsidiary bodies, other organs of the Court and relevant stakeholders;
 - (h) The ability to co-operate well with others, as well as work within and have the ability to lead a team, including by having a strategic awareness which identifies issues, opportunities and risks, and conveys the strategic direction and objectives to all stakeholders; and
 - (i) The ability to communicate effectively, via written and oral means, and preferably in both working languages of the Court, and to negotiate effectively through the establishment of constructive interpersonal relationships in a multicultural setting.

¹ ICC-ASP/11/19.

² Rome Statute of the International Criminal Court, article 44, paragraph 2.

³ *Ibid.*

Annexes

Annex I

Report of the Credentials Committee

Chairperson: Mr. Gonzalo Bonifaz (Peru)

1. At its 1st plenary meeting, on 14 November 2012, the Assembly of States Parties to the Rome Statute of the International Criminal Court, in accordance with rule 25 of the Rules of Procedure of the Assembly of States Parties, appointed a Credentials Committee for its eleventh session, consisting of the following States Parties: Belgium, Czech Republic, Finland, Gabon, Hungary, Kenya, Panama, Peru and Republic of Korea.

2. The Credentials Committee held three meetings, on 14, 19 and 21 November 2012.

3. At its meeting on 21 November 2012, the Committee had before it a memorandum by the Secretariat, dated 21 November 2012, concerning the credentials of representatives of States Parties to the Rome Statute of the International Criminal Court to the eleventh session of the Assembly of States Parties. The Chairman of the Committee updated the information contained therein.

4. As noted in paragraph 1 of the memorandum and the statement relating thereto, formal credentials of representatives to the eleventh session of the Assembly of States Parties, in the form required by rule 24 of the Rules of Procedure, had been received as at the time of the meeting of the Credentials Committee from the following 68 States Parties:

Albania, Andorra, Argentina, Australia, Austria, Barbados, Belgium, Bolivia (Plurinational State of), Botswana, Brazil, Bulgaria, Burundi, Canada, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Ireland, Italy, Japan, Jordan, Kenya, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Montenegro, Namibia, Netherlands, New Zealand, Norway, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Samoa, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain, Suriname, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela (Bolivarian Republic of).

5. As noted in paragraph 2 of the memorandum, information concerning the appointment of the representatives of States Parties to the eleventh session of the Assembly of States Parties had been communicated to the Secretariat, as at the time of the meeting of the Credentials Committee, by means of a cable or a telefax from the Head of State or Government or the Minister for Foreign Affairs, by the following 24 States Parties:

Afghanistan, Bangladesh, Bosnia and Herzegovina, Burkina Faso, Central African Republic, Chad, Comoros, Congo, Cyprus, Democratic Republic of the Congo, Dominican Republic, Djibouti, Gambia, Georgia, Ghana, Honduras, Mexico, Nigeria, Panama, Republic of Moldova, Sierra Leone, Uganda, United Republic of Tanzania and Zambia.

6. The Chairperson recommended that the Committee accept the credentials of the representatives of all States Parties mentioned in the Secretariat's memorandum, on the understanding that formal credentials for representatives of the States Parties referred to in paragraph 5 of the present report would be communicated to the Secretariat as soon as possible.

7. On the proposal of the Chairperson, the Committee adopted the following draft resolution:

“The Credentials Committee,

Having examined the credentials of the representatives to the eleventh session of the Assembly of States Parties to the Rome Statute of the International Criminal Court, referred to in paragraphs 4 and 5 of the present report;

Accepts the credentials of the representatives of the States Parties concerned.”

8. The draft resolution proposed by the Chairperson was adopted without a vote.
9. The Chairperson then proposed that the Committee recommend to the Assembly of States Parties the adoption of a draft resolution (see paragraph 11 below). The proposal was adopted without a vote.
10. In the light of the foregoing, the present report is submitted to the Assembly of States Parties.

Recommendation of the Credentials Committee

11. The Credentials Committee recommends to the Assembly of States Parties to the Rome Statute of the International Criminal Court the adoption of the following draft resolution:

“Credentials of representatives to the eleventh session of the Assembly of States Parties to the Rome Statute of the International Criminal Court

The Assembly of States Parties to the Rome Statute of the International Criminal Court,

Having considered the report of the Credentials Committee on the credentials of representatives to the eleventh session of the Assembly and the recommendation contained therein,

Approves the report of the Credentials Committee.”

