

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

**TWELFTH SESSION  
THE HAGUE, 20 - 28 NOVEMBER 2013**

**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”.

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ICC-ASP/12/20  
International Criminal Court publication  
ISBN No. 92-9227-287-X

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Printed by Ipskamp, The Hague

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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 eighth meeting of its eleventh session, on 21 November 2012, the Assembly held its twelfth session from 20 to 28 November 2013.
2. In accordance with the Rules of Procedure of the Assembly,<sup>1</sup> 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,<sup>2</sup> 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/12/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 20 November 2013, 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 the 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 20 November 2013, 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.

<sup>1</sup> *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.

<sup>2</sup> 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/12/60):
  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 twelfth session:
    - (a) Appointment of the Credentials Committee; and
    - (b) Report of the Credentials Committee.
  6. Organization of work.
  7. General debate.
  8. Election to fill a judicial vacancy.
  9. Election of six members of the Committee on Budget and Finance.
  10. Report on the activities of the Bureau.
  11. Report on the activities of the Court.
  12. Report of the Board of Directors of the Trust Fund for Victims.
  13. Consideration and adoption of the budget for the twelfth financial year.
  14. Consideration of the audit reports.
  15. Premises of the Court.
  16. Independent Oversight Mechanism.
  17. Amendments to the Rome Statute and the Rules of Procedure and Evidence.
  18. Cooperation.
  19. The impact of the Rome Statute system on victims and affected communities.
  20. Decision concerning the dates of the next session of the Assembly of States Parties.
  21. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance.
  22. Special Segment as requested by the African Union: “Indictment of sitting Heads of State and Government and its consequences on peace and stability and reconciliation”.
  23. Other matters.
12. The annotated list of items included in the provisional agenda was contained in a note by the Secretariat (ICC-ASP/12/1/Add.1). At its first meeting, the Assembly, on the recommendation of the Bureau, decided, pursuant to rule 13 of its Rules of Procedure, to include an additional item on the agenda of the twelfth session. The explanatory note on the inclusion of the additional agenda item titled “Special Segment as requested by the African Union: Indictment of sitting Heads of State and Government and its consequences on peace and stability and reconciliation”, is contained in document ICC-ASP/12/1/Add.2.
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 2014.
14. Mr. Werner Druml (Austria) was appointed Coordinator of the Working Group on the Programme Budget for 2014. Ms. Anniken Krutnes (Norway) was appointed Coordinator for the consultations on cooperation. Mr. Paul Seger (Switzerland) was appointed Coordinator of the Working Group on Amendments. Ms. Ana Cristina Rodríguez Pineda (Guatemala) was appointed Coordinator for the consultations on the omnibus resolution.

## **B. Consideration of issues on the agenda of the Assembly at its twelfth session**

### **1. States in arrears**

15. At the 1st meeting, on 20 November 2013, the Assembly was informed that article 112, paragraph 8, first sentence, of the Rome Statute was applicable to eight 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 2014 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, with the Assembly approving their requests at its 8th plenary meeting.

### **2. Credentials of representatives of States Parties at the twelfth session**

18. At its 13th meeting, on 28 November 2013, the Assembly adopted the report of the Credentials Committee (see annex I to this report).

### **3. General debate**

19. At the 1st plenary meeting, Mr. Miguel de Serpa Soares, United Nations Legal Counsel, Mr. Abdou Diouf, Secretary-General of l'Organisation internationale de la Francophonie and Ms. Navi Pillay, United Nations High Commissioner for Human Rights addressed the Assembly. At the 2nd, 3rd, 5th and 11th plenary meetings, on 20, 21 and 26 November 2013, statements were made by the representatives of Afghanistan; Argentina; Australia; Austria; Belgium; Botswana; Brazil; Canada; Chile; Colombia; Republic of Congo; Costa Rica; Côte d'Ivoire; Croatia; Cyprus; Czech Republic; Denmark; Democratic Republic of the Congo; Estonia; Finland; France; Gambia; Georgia; Germany; Ghana; Guatemala; Hungary; Ireland; Italy; Japan; Jordan and Liechtenstein (joint statement); Kenya; Lithuania (on behalf of the European Union); Luxembourg; Mexico; Namibia; the Netherlands; New Zealand; Nigeria; Norway; Peru; Philippines; Poland; Portugal; the Republic of Korea; Romania; Samoa; Senegal; Serbia; Seychelles; Slovakia; Slovenia; South Africa; Spain; Sweden; Switzerland; Tanzania (United Republic of); Trinidad and Tobago; Tunisia; Uganda (on behalf of the African Group); United Kingdom of Great Britain and Northern Ireland; Uruguay; Venezuela (Bolivarian Republic of); and Zambia. Statements were also made by China; Cuba; the Russian Federation and the United States of America. The following regional organizations made statements: the Council of Europe and the Organization of American States. The following civil society organizations also made statements: Al-Haq; Amnesty International; Fédération internationale des ligues des droits de l'Homme; Forum Asia; French Coalition for the International Criminal Court; Coalition for the International Criminal Court; Human Rights Watch; International Federation for Human Rights; Kenyans for Peace with Truth and Justice; Open Society Justice Initiative; Parliamentarians for Global Action; REDRESS; Thai Alliance.

### **4. Election to fill a judicial vacancy**

20. At its 8th meeting, on 23 November 2013, the Assembly, on the recommendation of the Bureau, decided that for the purposes of electing judges of the International Criminal Court, any meeting of the Assembly should continue until as many candidates as were required for the seat to be filled had obtained, in one or more ballots, the highest number of votes and a two-thirds majority of the States Parties present and voting. Consequently, the candidate elected as a judge should be considered as having been elected at the same meeting irrespective of whether or not the ballot continued for one or more days.

21. At its 8th meeting, on 23 November 2013, the Assembly proceeded to elect a judge of the International Criminal Court to fill a judicial vacancy in accordance with the relevant provisions of the Rome Statute, as well as resolution ICC-ASP/3/Res.6, as amended by resolution ICC-ASP/5/Res.5.

22. The following candidate was elected judge of the International Criminal Court:

Mr. Geoffrey A. Henderson (Trinidad and Tobago, List A, Latin American and Caribbean States, male)

23. The Assembly conducted one ballot. Ninety-nine ballots were cast, of which none was invalid and 99 were valid; the number of States Parties voting was 98, and the required two-thirds majority was 66. The following candidate obtained a two-thirds majority of the States Parties present and voting: Geoffrey A. Henderson (Trinidad and Tobago) (98 votes).

*Commencement of term of office of the judge*

24. At its 8th meeting, on 23 November 2013, the Assembly, on the recommendation of the Bureau, decided that the term of office of the judge elected to fill the judicial vacancy shall run from the date of the election for the remainder of the term of his predecessor, that is, until 10 March 2021.

**5. Election of six members of the Committee on Budget and Finance**

25. In a note dated 5 September 2013, the Secretariat submitted to the Assembly a list of seven candidates nominated by States Parties for election to the Committee on Budget and Finance.<sup>3</sup> On 21 November 2013, Burkina Faso announced the withdrawal of its candidature.

26. At its 8th meeting, on 23 November 2013, the Assembly elected the following six members of the Committee on Budget and Finance, in accordance with resolution ICC-ASP/1/Res.5<sup>4</sup> of 12 September 2003:

- (a) Banyanka, David (Burundi);
- (b) Fernández Opazo, Carolina María (Mexico);
- (c) Finkelstein, Gilles (France);
- (d) Lemmik, Juhani (Estonia);
- (e) Saupe, Gerd (Germany); and
- (f) Warren, Helen Louise (United Kingdom).

27. In accordance with paragraph 11 of resolution ICC-ASP/1/Res.5, the Assembly dispensed with a secret ballot and elected the six members of the Committee on Budget and Finance by consensus. The term of office of the six members shall begin to run on 21 April 2014.

**6. Report on the activities of the Bureau**

28. At its 1st meeting, on 20 November 2013, 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 eleventh session, the Bureau had held 19 meetings in order to assist the Assembly in carrying out its activities under the Rome Statute.

29. On behalf of the Bureau, the President expressed pleasure with the work conducted during 2013 by its Working Groups in The Hague and New York, as well as the Study Group on Governance and the Working Group on Amendments, as they had successfully carried out the mandates of the Assembly. She pointed out that over the years, the inter-sessional workload of the Assembly had increased significantly and in this regard, the Bureau had adopted a report containing concrete and practical recommendations and decisions to rationalize the working methods of the Bureau and its Working Groups to ensure maximum efficiency.<sup>5</sup>

30. During 2013, the President had focused especially on three priority areas: complementarity, including strengthening of domestic judicial systems, cooperation and universality. This work was carried out in close contact with different stakeholders in international and regional organizations, including the Court, government officials, academia and civil society. Some of the highlights were a seminar on witness protection in Dakar,

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<sup>3</sup> ICC-ASP/10/21.

<sup>4</sup> As amended by resolution ICC-ASP/2/Res.4, (see *Official Records ... Second session ... 2003* (ICC-ASP/2/10), part IV).

<sup>5</sup> ICC-ASP/12/59.

Senegal, as well as a seminar in Addis Ababa, Ethiopia, on the topic of ICC complementarity and challenges and prospects in Africa. The President had also travelled to Uganda and the Democratic Republic of Congo to visit programmes of the Trust Fund for Victims.

31. Throughout the past year the Bureau and the President had been actively engaged to prevent instances of non-cooperation, and to address instances where a Pre-Trial Chamber of the Court has taken decisions informing the Assembly and the Security Council of the presence of persons subject to arrest warrants on the territory of States Parties. The Assembly procedures on non-cooperation had been consistently implemented and instances of non-cooperation had been discussed at several Bureau meetings. The Bureau had presented a report to the Assembly, pursuant to procedures adopted at the tenth session of the Assembly, including several recommendations.<sup>6</sup>

#### **7. Report on the activities of the Court**

32. At its 1st meeting, on 20 November 2013, the Assembly heard statements by Judge Sang-Hyun Song, President of the Court, and by Ms. Fatou Bensouda, Prosecutor of the Court. At the same meeting, the Assembly took note of the report on the activities of the Court.<sup>7</sup>

#### **8. Report of the Board of Directors for the Trust Fund for Victims**

33. At its 1st meeting, on 20 November 2013, the Assembly heard a statement by Mr. Motoo Noguchi, 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 2012 to 30 June 2013.<sup>8</sup>

#### **9. Consideration and adoption of the budget for the twelfth financial year**

34. At its 9th meeting, on 23 November 2013, the Assembly heard statements by Mr. Herman von Hebel, Registrar of the Court, and Mr. Gilles Finkelstein, Chair of the Committee on Budget and Finance.

35. The Assembly, through its Working Group, considered the 2014 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.

36. At its 12th meeting, on 27 November 2013, the Assembly adopted the report of the Working Group on the Programme Budget (ICC-ASP/12/WGPB/CRP.1), wherein, inter alia, it conveyed the recommendation of the Working Group that the Assembly endorse the recommendations of the Committee on Budget and Finance at its twenty-first session.<sup>9</sup>

37. At the same meeting, the Assembly also considered and approved, by consensus, the programme budget for 2014.

38. At the same meeting, the Assembly adopted, by consensus, resolution ICC-ASP/12/Res.1, concerning the programme budget in relation to the following:

- a) Programme budget for 2014, including appropriations totalling €121,656,200 for the major programmes and staffing tables for each of the major programmes. This amount is reduced by the contribution of the host State to the costs for the interim premises and the payments corresponding to Major Programme VII-2 Permanent Premises Project - Interest to €18,595,000.
- b) Working Capital Fund for 2014;
- c) Interim premises of the Court;
- d) Scale of assessments for the apportionment of expenses of the Court;
- e) Financing of appropriations for 2014;

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<sup>6</sup> ICC-ASP/12/34.

<sup>7</sup> ICC-ASP/12/28.

<sup>8</sup> ICC-ASP/12/14.

<sup>9</sup> *Official Records ... Twelfth session ... 2013* (ICC-ASP/12/20), vol. II, part B.2.

- f) Contingency Fund;
- g) Transfer of funds between major programmes under the 2013 approved programme budget;
- h) A strategic approach to an improved budgetary process;
- i) Human Resources;
- j) International Public Sector Accounting Standards (IPSAS);
- k) Referrals by the Security Council;
- l) Independent Oversight Mechanism; and
- m) Advisory Committee on Nominations of Judges.

## **10. Consideration of audit reports**

39. At its 9th meeting, on 23 November 2013, the Assembly heard a statement by Mr. Hervé-Adrien Metzger, representative of the External Auditor. 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 2012<sup>10</sup> and of the Trust Fund for Victims for the same period.<sup>11</sup>

## **11. Premises of the Court**

40. At its 1st meeting, on 20 November 2013, 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,<sup>12</sup> which highlighted that while the construction had started in March 2013, the estimated completion date for the project remained September 2015, with readiness for the Court to move into the new premises in December 2015. The report also indicated that the cost of the construction project was €6.3 million under the approved €190 million; therefore the Committee had decided to invest €0.7 million of these savings in a design change that would expand the conference capacity of the premises, so as to make it possible to host meetings of the Assembly from 2016, should the Assembly so decide. The report further highlighted that the Committee had, in agreement with the Court, revised the governance of the project, to ensure that the transition project aligned with the construction project. Consequently, the project budget was unified, with the transition costs removed from the regular budget and included in the project budget. The report noted that the Committee had approved a financial envelope for the unified project of €195.7 million, including transition costs for €1.3 million, subject to a review aiming at reducing the target level to €193.7 million by June 2014.

41. At its 12th meeting, on 27 November 2013, the Assembly adopted, by consensus, resolution ICC-ASP/12/Res.2, whereby, inter alia, it welcomed the beginning of the actual construction of the project, as well as the projected construction costs of €184.4 million, i.e. €6 million below the originally approved budget. The Assembly also welcomed the unified approach to the permanent premises project, and requested that the implementation of the new governance structure remain consistent with the Rome Statute and resolution ICC-ASP/6/Res.1 and be kept under review. The Assembly formally approved the establishment of a cost envelope representing a unified financial target for the overall project, at the level of €195.7 million, including €1.3 million for transition costs, subject to a cost review process aimed at reducing the financial target at least to the level of €193.7 million by June 2014. The Assembly further decided to approve that the transition costs be funded through the savings realized on the construction budget, the use of the surplus for the years 2012-2014, as well as advances from the cash reserves of the Court. The Assembly also approved an amendment to rule 4.7 of the Financial Regulations and Rules, in order for the surplus to fund costs related to the permanent premises of the Court. The membership of the Oversight Committee was also renewed for a term of two years.

<sup>10</sup> *Official Records ... Twelfth session ... 2013* (ICC-ASP/12/20), vol. II, part C.1.

<sup>11</sup> *Official Records ... Twelfth session ... 2013* (ICC-ASP/12/20), vol. II, part C.2.

<sup>12</sup> ICC-ASP/12/43.

## **12. Independent Oversight Mechanism**

42. At its 12th meeting, on 27 November 2013, the Assembly adopted, by consensus, resolution ICC-ASP/12/Res.6, by which it recognized the importance of a fully operational Independent Oversight Mechanism (IOM) to the efficient and effective operation of the Court, and decided to operationalize the mandates of investigation, inspection and evaluation foreseen in article 112, paragraph 4, of the Rome Statute. The Assembly also adopted the operational mandate of the IOM.

## **13. Amendments to the Rome Statute and the Rules of Procedure and Evidence**

43. The Working Group on Amendments held two formal meetings during the twelfth session to discuss the proposals for amendment submitted by delegations in relation to amendments to rule 134 of the Rules of Procedure and Evidence.

44. At its 12th meeting, on 27 November 2013, the Assembly adopted, by consensus, resolution ICC-ASP/12/Res.7, by which it amended rules 68 and 100 of the Rules of Procedure and Evidence, and inserted a new rule 134 *bis*, *ter* and *quater*. The amendments relate to, respectively, prior recorded testimony; place of proceedings; and presence through the use of video technology, excusal from presence at trial and excusal from presence at trial due to extraordinary public duties. They are intended to improve the efficiency of the Court's proceedings while safeguarding the rights of the accused.

## **14. Cooperation**

45. At its 7th meeting, on 22 November 2013, the Assembly held a panel discussion to consider the topic of cooperation, with a specific focus on "The protection of witnesses: strengthening States' support to the Court". Three panelists had been invited to address the issue of witness protection. The Assembly also heard a keynote speech from Mr. Sidiki Kaba, Minister of Justice of Senegal.

46. At its 12th meeting, on 27 November 2013, the Assembly adopted, by consensus, resolution ICC-ASP/12/Res.3 on cooperation, whereby, *inter alia*, it 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, in particular when it concerns the arrest and surrender of individuals subject to arrest warrants, and requested the Bureau to report to the Assembly at its thirteenth session on the issue of arrest strategies, as well as on the feasibility of establishing a coordinating mechanism of national authorities dealing with cooperation with the Court. The Assembly also emphasized 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, called upon States Parties to ratify the Agreement on Privileges and Immunities, and 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. The Assembly also requested the Bureau, through its Working Groups, to continue the discussions on the issue of non-essential contacts and to report thereon to the Assembly at its thirteenth session.

## **15. The impact of the Rome Statute on victims and affected communities**

47. At its 6th meeting, on 22 November 2013, the Assembly held a panel discussion to consider the topic "Beyond Kampala: reaffirming the value of the victims' mandate of the Rome Statute System".

48. At its 12th meeting, on 27 November 2013, the Assembly adopted, by consensus, resolution ICC-ASP/12/Res.5 on victims and affected communities, reparations and the Trust Fund for Victims, whereby, *inter alia*, it reaffirmed the need to review the system for victims to apply to participate in proceedings, reiterated the need for the Court to continue to ensure that principles relating to reparations be established in accordance with article 75, paragraph 1, of the Rome Statute, and reiterated that liability for reparations within the framework of the Statute is exclusively based on the individual criminal responsibility of the convicted person. The Assembly further reaffirmed that the declaration of indigence of

an accused for the purpose of legal aid bears no relevance to the ability of the convicted person to provide reparations, and reasserted that the enforcement of reparations awards shall be prioritized when deciding on the disposition or allocation of fines and forfeitures of property or assets belonging to the sentenced person. It called upon States and other stakeholders to contribute voluntarily to the Trust Fund for Victims also in view of possible reparations, the current financial situation of the Trust Fund and in light of article 75, paragraph 2, of the Statute, in order to substantively increase the volume of the Trust Fund and improve the predictability of funding, and invited States Parties to consider making earmarked voluntary contributions to the Trust Fund.

#### **16. Decision concerning dates of the next session of the Assembly of States Parties**

49. At its 12th meeting, on 27 November 2013, the Assembly decided to hold its thirteenth session in New York from 8 to 17 December 2014, and its fourteenth session in The Hague.

#### **17. Decisions concerning dates and venue of the next sessions of the Committee on Budget and Finance**

50. At its 12th meeting, on 27 November 2013, the Assembly decided that the Committee on Budget and Finance would hold its twenty-second session from 28 April to 2 May 2014 and its twenty-third session from 7 to 17 October 2014, respectively.

#### **18. Special Segment as requested by the African Union: “Indictment of sitting Heads of State and Government and its consequences on peace and stability and reconciliation”**

51. At its 4th meeting, on 21 November 2013, when this item was discussed, delegations confirmed the firm commitment of the international community to the fight against impunity for the most serious crimes of international concern. There was broad agreement that the Assembly should consider looking into practical solutions consistent with the existing legal framework that would address concerns expressed by the African Union. Reference was also made to the delicate balancing act required to achieve the objectives of the fight against impunity on the one hand, and peace and stability on the other, and to the challenges posed in the exercise of prosecutorial discretion. Another element generally highlighted in the debate was the importance of the principle of complementarity. There was broad satisfaction that an open process of dialogue had been started in order to address the concerns of African States, and it was agreed that this dialogue should continue and develop further.<sup>13</sup>

#### **19. Other matters**

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

52. The Assembly expressed its appreciation to Finland, 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.

53. The Assembly noted with satisfaction that 27 delegations had made use of the Trust Fund to attend the twelfth session of the Assembly.