Annex II

Letter of the Minister of Foreign Affairs of the host State addressed to the President of the Assembly of States Parties, dated 12 November 2012

Further to the letter of 26 September 2012 from the Secretary-General of the Ministry of Foreign Affairs and further to the consultations between this Ministry and representatives of the Assembly of States Parties, I would like to substantiate the earlier offer to partly reimburse the rent of the International Criminal Court's interim premises for 2013-2015.

Many countries represented in the Assembly of States Parties, including the Netherlands, are feeling the effects of the economic crisis. The crisis has necessitated budget cuts in many countries and also within the International Criminal Court. Nonetheless, the Netherlands feels that, as host country, it has a special responsibility towards the Court.

The Netherlands is therefore prepared to reimburse 50 per cent of the rent for 2013, 2014 and 2015, up to a maximum of €3 million per year (the total amount being a maximum of €9 million). We believe that this offer reflects both the special responsibility of the host State and the fact that the rent of the interim ICC premises is a shared responsibility between the members of the Assembly of States Parties.

The Netherlands will continue to support the International Criminal Court in the coming years, as it has done for the last 10 years.

Annex III

Statement of the President of the Assembly*

This is the last session of the Assembly within the term of Ms. Silvana Arbia, the Registrar of the Court whose term is coming to an end early next year. Ms. Arbia has served the Court as its second-ever Registrar since her election in February 2008. In that function, she has had close contact with States, as the Registry, under her direction, exercises many functions that are very much on the minds of States Parties. The preparation of the annual budget and the facilitation of victims' participation are just two of these functions.

It is no secret that Ms. Arbia has had a long involvement with the International Criminal Court. She was involved in the drafting of the Rome Statute as a member of the Italian delegation to the Rome Conference. On behalf of States Parties, I thank Ms. Arbia for her service to the Court and wish her all the best in the future.

The eleventh session of the Assembly of States Parties to the Rome Statute has come to an end. It has been a nice culmination to a year of activities all over the world to celebrate the tenth anniversary of the entry-into-force of the Rome Statute. The fact that we are closing this session ahead of schedule shows that we have worked together in a good and very constructive spirit.

We have been able to conduct the general debate. We have also addressed two substantive agenda items, cooperation and complementarity.

Under cooperation we focused on the execution of warrants of arrest and seizure of assets. These are two crucial forms of cooperation. I hope that experiences shared by panellists were appreciated by all participants.

The Assembly has greatly benefitted from the participation of the Administrator of the United Nations Development Programme, Ms. Helen Clark, whose keynote address was a fitting start to the first plenary discussion on complementarity. I was heartened to see many States Parties, international organizations and NGOs participate in this debate. Interaction with and contribution from development actors will remain vital in our strive for complementarity.

In terms of elections, we have elected Mr. James Stewart to serve for the next nine years as Deputy Prosecutor. We wish Mr. Stewart all the best in this challenging job and hope that his way to the team of the Office of the Prosecutor will be quick and smooth.

We have also elected five members of the Board of Directors of the Trust Fund for Victims and nine members of the Advisory Committee of Nominations.

We have been able to agree on the budget of the Court for 2013 in the sum of €115 million. I would like to thank all delegations for engaging in a constructive manner on this important topic. My gratitude also goes to the host State and to Mexico for their contribution to cover the cost of the interim premises rent. Many thanks, on behalf of all of us, also to Ambassador Håkan Emsgård for having wrapped up the budget discussions before the Assembly session, so that we only had to spend time on a few technical details. This is a major achievement, and I truly hope that we will be able to continue in this spirit in the future.

The adoption of rule 132 *bis* of the Rules of Procedure and Evidence has also been an important achievement. I thank the Court for its initiative and hope that the issue of further amendments to the Rules of Procedure and Evidence will proceed dynamically next year.

The Assembly has adopted recommendations for the election of the Registrar of the Court, a crucial position. I hope that the recommendations will assist the judges in choosing the most qualified individual based on the merits.

* At the eighth meeting of the Assembly, on 21 November 2012.