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<sup>13</sup> ICC-ASP/12/61.

## **Part II**

### **External audit, programme budget for 2014 and related documents**

#### **A. Introduction**

1. The Assembly had before it the 2014 proposed programme budget submitted by the Registrar of the International Criminal Court (“the Court”) on 25 July 2013,<sup>1</sup> the reports of the twentieth<sup>2</sup> and twenty-first sessions<sup>3</sup> of the Committee on Budget and Finance (“the Committee”), the financial statements for the period 1 January to 31 December 2012,<sup>4</sup> and the Trust Fund for Victims financial statements for the period 1 January to 31 December 2012.<sup>5</sup> The Assembly also had before it annex V of the report of the Committee on the work of its twenty-first session, in which the Court outlines the budgetary implications of the Committee’s recommendations on the budgets of major programmes.

2. At the ninth plenary meeting, the Assembly heard the statements made by the Registrar of the Court, Mr. Herman von Hebel, the Chair of the Committee, Mr. Gilles Finkelstein, and the representative of the External Auditor (the *Cour des comptes* (France)), Mr. Hervé-Adrien Metzger.

3. The Working Group on the Programme Budget met on 27 November 2013. It considered the draft resolution and adopted the report of the Working Group. The Working Group was assisted in its work by the Chair and one member 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 twenty-first session. The Assembly noted that the Committee had endorsed the External Auditor’s recommendations.

#### **C. Amount of appropriation**

5. The Court’s 2014 proposed programme budget amounted to €126.07 million, including €5.9 million for the rent of the interim premises.

6. The Committee’s first examination of the Court’s 2014 proposed programme budget, at its twenty-first session, found a number of areas where, based on actual and forecast expenditure, as well as accumulated experience, a number of savings could be made. Accordingly, the Committee had recommended that the budget allocation be reduced to a total of €121,550,200.

7. The Assembly endorsed the recommendations contained in the report of the Committee.

8. The Assembly considered the provisional budget proposal for the Independent Oversight Mechanism (IOM) contained in annex VII of the 2014 proposed programme budget, needed for a fully operational IOM with the comprehensive mandate, and noted that considering the time required for the recruitment of the approved resources, the full budget provision would not be required in 2014. Consequently, the Assembly decided to resource the IOM with the total amount of appropriations as referred to in section A of the resolution on the programme budget for 2014.

9. The Assembly also considered the report of the Advisory Committee on Nomination of Judges (ACN),<sup>6</sup> containing a revised estimated budget proposal amounting to €65,804. In light of the uncertainties relating to the actual expenditure during 2014, the Assembly endorsed the recommendation of the Committee to adopt the proposed budget in the amount of €22,834, and decided that any additional costs would be absorbed within the 2014 approved budget of Major Programme IV.

<sup>1</sup> *Official Records ... Twelfth session ... 2013* (ICC-ASP/12/20), vol. II, part A.

<sup>2</sup> Ibid., part B.1.

<sup>3</sup> Ibid., part B.2.

<sup>4</sup> Ibid., part C.1.

<sup>5</sup> Ibid., part C.2.

<sup>6</sup> ICC-ASP/12/47.

10. The Assembly approved a budget appropriation for 2014 of €121,656,200.

11. The Assembly noted that the reduction of the Major Programme VII-2 - Permanent Premises Project – Interest amounting to €10,800 and the contribution to the rent of the interim premises by the host State (€2,950,400) reduced the total level of assessed contributions for the 2014 programme budget to €118,595,000, as reflected in annex I below.

#### **D. Contingency Fund**

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

13. The Assembly noted that the Court estimated its implementation for the 2013 approved budget to be 97.3 per cent, equivalent to approximately €12.0 million (see annex II below). In addition, revised notifications regarding potential access to the Contingency Fund during 2013 amounted to €7.2 million, with a forecast implementation rate of 54.7 per cent, or approximately €3.9 million. The estimated implementation of the 2013 approved budget and of the Contingency Fund resulted in a combined estimated expenditure for the Court of €15.9 million in 2013, representing an excess of €0.8 million over the 2013 approved budget of €15.1 million. Based on these forecasts, the estimated access to the Contingency Fund amounted to €0.8 million. However, taking into account the replenishment of the Contingency Fund in excess of €0.5 million in 2013 and the generous offer of the host State to reimburse the costs of the rent of the World Forum<sup>7</sup> and part of the service costs in 2013, which amount could have reduced the approved programme budget for 2013 by approximately €0.3 million, the Assembly noted that replenishment of the Contingency Fund was not required in order to keep it at the minimum €7 million at the beginning of 2014.

14. As in the previous year, the Court emphasized the fact that, since the forecast included cost estimates and assumptions regarding future developments, it was inevitably subject to fluctuations.

15. The Assembly recognized 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 2013, as reflected in the resolution on the programme budget for 2014.<sup>8</sup>

16. 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, so as to ensure that all appropriations for 2013 were exhausted before accessing the Contingency Fund.

#### **E. Financing of appropriations for 2014**

17. The Assembly resolved that, for 2014, the total assessed contributions amounted to €118,595,000.

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<sup>7</sup> Official Records ... Twelfth session ... 2013 (ICC-ASP/12/20) vol. I, annex IV.

<sup>8</sup> Official Records ... Twelfth session ... 2013 (ICC-ASP/12/20) vol. I, part III, ICC-ASP/12/Res.1.

## Annex I

### Revised table: Total Appropriations Proposed Programme Budget for 2014 - Figures for draft resolution reflecting sections A-M

<i>Appropriations Proposed Programme Budget for 2014</i>	<i>CBF figures (draft Res.)</i>	<i>Adjustments</i>	<i>Revised figures</i>
Major Programme I - Judiciary	10,045.8		10,045.8
Major Programme II - Office of the Prosecutor	33,220.0		33,220.0
Major Programme III - Registry	66,293.0		66,293.0
Major Programme IV - Secretariat of the Assembly of States Parties	2,843.6		2,843.6
Major Programme V - Interim Premises	5,900.7		5,900.7
Major Programme VI - Secretariat of the Trust Fund for Victims	1,585.8		1,585.8
Major Programme VII-1 - Project Director's Office (permanent premises)	1,283.2		1,283.2
Major Programme VII-2 - Permanent Premises Project – Interest	170.3	-59.5	110.8
Major Programme VII-5 - Independent Oversight Mechanism	207.8	165.5	373.3
<b>Total</b>	<b>121,550.2</b>	<b>106.0</b>	<b>121,656.2</b>

<i>Assessed contributions for 2014</i>	<i>Adjustments</i>	<i>Revised figures</i>
Appropriations		121,656.2
Contribution for interim premises	<i>less</i>	2,950.4
Major Programme VII-2 - Permanent Premises Project – Interest*	<i>less</i>	110.8
<b>Total assessed contributions for 2014</b>		<b>118,595.0</b>

\* To be assessed separately among States that have not made the one-time payment for the permanent premises

## Annex II

### Updated forecast of the Court on its budget implementation for 2013

At its twenty-first session the Committee on Budget and Finance requested the Court to provide an updated forecast to the Assembly that would include actual expenditure of both the regular budget and the Contingency Fund up to the end of October 2013.<sup>1</sup>

The Court has performed this forecast using information available at the date of preparation, taking into consideration the costs of all the on-going activities which are likely to materialize by the end of 2013. Since the forecast includes cost estimates and assumptions regarding future developments, it is inevitably subject to fluctuations.

Furthermore, after the closure of the 2013 accounts, the Court will be in a position to more accurately determine expenditure for 2013 and to incorporate any adjustments proposed by the External Auditors.

The following table provides the information requested.

#### Updated forecast of the Court for 2013<sup>2</sup> (million euros)

##### **Programme Budget**

Approved Budget 2013	115.1
Forecast expenditure as at 31 December 2013	<u>112.0</u> 97.3% implementation
Forecast unencumbered balance	3.1 (a)
<i>Expenditure as at 31 October 2013</i>	93.2

##### **Contingency Fund (CF)**

Forecast expenditure as at 31 December 2013	3.9 (b)
<i>Expenditure as at 31 October 2013</i>	2.9
<b>Estimated access to CF</b>	<b>0.8 (b-a)</b>
Current level of Contingency Fund	7.5

Replenishment needed to reach the agreed threshold of €7 million	0.3
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<sup>1</sup> *Official Records ... Twelfth session ... 2013* (ICC-ASP/12/20), vol. II, part B.2, para. 54.

<sup>2</sup> This forecast does not take account of the host State's offer to make funds available for the rental, catering and service costs incurred for the Court's annual meeting of the Assembly in 2013, estimated by the Secretariat of the Assembly of States Parties to amount to approximately €277,000.

## Part III

### Resolutions adopted by the Assembly of States Parties

#### Resolution ICC-ASP/12/Res.1

*Adopted at the 12th plenary meeting, on 27 November 2013, by consensus*

##### ICC-ASP/12/Res.1

##### **Programme budget for 2014, the Working Capital Fund for 2014, scale of assessments for the apportionment of expenses of the International Criminal Court, financing appropriations for 2014 and the Contingency Fund**

*The Assembly of States Parties,*

*Having considered* the 2014 proposed programme budget of the International Criminal Court ('the Court') and the related conclusions and recommendations on the 2014 proposed programme budget for the Court contained in the report of the Committee on Budget and Finance ("the Committee") on the work of its twentieth and twenty-first sessions,

#### A. Programme budget for 2014

*The Assembly of States Parties,*

1. *Approves* appropriations totalling €121,656,200 in the appropriation sections described in the following table:

<i>Appropriation section</i>		<i>Thousands of euros</i>
Major Programme I	- Judiciary	10,045.8
Major Programme II	- Office of the Prosecutor	33,220.0
Major Programme III	- Registry	66,293.0
Major Programme IV	- Secretariat of the Assembly of States Parties	2,843.6
Major Programme V	- Interim Premises	5,900.7
Major Programme VI	- Secretariat of the Trust Fund for Victims	1,585.8
Major Programme VII-1	- Project Director's Office (permanent premises)	1,283.2
Major Programme VII-2	- Permanent Premises Project – Interest	110.8
Major Programme VII-5	- Independent Oversight Mechanism	373.3
<b>Total</b>		<b>121,656.2</b>

2. *Notes* that the host State will continue to contribute to the costs for the Court in relation to Major Programme V – Interim Premises and that these contributions amount to €2,950,350, as referred to in section C of this resolution;

3. *Further notes* that those States Parties that have opted for the one-time payment and have paid in full such payments for the permanent premises will not be assessed for the contributions corresponding to Major Programme VII-2 Permanent Premises Project – Interest on the host State loan amounting to €10,829;

4. *Further notes* that these contributions will bring down the level of the 2014 programme budget appropriations that need to be assessed for contributions by States Parties from €121,656,200 to €18,595,000 and that this amount will be assessed following the principles described in section D;

5. *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		1	1					2
D-2								0
D-1		3	4	1	1	1		10
P-5	3	12	16	1	1	1	1	35
P-4	3	29	39	1		1	1	74
P-3	21	44	66	1	3			135
P-2	5	46	62	1		1	1	116
P-1		17	6					23
<i>Subtotal</i>	32	153	194	5	5	4	3	396
GS-PL	1	1	16	2				20
GS-OL	15	63	268	2	2	1	1	352
<i>Subtotal</i>	16	64	284	4	2	1	1	372
<b>Total</b>	<b>48</b>	<b>217</b>	<b>478</b>	<b>9</b>	<b>7</b>	<b>5</b>	<b>4</b>	<b>768</b>

## B. Working Capital Fund for 2014

*The Assembly of States Parties,*

*Resolves* that the Working Capital Fund for 2014 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,*

*Welcomes* the continuous contribution of the host State 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, according to the agreed terms and conditions, with the 2014 contribution amounting to €2,950,350.

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

*The Assembly of States Parties,*

1. *Decides* that for 2014 the contributions of States Parties shall be assessed in accordance with an agreed scale of assessment, based on the scale adopted by the United Nations for its regular budget applied for 2013-2015, and adjusted with the principles on which the scale is based,<sup>1</sup>

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

<sup>1</sup> Rome Statute of the International Criminal Court, article 117.

## **E. Financing of appropriations for 2014**

*The Assembly of States Parties,*

1. *Notes* that the contributions to the interim premises by the host State and the payments corresponding to Major Programme VII-2 Permanent Premises Project – Interest will reduce the level of the budget appropriations to be assessed for contributions by States Parties to €18,595,000;
2. *Resolves* that, for 2014, assessed contributions for the budget amounting to €18,595,000 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 million 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, nineteenth and twenty-first sessions,

*Taking note* that the Assembly replenished the Fund in the amount of €0.5 million in 2013 based on an estimation consistent with the €7 million threshold decided by the Assembly in resolution ICC-ASP/8/Res.7,

*Taking note* that after closure of the accounts of the Court and the publication of its Financial Statements for 2012, the Fund reached the amount of €7.5 million in 2013; €0.5 million above the €7 million threshold,

*Taking note* that the host State will generously make funds available for the rental, catering and service costs incurred by the Court's annual meetings of the Assembly in 2013 and 2015 as communicated by letter dated 7 October 2013, which could have decreased the level of assessed contributions for 2013,

*Taking note* that the level of the Fund will be consistent with the €7 million threshold, not requiring to be replenished in 2014,

*Taking note* 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 2013,

*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 2013 approved programme budget**

*The Assembly of States Parties,*

*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 2013 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. A strategic approach to an improved budgetary process

*The Assembly of States Parties,*

1. *Welcomes* the recommendations of the Study Group on Governance<sup>2</sup> 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) *Recalls* resolution ICC-ASP/11/Res.1, in which the Assembly notes the value of a judicial calendar and requests to be periodically updated by the Court on the current state of budgetary evaluation of judicial activities;
  - (b) *Stresses* the importance of an enhanced engagement with the Committee, with a view to allowing States Parties to raise particular issues or concerns and welcomes the willingness of the Committee to engage more actively with the Assembly;
  - (c) *Welcomes* the enhanced dialogue between the Assembly and the Court and *encourages* the continuation of the transparent information practice aimed at fostering mutual trust and confidence between the stakeholders, preparing the ground for constructive and collaborative budget negotiations;
  - (d) *Endorses* the view of the Committee that the current Financial Regulations and Rules related to the Contingency Fund should be updated, reflecting the experience gained and the established safeguards to ensure its prudent use;<sup>3</sup>
2. *Welcomes* the lessons-learned exercise carried by the Office of the Prosecutor (OTP) and the new strategic plan of the OTP focused to ensure the quality and efficiency in investigations, prosecutions and cooperation; *notes* the likely impact of the strategic plan on the proposed budget requests until 2017, *invites* the OTP to keep its structure under review, in consultation with other organs, in order to maximize efficiencies and to adopt best practices, *welcomes* the Prosecutor's efficiency target of two per cent savings calculated on the funds allocated for investigative resources in 2014, and *requests* that the Prosecutor report to the Assembly on the progress in implementation of the Strategy through the Committee at its twenty-second and twenty-third sessions, with specific focus on measures aimed to increase quality and efficiency, especially in the areas of recruitment, absorption capacity and change management;
3. *Authorizes* the Registrar to reorganize and streamline the Registry's organizational structure within the envelope of the approved programme budget for 2014 and the maximum number of established posts and approved positions; *welcomes* the Registrar's commitment to engage in an inter-organ strategic dialogue with a view to eliminating duplication, increasing effectiveness and efficiency, as well as creating synergies, *requests* the Registrar as part of his reorganization plan to achieve at least three per cent savings in the approved programme budget for the Registry, to be found during the course of 2014, and *requests* that the Registrar report to the Assembly through the Committee at its twenty-second and twenty-third sessions on the progress of implementation, including on savings, efficiencies and synergies gained.

## I. Human Resources

*The Assembly of States Parties,*

1. *Endorses* the recommendations of the Committee on Human resources,<sup>4</sup> and on the organizational structure of the Court<sup>5</sup> and *requests* the Court, in its human resources management report to the Committee, as appropriate, to provide information on streamlining and simplifying its staffing structure in all categories of staff, with a view to providing transparency and efficiency;
2. *Notes* the Committee's consideration of the revised report presented by the Court on the Junior Professional Programme (JPO), and *endorses* the Committee's recommendation

<sup>2</sup> ICC-ASP/12/37, section V.

<sup>3</sup> *Official Records ... Twelfth session ... 2013* (ICC-ASP/12/20), vol. II, part B.1, para. 20.

<sup>4</sup> *Official Records ... Twelfth session ... 2013* (ICC-ASP/12/20), vol. II, part B.1.

<sup>5</sup> *Official Records ... Twelfth session ... 2013* (ICC-ASP/12/20), vol. II, part B.2.

that the JPO programme be introduced to the Court on a trial basis, taking full account of the concerns raised by the Committee, in particular the possible impacts on geographical representation, and subject to a comprehensive review in 2017;

3. *Notes* the Committee's views and recommendations for the mandatory age of separation applicable to current staff members as well as new staff members who join the Court on or after 1 January 2014, and *further notes* that amendment to the current Staff Regulation 9.5 is required for the implementation of the decision to raise the mandatory age of separation to the age of sixty-five for new staff members who join the Court on or after 1 January 2014;

4. *Endorses* the Committee's recommendation that the Court raise the mandatory age of separation to the age of sixty-five for new staff members who join the Court on or after 1 January 2014;

5. *Further endorses* the Committee's recommendation that, pending a decision by the Assembly at its thirteenth session on the mandatory age of separation for current staff members, to grant extensions up to the end of 2014 to any staff who reached the age of sixty-two in 2014, should they wish to continue their service with the Court and unless the staff member was subject to separation due to reasons other than age, in compliance with the Staff Regulations and Rules;

6. *Decides* to replace Staff Regulation 9.5 with the following text:

"Staff members shall not be retained in active service beyond the age specified in the Regulations of the United Nations Joint Staff Pension Fund as the normal age of retirement. However, staff members whose normal age of retirement is sixty may be retained in active service until the age of sixty-two. The Registrar or the Prosecutor, as appropriate, may, in the interest of the Court, extend these age limits in exceptional cases."

## **J. International Public Sector Accounting Standards (IPSAS)**

*The Assembly of States Parties,*

*Recalling* that at its seventh session, the Assembly decided that the Court would work towards implementation of IPSAS in the period of 2011 to 2016 and *welcoming* that the Court is in position to implement IPSAS as of 1 January 2014,

*Further recalling* that the total amount approved for this multi-year project was €1,917,550 and *welcoming* expectations that the project would be completed on time and within budget,

*Endorses*, as an exceptional and one-time measure and in view of the nature of this long-term project the recommendation of the Committee that a portion of the 2013 approved budget for IPSAS implementation amounting to €290,000 shall remain available to fund the IPSAS project in 2014 in order to reduce assessments for IPSAS in 2014, and recalls that, in case the amount of €290,000 is not fully consumed for that purpose, the surplus should be apportioned and surrendered among States Parties pursuant to rule 4.7 of the Financial Regulations and Rules.

## **K. 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

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 continue including this matter in its institutional dialogue with the United Nations and to report thereon to the thirteenth session of the Assembly.

## **L. Independent Oversight Mechanism**

*The Assembly of States Parties,*

*Considering* the provisional budget proposal for the Independent Oversight Mechanism (IOM) contained in annex VII of the 2014 proposed programme budget needed for a fully operational IOM with a comprehensive mandate,

*Noting* resolution ICC-ASP/12/Res.6 operationalizing the comprehensive mandate of the IOM and deciding that the IOM shall consist of four staff members: the head of the office at the P-5 level, an evaluation officer at the P-4 level, a staff member at the P-2 level and another staff member at the general service level,

*Further noting* that the full budget provision will not be required in 2014, initial year for the establishment of the fully operational IOM, considering the time required for the recruitment of the approved resources,

*Decides* to resource the IOM with the total amount of appropriations as referred to in section A of this resolution.