States Parties, after some discussion, have once again agreed on a comprehensive omnibus resolution. I thank the facilitator, who has taken this task at a very short notice. After ten years, the mandate given to the Bureau, its Working Groups and the Study Group on Governance to evaluate their working methods is particularly welcome. As an Assembly, we need to be able to adapt.

We are all aware of financial challenges that our countries and the Court face. While asking the Court to identify further efficiencies and to focus on its core activities, there is also scope for thinking how to identify efficiencies in the work of the Assembly. Each new mandate given to the Bureau should be carefully weighed. We should undertake a critical review of existing mandates. All discussion should be focused on achieving concrete and tangible results. We should also be mindful of the volume of reports that the Assembly and its subsidiary organs request from the Court. The importance of high-level support to the Court and to the Rome Statute continues to be vital for the success of the Court.

As we look forward to our common activities next year it cannot be overemphasized how important the Assembly's work in the inter-sessional period is: in the Bureau as well as in The Hague and New York Working Groups. It will be important to start preparing Assembly decisions starting at the very beginning of year, through discussions in the various facilitations. The results of this session would not have been possible without the thorough work done throughout the year by the Bureau, its Working Groups, the Study Group on Governance and others. My special thanks go to the Vice-President Markus Börlin for his coordination of The Hague Working Group and to Ambassador Pieter de Savornin Lohman, the Chair of the Study Group on Governance, who is retiring. I continue to be thankful to the Secretariat for its work in supporting the Assembly, its subsidiary organs and me personally.

We can be pleased with our work at this Assembly session: I look forward to continuing to work with all of you throughout the coming year and look forward to returning to The Hague next year for the twelfth session of the Assembly.

Annex IV

Statement by Italy on the appointment of the members of the Advisory Committee on Nominations, at the first meeting of the Assembly, on 14 November 2012

I wish to express Italy's strong disappointment with the conduct and outcome of the process entrusted to the Bureau with regard to the appointment of the members of the Advisory Committee on the nomination of judges. Italy's position on this issue is very clear and has been made repeatedly clear to the Bureau and to you Madam Chair. Transparency, avoidance of any possible conflict of interest, and adequate review of the qualifications of the candidates should have been paramount principles to be taken into account. Italy regrets to be obliged to stress that the process did not meet the expectations which this first election had raised in light of the highly sensitive mandate of the Advisory Committee.

First, there was lack of transparency. The decision was taken by a very restricted group of the Bureau, and there has been no clarity on whether the Bureau itself carried out any review of such conclusions. In the presence of a large number of candidates within one regional group, no consultation was held with the interested States in order to discuss the situation and to find an appropriate solution. We realize that the Bureau had to take into account elements such as, in particular, equitable geographical representation and gender balance. But the report of the Working Group, as it stands, still hinders in our opinion any true review of the grounds for the decision.

Second, possible conflicts of interest between members of the Advisory Committee and future candidates for the position of ICC judges have not been even considered. Italy cannot see anything more important than avoiding any perception of a similar conflict in the appointment of the members of a body charged with the selection of future ICC judges.

Third, the qualifications of the candidates to sit on the Committee are only generally mentioned in the Working Group's report, which refers notably to academic and judicial background, recognized competence in international criminal law and public international law, diplomatic experience. We wonder why candidates that have all of these qualifications have been then excluded from the list submitted by the Bureau.

Madam Chair, in conclusion, Italy believes that the procedure that led to the listing of the members of the Advisory Committee fell short of meeting the basic principles of good administration that States Parties are entitled to expect for their decisions to be taken, and that this creates a serious risk for the credibility of the future work of the Advisory Committee.

I would be grateful if this statement by Italy is included in the Official Records of this session of the Assembly.

Annex V

Statement by Canada, on behalf of Canada, France, Germany, Italy, Japan, and the United Kingdom, on the budget resolution ICC-ASP/11/Res.1

I am speaking today on behalf of Canada, France, Germany, Italy, Japan, and the United Kingdom.

As strong supporters of the ICC, our governments are fully committed to its success. We are ready to ensure that it has the funds and resources it needs to do its work effectively.

It is incumbent on all publicly funded institutions, whether governments or international organizations, to use the resources entrusted to them wisely and efficiently, to be fully accountable for their use, and to maximise the value for money obtained.

These principles apply to the Court as well.