## **M. Advisory Committee on Nominations of Judges**

*The Assembly of States Parties,*

*Considering* the proposed budget for the Advisory Committee on Nominations of Judges contained in annex VIII of the 2014 proposed programme budget, amounting to €2,834,

*Noting* the report of the Advisory Committee on Nominations of Judges ICC-ASP/12/47 containing a revised estimated budget proposal amounting up to €65,804,

*Endorses* the recommendation of the Committee to accept the proposed budget in the amount of €2,834, and *decides* that any additional costs are absorbed within the 2014 approved budget of Major Programme IV.

## **Resolution ICC-ASP/12/Res.2**

*Adopted at the 12th plenary meeting, on 27 November 2013, by consensus*

### **ICC-ASP/12/Res.2**

#### **Permanent premises**

*The Assembly of States Parties,*

*Recalling* its resolutions adopted with regard to the permanent premises, including ICC-ASP/6/Res.1,<sup>1</sup> ICC-ASP/7/Res.1,<sup>2</sup> ICC-ASP/8/Res.5,<sup>3</sup> ICC-ASP/8/Res.8,<sup>4</sup> ICC-ASP/9/Res.1,<sup>5</sup> ICC-ASP/10/Res.6,<sup>6</sup> and ICC-ASP/11/Res.3,<sup>7</sup> 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,<sup>8</sup>

*Noting* the recommendations of the External Auditor,<sup>9</sup> as well as the reports of the Committee on Budget and Finance on the work of its twentieth and twenty-first sessions and the recommendations contained therein,<sup>10</sup>

*Recalling* its firm intention that the construction of the permanent premises should be delivered within the €190 million budget (at 2014 price levels) as per resolution ICC-ASP/6/Res.1, and the role of the Oversight Committee in implementing under its delegated authority any actions that might be needed to ensure that the project proceeds safely within budget, as well as that the ownership costs of the permanent premises be as low as possible,

*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,

*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,

#### **Scope of the project**

*Considering* that its objective that the permanent premises project be completed by September 2015 and the Court be able to progressively move into and take full occupation of the new premises by the end of 2015 requires strong coordination and leadership of both the construction and the transition activities in order to prevent future cost overruns,

*Considering* that, pursuant to resolution ICC-ASP/6/Res.1, the Oversight Committee and the Project Director are endowed with the governance and management of the construction project, financed with extra-budgetary resources and in a multi-year budget dedicated to the project,<sup>11</sup>

*Also considering* that the transition project was established under the operational responsibility of the Court, while its estimated costs were subject to approval for each

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

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

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

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

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

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

<sup>7</sup> Official Records ... Eleventh session ... 2012 (ICC-ASP/11/20), vol. I, part II.

<sup>8</sup> ICC-ASP/12/43.

<sup>9</sup> Official Records ... Eleventh session ... 2012 (ICC-ASP/12/20), vol. II, part C.1.

<sup>10</sup> Ibid., parts B.1 and B.2.

<sup>11</sup> Official Records ... Sixth session ... 2007 (ICC-ASP/6/20), vol. I, part III, ICC-ASP/6/Res.1.

relevant project year, under the responsibility of the Project Director and the control of the Oversight Committee,

*Stressing* that a holistic approach to the permanent premises would enable coordinated strategies for implementing the policy of the Assembly for permanently hosting the Court in the new premises, and is expected to result in efficiencies and lower costs, so that the construction and transition costs could be kept as low as possible,

*Noting* that by unifying the construction and the transition projects the resources for the latter could be assessed on a multi-year basis, and the management of a unified project budget would allow using the savings in one area to balance costs in the other, while maintaining separate expenditures reporting obligations for construction and transition activities,<sup>12</sup>

*Also noting* that such unified budget would also avoid that these costs remain in the regular budget and therefore would allow prioritization of yearly budgeted resources for the core functions of the Court,<sup>13</sup>

*Considering* that the Oversight Committee and the Registrar have decided to cooperate in a spirit of mutual trust and collaboration in ensuring the achievement of the objective of a unified project,

*Also considering* that the revised governance structure adopted to that end is without prejudice to the legal framework established and the mandates conferred by the Rome Statute and by the Assembly of States Parties in resolution ICC-ASP/6/Res. 1 and following resolutions,

*Noting* the report of the Chair of the Oversight Committee on the use by the Committee of its delegated authority<sup>14</sup> with the adoption, in agreement with the Court, of the decision to expand the scope of the project, so that it could now include both the construction and the transition projects and be considered as an overall unified project,

*Noting* that such decision, to ensure coordination, empowers the Project Director as the sole manager for both the construction and the transition projects, with dual reporting lines to the Committee and to the Registrar and under the financial strategy established by the Committee, while the Project Director maintains its independence from the Registry and remains under the authority of the Assembly, without prejudice to the managerial role of the Project Director,<sup>15</sup>

*Stressing* the need to maintain a clear separation between the respective roles of oversight carried out by the Assembly through the Committee, and the administration of the Court, while the Project Director would act as a common manager for both the Assembly and the Court,

## **Financial target 2014-2016**

*Noting* the current estimates of the aggregated construction (€184.4 million) and transition (€11.3 million) costs, with a total level of €195.7 million and the need to provide the Project Director with an overall unified financial envelope to manage these costs for the lifetime of the project, as well as the funding scheme proposed by the Oversight Committee and as endorsed by the Committee on Budget and Finance,<sup>16</sup>

*Further considering* that this level is subject to review throughout the lifetime of the project and depending on the ongoing cost review, in particular, for the transition elements and with the aim of achieving by June 2014 a reduced cost level of no more than €193.7 million,

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<sup>12</sup> *Official Records ... Twelfth session ... 2013* (ICC-ASP/12/20), vol. II, part B.2, para. 148.

<sup>13</sup> Based on the estimates before the twentieth session of the Committee on Budget and Finance, in April 2013, the annual budget of the Court would have increased by €3.3 million in 2014 and by €3.5 million in 2015, should the unification of the projects not have taken place.

<sup>14</sup> *Official Records ... Sixth session ... 2007* (ICC-ASP/6/20), vol. I, part III, ICC-ASP/6/Res.1, annex III, paras. 3(c) and 16 (c).

<sup>15</sup> *Official Records ... Sixth session ... 2007* (ICC-ASP/6/20), vol. I, part III, ICC-ASP/6/Res.1, annex IV, para. 2.

<sup>16</sup> *Official Records ... Twelfth session ... 2013* (ICC-ASP/12/20), vol. II, part B.2, paras. 145-147.

*Considering* that States Parties would benefit from information on their anticipated final contributions, as they will be recalculated at project end and that, in that regard, regular updates based on the current membership and on the latest scale of assessment would increase transparency about any shortfall or refund in their required contributions,

## **Total Cost of Ownership**

*Recalling* that the total cost of ownership, currently estimated at €9.0 million in 2015, €12.1 million in 2016, and €12.9 as from 2017, includes: financial costs for those States not having opted for one-time payments, operating and maintenance 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,<sup>17</sup> and that such review should include the full range of possible approaches,

*Considering* the ongoing activity of the Working Group on Total Cost of Ownership established by the Oversight Committee and headed by the Project Director,

*Taking note* that costs related to the permanent premises can also be funded making use of any available surplus and that the Oversight Committee, in consultation with the Court, submitted to the Committee on Budget and Finance at its twenty-first session a proposed amendment to the Financial Regulations and Rules,

## **One time payments**

*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 first extended to 15 October 2012,<sup>18</sup> and further extended to 31 December 2014,<sup>19</sup>

*Welcoming* the fact that since this latter extension 13 additional States Parties have committed to making a one-time payment, for a total of additional €10.4 million, bringing the total number of States Parties having so committed to 46, as at 31 October 2013, in a total amount of €46.8 million, of which €39.9 million have already been received,

*Noting* the advantages for all States Parties of allowing maximum flexibility to the one-time payment scheme, including by extending the deadline to opt for full or partial 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,

*Considering* that it will remain for the Oversight Committee to ensure that such flexibility is implemented throughout the project so that the ultimate objective of maximizing the benefits of the one-time payment scheme for all States Parties, while ensuring that the objective that the system remains fair is achieved,

*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, and as further explained in resolution ICC-ASP/11/Res. 3, annex II and appendices I and II,

*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,<sup>20</sup> and that repayment of capital and interests will commence after expiration of the existing or future leases of the interim premises,<sup>21</sup>

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<sup>17</sup> Official Records ... Tenth session ... 2011 (ICC-ASP/10/20), vol. I, part B.1.

<sup>18</sup> Official Records ... Eighth session ... 2009 (ICC-ASP/8/20), vol. I, part III, ICC-ASP/8/Res.8

<sup>19</sup> Official Records ... Eleventh session ... 2012 (ICC-ASP/11/20), vol. I, part III, ICC-ASP/11/Res.3. para. 14.

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

<sup>21</sup> Ibid., (f).

*Also noting* that the necessary liquidity for the payment of interests and capital for the whole of the repayment period needs to be ensured, and that States Parties failing to timely making their contributions in that regard will be liable for any costs incurred by the Court's resources to meet the reimbursement obligation to the loan,

*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,

## I. Governance and Management of the Project

### A. Construction Project

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 eleventh session of the Assembly;
2. *Approves* the revised cash-flow scheme contained in annex I;
3. *Welcomes* the beginning, on March 2013, of the actual construction of the project, and the holding of a ground-breaking ceremony hosted by the Oversight Committee on 16 April 2013;
4. *Also welcomes* the continued commitment of the host State to fulfil its obligations under the ground lease and, in that regard, acknowledges the reimbursement to the project of the full cost of the cleaning for the soil pollution, and of the acceleration cost for recovering the delay caused by it;
5. *Further welcomes* that the construction project continues to remain within the originally approved budget of €190 million at 2014 prices, and, in this regard, *notes with satisfaction* that savings of €6.3 million have been realized on construction costs;
6. *Welcomes* the decision of the Oversight Committee to invest €0.7 million of these savings by approving a change in the design in order to increase the flexible use of the permanent premises also in terms of conference facilities, including for the purposes of holding, from 2016 onwards and should the Assembly of States Parties so decide, any of its meetings at the seat of the Court;
7. *Also welcomes* that, as a consequence, at the present stage the projected construction costs are now estimated at €184.4 million, i.e. €6 million below the originally approved budget;
8. *Further welcomes* the ongoing implementation of 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;
9. *Emphasizes* the importance of strict control of design, scope and requirement changes during the project's construction phase in order to ensure that the project is delivered to cost, quality and on time, and *reiterates its request* that the Oversight Committee 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 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;
10. *Welcomes* the report of the Oversight Committee on the status of consideration of the possible approaches for addressing the governance and financing of the long-term capital replacement costs, carried out in the Working Group headed by the Project Director, and *requests* the Committee to report thereon at the thirteenth session of the Assembly;

## B. Transition Project

11. *Requests* the Oversight Committee and the Court to ensure through the Project Director that all preparatory measures are adopted for the Court to be ready 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 Committee on Budget and Finance;
12. *Endorses* the decision of the Oversight Committee that the approval of transition costs for the lifetime of the project and within a multi-year budget requires that a prior meaningful review of such costs be conducted against the assets needs and procurement policies of the Court,<sup>22</sup> and that such review is aimed at achieving savings throughout the life-span of the project, with the view of reducing the overall project financial target by June 2014, and *requests* the Project Director to report thereon in detail to the thirteenth session of the Assembly of States Parties through the Oversight Committee;
13. *Also requests* the Oversight Committee and the Court to ensure through the Project Director that a meaningful review process of the transition elements is conducted taking into account any new options for achieving savings, including but not limited to a review of the user requirements, as well as the suitability and extended use of existing equipment to be conducted against: (i) the complete inventories of the Court's assets, including their value and status; (ii) the short and medium-term procurement plans, including opportunities for joint procurement; and (iii) an extension of the useful life of assets;

## C. Unified Project

14. *Welcomes* the unified approach to the permanent premises and *requests* the Committee, in consultation with the Court, to ensure that the implementation of the governance structure<sup>23</sup> remains consistent with the Rome Statute and with resolution ICC-ASP/6/Res. 1, and that such structure is kept under review;
15. *Approves* the establishment of a cost envelope which represents the unified financial target for the overall project, at the level of €195.7 million, including €11.3 million for transition costs, subject to a review of such target every six months throughout the life-span of the project, and also subject to a cost review process of the transition elements of the project, aimed at reducing the target at least to the level of €193.7 million by June 2014;
16. *Also approves* that, in the period 2014 to 2016, transition costs of up to €1.3 million and subject to the ongoing cost review, will be funded through savings of €.6 million realized in the construction budget and, for the remaining part of up to €.7 million, with the appropriation of the surplus pertaining to the financial years 2012 to 2014, to be accounted for as one-time payments;
17. *Further approves* that cash advances to the project budget may be made from the cash reserves of the Court in the period 2014 to 2016, in order to meet any cash needs prior to the availability of the surplus pertaining to the financial years 2012 to 2014, as a temporary and prudent measure of last resort, for a limited amount, and with an agreed schedule for restitution;
18. *Requests* that the Project Director reports separately on expenditures for the construction and transition activities, at the end of the project;<sup>24</sup>
19. *Adopts* the amendment to the Financial Regulations and Rules as laid down in annex II;
20. *Approves* appropriations for an amount equal to the 2012 surplus, currently estimated at €2.5 million, for funding the overall project budget;

<sup>22</sup> Official Records ... Twelfth session ... 2013 (ICC-ASP/12/20), vol. II, part B.2, para. 149. See Official Records ... Twelfth session ... 2013 (ICC-ASP/12/20), vol. I, part III, ICC-ASP/12/Res.2, para. 8.

<sup>23</sup> See *Review of governance*, as set out in annex I to the *Report on the activities of the Oversight Committee*, ICC-ASP/12/43.

<sup>24</sup> Official Records ... Twelfth session ... 2013 (ICC-ASP/12/20), vol. II, part B.2, para. 148.

21. *Authorizes* the Court to ensure that the necessary liquidity is available for the repayment of the host State loan, for the interests for 2013, payable as of 1 February 2014, in case of any States Parties' delay in the payment of their assessed share of contributions;
22. *Further authorizes* the Court to provide an assessment in the 2014 contributions letter of the estimated host State loan interest incurred in 2014 (payable by the Court on 1 February 2015) and requesting the relevant States Parties to pay their full amount by no later than 25 January 2015;
23. *Requests* that the Court and the Oversight Committee, in conjunction with the Project Director and through the Committee on Budget and Finance, consider in detail the long-term mechanism for the annual repayment of the host State loan, for the assessment of relevant States Parties' contributions, and for minimizing the risk of delay in receipt of such contributions, and report thereon to the thirteenth session of the Assembly with the view of adopting this mechanism;
24. *Welcomes* that contributions of States Parties against the project costs are kept regularly updated by the Project Director on the basis of the expected final cost of the unified project and the latest scale of assessment;

## **II. One-time payments**

25. *Requests* States Parties electing by 31 December 2014 the option of a full or partial one-time payment of their assessed share in the project to consult with the Project Director so as to determine the scheduling thereof, taking into account that said one-time payments:<sup>25</sup>
  - a) May be made in one or more annual instalments;
  - b) Are to be received in full by no later than 15 June 2015 or on any earlier date dependent on the expected cash-flow; 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;
26. *Decides* that States Parties having opted for a one-time payment and not fulfilling this option, entirely or partly, within the agreed timeline will automatically forfeit the opportunity of making a one-time payment for any unpaid amount;
27. *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;

## **III. Financial reporting**

28. *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 unified project on the basis of the most recent information, and incorporating the schedule for the use of funds deriving from one-time payments;
29. *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;

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<sup>25</sup> See *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. I, part III, ICC-ASP/11/Res.3, annex II, Explanatory note on one-time payments, which clarifies the principles for one-time payments in connection with the criteria applicable to the loan agreement, 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.

## **IV. Audit strategy**

30. *Welcomes* that the External Auditor of the Court (*Cour des comptes*) has adopted a comprehensive approach to auditing the accounts and performances of the Court, which includes the full scope of the permanent premises project;<sup>26</sup>

## **V. Voluntary contributions**

31. *Welcomes with appreciation* that three States Parties have initiated discussions with the Project Director and the Oversight Committee regarding proposals for contributing funds to enhance the specific quality of areas within the new premises and/or in the donation of works of art for integration into the permanent premises, and *calls on* States Parties to approach the Oversight Committee at the earliest opportunity if they wish to contribute in that regard to ensure integration into the new building as it is completed;

32. *Requests* the Oversight Committee to finalize, with the assistance of the Project Director and in consultation with the Court, a strategy for donations and to report thereon to the twenty-second session of the Committee on Budget and Finance and to the thirteenth session of the Assembly of States Parties;

33. *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;

## **VI. Renewal of membership of the Oversight Committee**

34. *Endorses* the recommendation of the Bureau, in accordance with ICC-ASP/6/Res.1, annex II, that the membership of the Oversight Committee, for the next term 2014 - 2015, be comprised of those States referred to in annex III to this resolution;

## **VII. Future reporting by the Oversight Committee**

35. *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.

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<sup>26</sup> *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, para. 82.

## Annex I

### Cash-flow scheme

Items	Total costs	Overall total	2009	2010	2011	2012	2013	2014	2015	2016
			PD <sup>(*)</sup>	FD <sup>(**)</sup>	FD +tendering	Construction and transition				
1. Construction Costs		<b>156.8</b>				2.9	40.5	95.0	18.4	- 156.8
1a. Construction costs	<b>150.4</b>					1.9	37.6	93.0	17.9	<b>150.4</b>
1b. Fees design team (after tendering)	<b>6.4</b>					1.0	2.9	2.0	0.5	<b>6.4</b>
2. Risks		<b>7.5</b>					3.0	2.5	1.5	0.5 7.5
2a. Project risk (all issues incl. design or third parties)	<b>2.1</b>					1.0	0.5	0.5	0.1	<b>2.1</b>
2b. Client risk (outside project e.g. municipality)	<b>5.4</b>					2.0	2.0	1.0	0.4	<b>5.4</b>
3. Permit and dues		<b>2.7</b>				2.5	-	-	0.2	- 2.7
3a. Permits and dues	<b>2.7</b>					2.5			0.2	<b>2.7</b>
4. Fees	<b>23.9</b>	1.3	3.6	6.8	3.2	2.6	2.4	3.7	0.4	<b>23.9</b>
4a. Design related	<b>10.6</b>		2.7	5.1	2.4	0.1	0.3			<b>10.6</b>
4b. Project management	<b>8.9</b>	0.9	0.7	1.3	0.4	1.9	1.5	1.9	0.3	<b>8.9</b>
4c. Other consultants	<b>4.3</b>	0.4	0.2	0.4	0.3	0.5	0.6	1.8	0.1	<b>4.3</b>
4d. Operational fees (e.g. bank fees)	<b>0.1</b>				0.1	0.1				<b>0.1</b>
5. Other costs		<b>1.5</b>		1.5						<b>1.5</b>
5a. Other costs	<b>1.5</b>			1.5						<b>1.5</b>
6. Equipment		<b>3.3</b>						3.2	0.1	<b>3.3</b>
6a. Equipment	<b>3.3</b>							3.2	0.1	<b>3.3</b>
<hr/>										
Residue (projected underspend/ additional reserve)										
<hr/>										
<b>Total</b>	<b>195.7</b>	<b>195.7</b>	1.3	5.1	6.8	8.6	46.1	99.9	27.0	1.0 195.7
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Cumulative			1.3	6.4	13.2	21.8	67.8	167.7	194.7	195.7

Note: The above figures are estimates only and subject to change.

(\*) PD: preliminary design stage.

(\*\*) FD: final design stage.