We therefore welcome the Court's constructive efforts to find economies and cost-cutting solutions. We also welcome the recommendations of the Committee on Budget and Finance, which we have taken fully into account this year. We acknowledge with satisfaction the important work of the budget facilitator, who conducted transparent consultations. These have facilitated the constructive and collaborative approach that has characterised this year's budgetary process.

We have given careful consideration to the budget facilitator's compromise proposal, in the light of the progress made this year, and bearing in mind the need for:

- (a) Rigour, transparency, and predictability in the Court's budgetary processes;
- (b) Fully justified and comprehensive budgetary proposals;
- (c) Discipline in the use of the Court's resources, including through innovation and reform to find economies;
- (d) Accountability for the Court's expenditure; and
- (e) A strategic approach to how the Court fulfils its operational mandate and administers itself.

These principles will continue to guide us in future considerations of the Court's budget.

We recognise the good work undertaken by the Court in finding efficiencies for its proposed programme budget for 2013. Although we believe that further efficiencies could have been achieved, we have concluded that, overall and in the circumstances of this year, the budget facilitator's proposal represented an acceptable outcome. We have therefore joined the consensus on it.

The Assembly and its States Parties will continue to fulfil their statutory mandate to scrutinise carefully and approve the Court's budget, and we will continue to advocate for efficiencies and economies. We look forward to continued constructive collaboration at the earliest stage possible of the budgetary process with the Court and amongst all States Parties. Working together in this spirit we can ensure that the Court will, in its own words, be a model of public administration. This will help put the Court on the most secure and sustainable foundation for its future.

We request that this statement be included in the Official Records of the eleventh session of the Assembly of States Parties.

Annex VI

Statement of the Chair of the Committee on Budget and Finance, Mr. Gilles Finkelstein

I have the honour to present the reports of the eighteenth and nineteenth sessions of the Committee on Budget and Finance (“Committee”), subsidiary organ of the Assembly of States Parties.

The year 2012 has been one of sustained financial labour for the Committee at its April and September sessions, where our discussions have focused on key budgetary and management issues. Our reports to you bear witness to that work. I would particularly emphasize the quality and level of commitment of every member of our Committee. They have managed to address a very wide range of issues, of very great complexity, in their quest for solutions to assist the Court in its mission. In addition, I would add two further points. First, the organization of working groups within the Committee has enabled us, particularly between sessions, to facilitate discussion among colleagues, in preparation for debate and decision within the full Committee. Secondly, the Committee has produced for States Parties the first edition of a Manual in honour of the Court’s tenth anniversary. It summarizes the principal observations and recommendations of your Committee, explains certain procedural issues, and provides an overview of the Committee’s position on financial and budgetary issues since 2002.

I would also take this opportunity to express my thanks to the honourable President of the Court, to Madam Prosecutor and to Madam Registrar, as well as to all those staff members who have assisted us by providing reports or by taking part in our discussions.

Finally, I should like to convey my particular thanks to you, Madam President, and to your Excellencies, the Ambassadors, who have been kind enough to accept an important change in our *modus operandi*. The year 2012 has been a novel one, for the first time we have not confined our contacts to joint discussions subsequent to the Committee’s sessions. We have initiated a system of regular contacts throughout the year, enabling us to strengthen our partnership before, during and after the Committee’s sessions. That has involved us all in a great deal of work, but there can be no doubt that it has led to an improved joint approach to financial issues. Thanks to this new system, we can now be sure that our discussions no longer remain mere words, but are systematically translated into actions.

Madam President, with your permission, I should now like to address a point of methodology, before discussing our work.

Contrary to a widespread belief, the Committee does not only discuss accounts and the Court’s financial situation. It carries out a stocktaking of the institution, in order to evaluate and assess managerial and budgetary outcomes, the prime concern being to maintain permanent control over public finances.

Today, the exercise is subject to ever-greater constraints, given the economic context. At its last session, the Assembly established a financial rule, which must from now on — as it has done for the current year — constitute the fundamental principle governing our work, both for the Committee and for the Court. Thus, your resolution ICC-ASP/10/Res.4¹ requested the Court, if it was proposing any increase in the budget for 2013, to prepare a paper detailing the Court’s options where reductions would be made in order to bring the level of the approved budget for 2013 in line with that for 2012.

I said “fundamental principle”, for this rule represents a guiding principle, which transcends the simple annual context, and is intended to govern every important decision of the Court. As far as your subsidiary organ is concerned — this Committee — it has sought to ensure, on your behalf, that, with effect from 2012, the Court’s activities are transparent, solidly grounded and sustainable, in line with the spirit of the above resolution. This is reflected in the reports of the Committee, and in particular in the discussion of the draft budget for 2013. In terms of methodology, the Committee has sought to ensure that the

¹ *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. I, part III, ICC-ASP/10/Res.4, section H, para. 2.

Assembly is presented with a sustainable budget, without affecting the very basis of our judicial institution, namely the fight against impunity for the perpetrators of the most serious crimes.

You have seen the Committee's two reports for the fiscal year 2012. Their scheme does not differ significantly from previous years. That for April 2012 relates principally to issues of budgetary implementation and oversight, and to administrative and human resources issues. The report for the September/October session was aimed essentially at addressing financial and budgetary issues, either directly or through the impact of administrative decisions, while conducting an in-depth analysis of our institution's future needs.

For purposes of this address, I will confine myself to a summary of the main crosscutting issues.

First, as regards financial issues, the Committee has made a number of recommendations relating to the scale of assessment and the replenishment of the Contingency Fund.

Thus for 2013 it has recommended that the Court make a provisional calculation of States Parties' contributions in accordance with the scale approved by the United Nations for its regular budget for 2012. The final calculation should then be based on the scale adopted by the United Nations General Assembly for its regular budget for 2013 at its 67th session, adjusted in accordance with the principles on which that scale is based.

In 2012, the Court has submitted eight notifications to the Committee for access to the Contingency Fund, in a total amount of €3.8 million. The Committee has recommended that the Court make optimal use of existing resources, and provide a report on the use of additional General Temporary Assistance in each major programme, to ensure effective oversight of these additional resources, as well as providing the Assembly with an updated estimate of costs. To date, the Committee has been informed that, with costs estimated at 98.5 per cent as at 31 December 2012, recourse to the Fund is likely to be limited to €0.5 million.

In this regard, the Committee recommends that the Court should, within 60 calendar days following the notification to access to the Fund, send, via the Committee's Chair, a written report providing an update on the use of the resources requested, with a view to the exercise of financial control over notifications. Furthermore, we stressed in our April report that extreme caution should be exercised in accessing the Fund. It is not to be treated as an alternative method of financing.

We have also addressed the question of amendments to the Financial Regulations and Rules. The Committee, while approving the proposed amendments, considers that the Court must continue its dialogue with the external auditors, with a view to facilitating IPSAS (International Public Sector Accounting Standards) implementation.

The investment of liquid funds was discussed. It was agreed that the prime concern should be to preserve investment capital, while seeking an adequate return. The Court should determine which banks should be used, taking into consideration its cash flow needs and banks' credit ratings in unstable financial market conditions.

Finally, the Working Capital Fund was discussed, and the Committee recommended that the fund be maintained at its current level, given the strength of the Court's cash-flow situation.

I would further add that, as regards efficiency measures, at every session the Committee monitors the gains reported by the Court. While still lacking an analytic accounting tool that would permit detailed oversight of the impact of the measures adopted by the Court, the Committee notes the significant efforts deployed in this area.

Secondly, as regards organizational issues, the Committee has recommended that the Court establish a process enabling its financing needs to be ranked according to its priorities. In the same spirit, it has asked the Court to implement a zero-based budgeting exercise for its public information, documentation and outreach activities. It was clear that this was an area, which could benefit from greater sharing of resources among the Court's various organs. Similarly, the Committee has asked the Court to make further endeavours to

implement analytic accountability at less cost. The aim is to obtain a more precise view of the cost of each activity. As regards the implementation of IPSAS, steady progress is being made, and at every session the Committee monitors progress in the installation of tools for the provision of financial information.

In relation to the Trust Fund for Victims, the Committee has recommended that the Court and the Fund Secretariat jointly undertake a thorough review in order to mitigate exchange rate risks.

Thirdly, as regards administrative issues, this year the Committee has taken the opportunity to make a number of proposals, which we believe to be of importance to this Assembly.