## Annex II

### Amendment to the Financial Regulations and Rules

#### Use of surplus

Regulation 4.7 establishes the right of States Parties to have the surplus returned in proportion of their share of the funding of the expenses of the Court at the time of their contribution. The exception is limited to the possible funding of the Contingency Fund through the surplus, pursuant to regulation 6.6. The rationale of such exception is the same as the one applicable to the limitation of the right of States Parties to have their share of surplus returned: the obligation to fund the regular budget of the Court and its Contingency Fund. The proposed amendment is based on the same rationale. The payment of the expenditures for the Permanent Premises is not discretionary for States Parties, both for the Project (construction and transition costs) and for the future Total Cost of Ownership. Hence, it is proposed that the surplus can be allocated by the Assembly to funding both the transition costs and the future capital replacement and maintenance costs (construction costs do not need any funding, as they remain below the approved budget).

It is proposed that regulation 4.7 should be amended as follows (changes in *italics*):

*“Subject to financial regulation 6.6, last paragraph, or to a decision by the Assembly of States Parties for the funding of costs related to the permanent premises of the Court, any cash surplus in the budget of any financial period shall be apportioned among States Parties in proportion to the scale of assessments applicable to the financial period to which the surplus relates”.*

## Annex III

### **Members of the Oversight Committee<sup>1</sup>**

#### **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

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<sup>1</sup> As of 21 December 2013.

## **Resolution ICC-ASP/12/Res.3**

*Adopted at the 12th plenary meeting, on 27 November 2013, by consensus*

### **ICC-ASP/12/Res.3**

#### **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, ICC-ASP/11/Res.5 and the sixty-six recommendations annexed to ICC-ASP/6/Res.2,

*Determined* to put an end to impunity by holding to account the perpetrators of the most serious crimes of concern to the international community as a whole, and *reaffirming* that the effective and expeditious 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 and that States Parties have a general obligation to cooperate with the Court in its investigation and prosecution of crimes within its jurisdiction, and are obliged to cooperate fully with the execution of arrest warrants and surrender requests, as well as provide other forms of cooperation set out in article 93 of the Rome Statute,

*Welcoming* the report of the Court on cooperation, submitted pursuant to resolution ICC-ASP/10/Res.2 as well as resolution ICC-ASP/11/Res.5,<sup>1</sup>

*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,

*Further noting* the arrest guidelines issued by the Office of the Prosecutor for the consideration of States, including *inter alia* the elimination of non-essential contacts with individuals subject to an arrest warrant issued by the Court and that, when contacts are necessary, an attempt is first made to interact with individuals not subject to an arrest warrant,

*Noting* the redrafted and redistributed guidelines setting out the policy of the United Nations Secretariat on contacts between United Nations officials and persons who are the subject of arrest warrants or summonses issued by the Court, as annexed to a letter dated 3 April 2013 by the Secretary General of the United Nations to the President of the General Assembly and the President of the Security Council,

*Recognizing* that requests for cooperation and the implementation thereof should take into account the rights of the accused,

*Recalling* the pledges relating to cooperation made by States Parties at the Review Conference in Kampala and *noting* the importance of ensuring adequate follow-up with regard to the implementation of pledges,

1. *Welcomes* the report of the Court on cooperation, submitted pursuant to resolution ICC-ASP/10/Res.2 as well as resolution ICC-ASP/11/Res.5;
2. *Expresses* serious concerns that arrest warrants or surrender requests against 14 persons remain outstanding,<sup>2</sup> and *calls on* States to cooperate fully in accordance with their obligation to arrest and surrender to the Court;

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<sup>1</sup> ICC-ASP/12/35.

<sup>2</sup> As at 2 October 2013.

3. *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 *stresses* that protracted non-execution of Court requests has a negative impact on the ability to execute its mandate, in particular when it concerns the arrest and surrender of individuals subject to arrest warrants;
4. *Acknowledges* that concrete steps and measures to securing arrests need to be considered in a structured and systematic manner, based on the experience developed in national systems, the international ad hoc and mixed tribunals, as well as by the Court;
5. *Adopts* the annex concerning a roadmap for achieving an operational tool to enhance the prospect that requests of the Court for arrest and surrender are expeditiously executed,<sup>3</sup> *endorses* the appended concept document prepared by The Hague Working Group, and *requests* the Bureau to report thereon to the Assembly at its thirteenth session;
6. *Emphasizes* also the on-going 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 continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance;
7. *Requests* the Bureau, through its Working Groups, to continue the discussions on the issue of non-essential contacts, and to report thereon to the Assembly well in advance of its thirteenth session;
8. *Welcomes* the continued 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, including with regard to ensuring early notification to States Parties of opportunities to work together to avoid non-cooperation;
9. *Reiterates* the serious concerns regarding the detention of four officials of the Court from 7 June to 2 July 2012 and *continues to stress* 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 securing the respect for such privileges and immunities in all situations, *inter alia* by adopting relevant national legislation;
10. *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;
11. *Welcomes* the increased cooperation between the Court and the United Nations, and other international and regional organizations, and other inter-governmental institutions;
12. *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;
13. *Urges* 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 diplomatic and financial support; cooperation by all United Nations Member States and follow-up of 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;
14. *Urges* States Parties to cooperate with requests of the Court made in the interest of Defence teams, in order to ensure the fairness of proceedings before the Court;
15. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, in particular through implementing

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<sup>3</sup> ICC-ASP/12/36, annex IV.

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;

16. *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;

17. *Encourages* States to establish 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;

18. *Requests* the Bureau to report to the thirteenth session of the Assembly on the feasibility of establishing a coordinating mechanism of national authorities dealing with cooperation with the Court, for sharing knowledge and know-how, on a voluntary basis;

19. *Acknowledges* the importance of protective measures for victims and witnesses for the execution of the Court's mandate, and while welcoming the relocation agreements concluded with the Court in 2013, *stresses* its serious concern that thus far only a small number of States Parties have entered into agreements or established sufficient arrangements with the Court for the expeditious relocation of victims and witnesses;

20. *Calls upon* all States Parties and other States 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 victims and witnesses, their families and others who are at risk on account of testimony given by witnesses;

21. *Acknowledges* that, when relocation of witnesses and their families proves necessary, due account should be given to finding solutions that, while fulfilling the strict safety requirements, also minimize the humanitarian costs of geographical distance and change of linguistic and cultural environment and *urges* all States Parties to consider making voluntary contributions to the Special Fund for relocations;

22. *Commends and further encourages* the work of the Court on framework agreements or arrangements, or any other means in areas such as interim release, final release, and sentence enforcement which may be essential to ensuring the rights of the accused in article 67 of the Rome Statute and guaranteeing the rights of convicted persons and *urges* all States Parties to consider strengthening cooperation in these areas;

23. *Recognizes* that effective and expeditious cooperation with regard to the Court's requests for the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes is crucial to the provision of reparation to victims and for potentially mitigating the costs of legal aid;

24. *Underlines* the importance of further improving communication through established, and possibly new, channels, with a view to 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, 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;

25. *Calls on* all States Parties to put in place effective procedures and mechanisms that further enable them to cooperate with the Court in relation to the identification, tracking, freezing or seizure of proceeds, property and assets as expeditiously as possible;

26. *Welcomes* the enhanced dialogue between States Parties, the Court and civil society offered by the plenary discussion on cooperation held during the twelfth session of the Assembly, with a special focus on the protection of witnesses 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*, the challenges faced by States and the Court in ensuring the protection of witnesses, the importance of relocation agreements and the Special Fund for relocations, as well as the complementary role of national systems of protection, and the need to include cooperation as a standing agenda item for future sessions of the Assembly;

27. *Requests* the Bureau to maintain 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;
28. *Recognizing* the importance of the Court's contribution to the Assembly's efforts to enhance cooperation, *requests* the Court to submit an updated report on cooperation to the Assembly at its thirteenth session and annually thereafter;
29. *Requests* the Bureau to report to the Assembly at its thirteenth session on the progress made by States Parties on the implementation of pledges made at the Review Conference in Kampala.

## **Resolution ICC-ASP/12/Res.4**

*Adopted at the 12th plenary meeting, on 27 November 2013, by consensus*

### **ICC-ASP/12/Res.4**

#### **Complementarity**

*The Assembly of States Parties,*

*Reaffirming* its commitment to the Rome Statute of the International Criminal Court and its determination that the most serious crimes of concern to the international community as a whole must not go unpunished, 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 possible completion 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 jurisdictions to enable States to genuinely prosecute Rome Statute crimes;
3. *Welcomes further* efforts by the United Nations, international and regional organizations, States and civil society in mainstreaming 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, *strongly encourages* additional efforts in this regard by other international and regional organizations, States and civil society, and in that context *takes note* of the important work being undertaken in the United Nations on the post-2015 development agenda, including the important role of the rule of law in that regard;
4. *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 *urges* States to do so;
5. *Welcomes* the report of the Bureau on complementarity, and *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, in accordance with resolution RC/Res.1 and related documents, including on complementarity-related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court, and the role of partnerships with national authorities and other actors in this regard;

6. *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,<sup>1</sup> *welcomes further* the work that has already been undertaken by the Secretariat, including inviting States to submit information on their capacity-needs and reporting on this to the Assembly, and *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information in this regard, and report to the thirteenth session of the Assembly on progress achieved;
7. *Calls upon* 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 thirteenth session of the Assembly in this regard;
8. *Welcomes* the report of the Court on complementarity and completion of Court activities in situation countries 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 thirteenth session of the Assembly.

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<sup>1</sup> Report of the Secretariat on complementarity, ICC-ASP/12/33.