After lengthy discussion with the Court and the various organs, the Committee believes and recommends that the Assembly should approve the health insurance subsidy scheme for retirees. As to the Junior Professional Officer Programme (JPO), a further submission is to be made at the Committee's next session, and a proposal will be submitted to you in due course. You will doubtless also have noted in the Committee's reports for 2012 that we have recommended caps on funds for legal representation, supplies and equipment, but also for the use of consultants. In relation to the latter, the Committee has suggested that you establish a ceiling, as well as harmonizing their budgetary treatment. It is surprising, to say the least, to find that any reduction in funds for consultants is matched by a proportionate increase in those for contractual services!

As regards post vacancy rates in relation to staff numbers, the Committee recommends that the Court continues to maintain a vacancy rate for established posts, and recommends a general vacancy rate of 8 per cent, save in the special cases mentioned in the report.

However, one of the Committee's principal proposals relates to its recommendation that the Assembly should integrate the increase in United Nations Common System costs in respect of staff into the budget for 2013. As to the details, I would refer you to our report from last September on this matter, while emphasizing that we need to resolve this issue here and now, and above all avoid seeing future budgets burdened as a result of a multiplier effect, which would complicate your task still further.

In brief, the Committee noted that the Assembly had requested the Court to join the United Nations Staff Joint Pension Fund. Article 3(b) of the Fund's Regulations and Rules provides that membership in the Fund shall be open to any specialized agency, as well as to any other international, intergovernmental organization which participates in the common system of salaries, allowances and other conditions of service of the United Nations. Admission to membership of the Fund shall be by decision of the General Assembly upon the affirmative recommendation of the Board, after acceptance by the organization concerned of those Regulations and Rules. At its second session, the Assembly adopted the Court's Staff Rules and Regulations, several of whose provisions are based on those of the United Nations Common System. It should further be noted that the Court submitted its Staff Rules and Regulations to the Board, and that the General Assembly authorized admission of the Court to membership of the Fund. In these circumstances, the Committee considered that the Court was bound by the Regulations of the Fund, and thus obliged to apply to its staff the main elements of the common system, such as classification of posts and salary scales and allowances.

One final cross-cutting issue needs to be mentioned here: at its eighteenth session the Committee stressed the need to introduce a culture of personal accountability among staff, which should accordingly include a system of rewards for good performance and sanctions for poor performance, while pointing out that any reclassification of posts at professional level needed to be approved by the Assembly.

Fourthly, as regards the Court's activities, the Committee has held lengthy discussions with the various organs of the Court with a view to establishing a permanent link between the resources requested and the Court's actual judicial activity underlying its financial requests. The Committee has thus recommended a reduction in certain budget lines relating to operational support for 2013, details of which you will find in the annex to our report. These mainly involve travel costs, contractual services and general operating

costs for Major Programme III. Since these four items represent a total of €4.7 million for 2013, an across-the-board cut of 5 per cent has been proposed, namely €235,000, while excluding the other major programmes from this reduction.

I believe it would help you to obtain a proper grasp of our work if I emphasize an important point in our report. It will not have escaped your notice that, over Major Programmes I to VII, we have proposed a complementary micro-economic approach, involving reductions either in budgets or in individual budget lines. This has all, of course, been undertaken in light of our discussions with the Court, and based on its reported activities.

However, I would at once add that our work depends to a great extent on the knowledge available to us of the Court's overall strategy and of the judicial decisions taken by it in the course of the past year. Clearly, it is judicial activity, which primarily drives our forecasts. In addition, the Assembly must constantly bear in mind the fact that a budget forecast can only be based on the knowledge available at the time when it is made. You may rest assured that, when unforeseeable events do occur, the Committee cooperates closely with the Court in order to confine access to the Contingency Fund to what is strictly necessary.

Fifthly, as regards legal aid, the Committee has this year recommended that the Assembly adopt the Registry's proposals for various lump-sum payments to teams to be adjusted in light of fluctuations in procedural activities. This should already result in overall savings of more than a million euros from 2013. Your Committee has accordingly applied the logical consequences of this to the proposed budget for the forthcoming year.

The aim here is not drastically to reduce the resources available to teams representing defendants or victims, but to adjust legal aid so that it covers those items for which it is normally intended. Other aspects will certainly be the subject of further consideration in the future, inter alia, indigence and representation of the parties in the reparations phase. Other alternative mechanisms might be established in place of certain current structures.

Sixthly, regarding the Court's premises, the Committee has proposed a certain number of savings in the draft programme budget for 2013 (for example, €120,000 for the interim premises). As regards the permanent premises, the Committee has recommended that the Court rapidly set up a body to make a long-term study of the implications of the move to the new premises. The working group will also need to provide the necessary detailed data to enable new States Parties, acceding after completion of the permanent premises, to be informed of their contribution to the financing of the project. I would further add that the Committee has again sought to limit the costs of the new equipment that will need to be purchased.

Finally, the Committee has reviewed the work of the Office of Internal Audit, and made a number of suggestions, including a proposal that each audit report should contain a summary of its previous recommendations and a status report on their implementation.

Allow me again to convey my warmest thanks to all of the Court staff, who, once more, have shown such an excellent spirit of cooperation in working with the members of the Committee. The work has, of course, been particularly demanding this year, but it has been conducted in a spirit of dialogue and partnership that cannot be emphasized too strongly.

For myself, as Chair of the Committee, I should like to express my deepest gratitude to all of my colleagues for their valuable contributions to our work over this past year. It is a privilege to be a member of this Committee.

In conclusion, I should like to say a final thank you, not so much to those responsible for the day-to-day conduct of business in this international judicial institution of ours, but quite simply to you, the Assembly. Through your work, your guidance, your commitment, you give meaning to our work. There is nothing perfunctory about your sessions. Your decisions of course represent challenges to the Court, but also to your Committee on Budget and Finance. For that we thank you most sincerely.

Annex VII

List of documents

ICC-ASP/11/1	Provisional agenda
ICC-ASP/11/1/Add.1	Annotated list of items included in the provisional agenda
ICC-ASP/11/2	Report of the Bureau on legal aid
ICC-ASP/11/2/Add.1	First Report of the Bureau on Legal Aid
ICC-ASP/11/3	Progress report of the Court on the implementation of International Public Sector Accounting Standards
ICC-ASP/11/4	Report of the Court on proposed amendments to the Financial Regulations and Rules
ICC-ASP/11/5	Report of the Committee on Budget and Finance on the work of its eighteenth session
ICC-ASP/11/6	Report of the Court on its organizational structure
ICC-ASP/11/7	Report of the Court on human resources management
ICC-ASP/11/8	Report on activities and programme performance of the International Criminal Court for the year 2011
ICC-ASP/11/9	Seventh Status Report on the Court's progress regarding efficiency measures
ICC-ASP/11/10	Proposed Programme Budget for 2013 of the International Criminal Court
ICC-ASP/11/10/Corr.1	Proposed Programme Budget for 2013 of the International Criminal Court – Corrigendum 1 (English and French only)
ICC-ASP/11/10/Corr.2	Proposed Programme Budget for 2013 of the International Criminal Court – Corrigendum 2 (English and French only)
ICC-ASP/11/11	Report of the Court on its budgeting process
ICC-ASP/11/12	Financial statements for the period 1 January to 31 December 2011
ICC-ASP/11/13	Trust Fund for Victims - Financial statements for the period 1 January to 31 December 2011
ICC-ASP/11/14	Report to the Assembly of States Parties on the projects and the activities of the Board of Directors of the Trust Fund for Victims for the period 1 July 2011 to 30 June 2012
ICC-ASP/11/15	Report of the Committee on Budget and Finance on the work of its nineteenth session
ICC-ASP/11/16	Report on budget performance of the International Criminal Court as at 30 June 2012
ICC-ASP/11/17	Election of the Deputy Prosecutor of the International Criminal Court
ICC-ASP/11/18	Designation of the members of the Advisory Committee on Nominations [Report of the Advisory Committee on nominations of judges of the International Criminal Court]
ICC-ASP/11/19	Election of the Registrar of the International Criminal Court
ICC-ASP/11/19/Add.1	Draft recommendation concerning the election of the Registrar of the International Criminal Court
ICC-ASP/11/21	Report on the activities of the Court
ICC-ASP/11/22	Report of the Court on the review of the system for victims to apply to participate in proceedings
ICC-ASP/11/23	Report of the Bureau on the arrears of States Parties
ICC-ASP/11/24	Report of the Bureau on complementarity
ICC-ASP/11/25	Report of the Secretariat on complementarity
ICC-ASP/11/26	Report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute of the International Criminal Court
ICC-ASP/11/27	Report of the Bureau on the Independent Oversight Mechanism
ICC-ASP/11/28	Report of the Bureau on cooperation
ICC-ASP/11/29	Report of the Bureau on non-cooperation
ICC-ASP/11/30	Report of the Bureau on the strategic planning process of the International Criminal Court
ICC-ASP/11/31	Report of the Bureau on the Study Group on Governance
ICC-ASP/11/31/Add.1	Study Group on Governance: Lessons learnt: First report of the Court to the Assembly of States Parties

ICC-ASP/11/32	Report of the Bureau on victims and affected communities and Trust Fund for Victims and on reparations
ICC-ASP/11/33	Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court
ICC-ASP/11/34	Fourth election of members of the Board of Directors of the Trust Fund for Victims
ICC-ASP/11/35	Report on the activities of the Oversight Committee
ICC-ASP/11/36	Report of the Working Group on Amendments
ICC-ASP/11/37	Report of the Court on proposed amendments to the Financial Regulations and Rules
ICC-ASP/11/38	Court's Revised strategy in relation to victims
ICC-ASP/11/39	Report of the Court on complementarity
ICC-ASP/11/40	Report of the Court on the Revised strategy in relation to victims: Past, present and future
ICC-ASP/11/41	Report of the Study Group on Governance on rule 132 <i>bis</i> of the Rules of Procedure and Evidence
ICC-ASP/11/42	Report of the Court on the implementation of International Public Sector Accounting Standards
ICC-ASP/11/43	Supplementary Report of the Registry on four aspects of the Court's legal aid system
ICC-ASP/11/44	Report of the Court on the methodology for its scale of assessment
ICC-ASP/11/45	Report of the Court on its budgeting process and zero-based budgeting
ICC-ASP/11/46	Report on the organizational structure of the Court
ICC-ASP/11/47	Report of the Bureau Working Group on the Advisory Committee on Nominations
ICC-ASP/11/L.1	Draft report of the Assembly of States Parties to the Rome Statute of the International Criminal Court
ICC-ASP/11/L.2	Draft report of the Credential Committee
ICC-ASP/11/L.3	Draft resolution. Strengthening the International Criminal Court and the Assembly of States Parties
ICC-ASP/11/L.3/Rev.1	Draft resolution. Strengthening the International Criminal Court and the Assembly of States Parties
ICC-ASP/11/L.4	Draft Resolution of the Assembly of States Parties on the Programme budget for 2013, the Working Capital Fund for 2013, scale of assessments for the apportionment of expenses of the International Criminal Court, financing appropriations for 2013 and the Contingency Fund
ICC-ASP/11/L.4/Rev.1	Draft Resolution of the Assembly of States Parties on the Programme budget for 2013, the Working Capital Fund for 2013, scale of assessments for the apportionment of expenses of the International Criminal Court, financing appropriations for 2013 and the Contingency Fund
ICC-ASP/11/L.5	Draft resolution on permanent premises
ICC-ASP/11/L.5/Rev.1	Draft resolution on permanent premises
ICC-ASP/11/L.6	Draft resolution on cooperation
ICC-ASP/11/L.6/Rev.1	Draft resolution on cooperation
ICC-ASP/11/L.6/Rev.2	Draft resolution on cooperation
ICC-ASP/11/L.7	Draft resolution on complementarity
ICC-ASP/11/L.7/Rev.1	Draft resolution on complementarity
ICC-ASP/11/L.7/Rev.2	Draft resolution on complementarity
ICC-ASP/11/L.8	Draft resolution on Victims and Reparations
ICC-ASP/11/L.8.Rev.1	Draft resolution on Victims and Reparations
ICC-ASP/11/L.9	Draft resolution on the Independent Oversight Mechanism
ICC-ASP/11/L.10	Draft resolution: Amendment of the Rules of Procedure and Evidence
ICC-ASP/11/L.10/Rev.1	Draft resolution: Amendment of the Rules of Procedure and Evidence
ICC-ASP/11/WGPB/CRP.1	Report of the Working Group on the Proposed budget 2013