## **Resolution ICC-ASP/12/Res.5**

*Adopted at the 12th plenary meeting, on 27 November 2013, by consensus*

### **ICC-ASP/12/Res.5**

### **Victims and affected communities, reparations and Trust Fund for Victims**

*The Assembly of States Parties,*

*Recalling its resolution ICC-ASP/11/Res.7,*

*Determined to ensure the effective implementation of victims' rights, which constitute a cornerstone of the Rome Statute system,*

*Reaffirming the importance of the Rome Statute to the victims and affected communities in its determination to hold to account the perpetrators of the crime of genocide, crimes against humanity and war crimes, thus contributing to their prevention,*

*Reiterating that victims' equal rights to present their views and concerns in the proceedings where their personal interests are affected, under article 68 of the Rome Statute, and to 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 and, in this regard, emphasizing the importance of effective outreach to victims and affected communities in order to give effect to the unique mandate of the International Criminal Court towards victims,*

*Noting that the crimes within the jurisdiction *ratione materiae* of the Court may affect large numbers of victims, targeted either individually or collectively,*

*Noting that certain principles and procedures for reparations are set out by Trial Chamber I in its 'Decision establishing the principles and procedures to be applied to reparations' in the case against Thomas Lubanga Dyilo, dated 7 August 2012, and are subject to an on-going appeal,*

*Aware that, pursuant to article 75, paragraph 2, of the Rome Statute, the Court may order, where appropriate, that the award for reparations be made through the Trust Fund for Victims, and *mindful* of the current financial situation of the Trust Fund,*

*Acknowledging that the Board of Directors of the Trust Fund for Victims, in accordance with its Regulation 56, shall determine whether to complement the resources collected through awards for reparations, and, noting the request of the Board to strengthen the Fund's reserve for reparations,*

1. *Welcomes the ongoing and continuous work of the Court in implementing and monitoring its Revised Strategy in relation to victims<sup>1</sup> and its report<sup>2</sup> on the matter, as was requested by the Assembly at its eleventh session;*

2. *Recalls its concerns about the difficulty the Court has encountered, on some occasions, in processing applications from victims seeking to participate in proceedings, and notes the efforts of the Court to ensure that such a process impacts positively on the effective implementation and protection of the rights and interests of victims under the Rome Statute;*

3. *Reaffirms the need to review the system for victims to apply to participate in proceedings, in order to ensure the sustainability, effectiveness and efficiency of the system, including any necessary amendment to the legal framework, while preserving the rights of victims under the Rome Statute and calls upon the Court to explore ways to harmonize the application process for victims to participate in the proceedings before the Court, and in consultation with all relevant stakeholders;*

4. *Takes note with appreciation of all the efforts to enhance the efficiency and effectiveness of victim participation, and invites the Bureau to explore, in consultation with the Court, the need for possible amendments to the legal framework for the participation of victims in the proceedings;*

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<sup>1</sup> ICC-ASP/11/38.

<sup>2</sup> ICC-ASP/12/41.

5. *Notes* the importance, when recruiting officers in charge of victims and witnesses affairs, of ensuring that they have the necessary expertise to take into account cultural traditions and sensitivities and the physical, psychological and social needs of victims and witnesses, particularly when they are required to be in The Hague or outside their country of origin to participate in proceedings before the Court;
6. *Reiterates* the need for the Court to continue to ensure that principles relating to reparations 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 thirteenth session;
7. *Reiterates* its call to States Parties, where crimes under the Court's jurisdiction have been committed, to adopt and implement victim-related provisions, as appropriate, consistent with the 1985 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;
8. *Recalls* its invitation to 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 on victims of sexual and gender based violence as well as other vulnerable groups in particular; combating their marginalization and stigmatization; assisting them in their social reintegration process and in their participation in consultations; and promoting a culture of accountability for these crimes;
9. *Reiterates* that liability for reparations within the framework of the Rome Statute is exclusively based on the individual criminal responsibility of a convicted person, and that therefore under no circumstances shall States be ordered to utilize their properties and assets, including the assessed contributions of States Parties, to fund reparations awards, including in situations where an individual holds, or has held, any official position;
10. *Stresses* that, since the identification, tracing and freezing or seizure of any assets of the sentenced person are indispensable for reparations, it is of paramount importance that all necessary measures are taken to that end, in order for relevant States and relevant entities to provide timely and effective assistance pursuant to articles 75, 93, paragraph 1(k), and 109 of the Rome Statute, and *calls upon* States Parties to enter into voluntary agreements, arrangements or any other means to this end with the Court;
11. *Reaffirms* 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, *takes note* of the Court report on this matter, and *further requests* the Court to continue to develop a scheme in that regard and to report back to the Assembly;
12. *Reasserts* that the enforcement of reparations awards, in accordance with the Rules of Procedure and Evidence, shall be prioritized when deciding on the disposition or allocation of fines and forfeitures of property or assets belonging to the sentenced person;
13. *Renews* 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 their 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 and ensure the continuity and sustainability of the Fund's interventions;
14. *Calls upon* States, international and inter-governmental organizations, individuals, corporations and other entities to contribute voluntarily to the Trust Fund for Victims also in view of possible reparations, the current financial situation of the Fund and in light of article 75, paragraph 2, of the Rome Statute, in order to substantively increase the volume of the Trust Fund for Victims, broaden the resource base and improve the predictability of funding; and *renews* its appreciation to those that have done so;

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;
16. *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;
17. *Invites* States Parties to consider making earmarked voluntary contributions to the Trust Fund, in accordance with their financial ability, for the purpose of strengthening its reparations reserve, in addition to any regular voluntary contributions to the Fund, and *expresses its appreciation* to those that have already done so;
18. *Welcomes* the constructive exchange between States Parties, the Court, the Trust Fund for Victims and civil society during the plenary session on victims and affected communities, held for the first time at the twelfth session of the Assembly, with a special focus on reaffirming the significance of victims' rights under the Rome Statute, and *notes with appreciation* the commitment expressed by the participants to continue strengthening the capacity of the Court and the Fund in order to ensure the full and effective implementation of victims' rights;
19. *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 that the continued positive impact of the Rome Statute system on victims and affected communities is sustainable;
20. *Decides* to continue discussions on this topic focusing, through its Bureau, on victims' participation.

## **Resolution ICC-ASP/12/Res.6**

*Adopted at the 12th plenary meeting, on 27 November 2013, by consensus*

### **ICC-ASP/12/Res.6** **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, thereof,

*Recalling* its resolution ICC-ASP/8/Res.1 establishing the Independent Oversight Mechanism,<sup>1</sup>

*Further recalling* its resolutions ICC-ASP/9/Res.5,<sup>2</sup> ICC-ASP/10/Res.5<sup>3</sup> and ICC-ASP/11/Res.4,<sup>4</sup>

*Welcoming* the report of the Bureau on the Independent Oversight Mechanism,<sup>5</sup>

1. *Decides* that the Independent Oversight Mechanism shall perform the functions of investigations, inspection and evaluation in accordance with article 112, paragraph 4, of the Rome Statute;
2. *Urges* the Independent Oversight Mechanism to continue to work on the development of the legal framework of the three functions of the Independent Oversight Mechanism and to submit them to the Assembly for consideration at its next session. Pending approval, the Independent Oversight Mechanism shall operate subject to provisional rules that it shall establish in accordance with the legal framework of the Court and in accordance with established international best practices;
3. *Invites* the Court to continue to work with the Independent Oversight Mechanism on the amendments to existing legal instruments, with a view of the adoption, at the next session of the Assembly, of all the amendments necessary for the full operationalization of all functions of the Independent Oversight Mechanism;
4. *Decides* that, in view of the mandate of the office, the Independent Oversight Mechanism shall consist of four staff members: the head of the office, who shall be at the P-5 level, an evaluations officer, who shall be at the P-4 level, one further professional staff member at the P-2 level and administrative support at the general service level;
5. *Invites* the Bureau to commence the recruitment of the Head of the Independent Oversight Mechanism at the earliest possible date;
6. *Recommends* that, in considering the candidates with a view to recruiting the staff of the Independent Oversight Mechanism, the following elements, which include, *inter alia*, criteria governing the employment of staff of the Court provided in the Rome Statute, be taken into account:
  - a) The highest standards of efficiency, competency and integrity;<sup>6</sup>
  - b) The following criteria set forth in article 36, paragraph 8, on the election of judges, which apply mutatis mutandis to the employment of staff:<sup>7</sup>
    - i) equitable geographical representation; and
    - ii) a fair representation of female and male persons;
  - c) That the Head of the Independent Oversight Mechanism should have significant experience, whether national or international, in judicial institutions and bodies;

<sup>1</sup> *Official Records ... Eighth session ... 2009* (ICC-ASP/8/20), vol. I, part II.

<sup>2</sup> *Official Records ... Ninth session ... 2010* (ICC-ASP/9/20), vol. I, part III.

<sup>3</sup> *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. I, part III.

<sup>4</sup> *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. I, part III.

<sup>5</sup> Report of the Bureau on the Independent Oversight Mechanism, ICC-ASP/12/27.

<sup>6</sup> Rome Statute of the International Criminal Court, article 44, paragraph 2.

<sup>7</sup> *Ibid.*

d) That the selected candidates have the ability to communicate effectively, via written and oral means, in at least one, and preferably in both working languages of the Court, and to negotiate effectively through the establishment of constructive interpersonal relationships in a multicultural setting. Knowledge of another official language of the Court would be an added advantage and asset; and

e) That the vacancies be filled preferably by nationals of a State Party to the Rome Statute, or of a State which has signed and is engaged in the ratification or accession process, but that nationals from non-States parties may also be considered; and

7. *Decides* that functions of the Independent Oversight Mechanism shall operate in accordance with the provisions of the annex to this resolution. The work and the operational mandate of the Independent Oversight Mechanism will be fully reviewed by the Assembly at its fifteenth session.

## Annex

### **Operational mandate of the Independent Oversight Mechanism**

#### **I. Introduction**

1. The Independent Oversight Mechanism (hereinafter “IOM”) is a subsidiary body of the Assembly of States Parties to the Rome Statute (hereinafter “the Assembly”), which shall assume the functions prescribed in Assembly resolution ICC-ASP/8/Res.1,<sup>1</sup> as amended by the present resolution.
2. The IOM shall exercise operational independence under the authority of the President of the Assembly.
3. The purpose of the IOM is to ensure the Assembly of the effective and comprehensive oversight of the Court in order to enhance its efficiency and economy.
4. In the conduct of its duties, and in accordance with article 112, paragraph 4, of the Rome Statute, the IOM shall have the authority to initiate on a reasonable basis, carry out and report on any action which it considers necessary to fulfil its responsibilities with regard to its functions without any hindrance or need for prior clearance, except as set forth in the present resolution. The IOM shall not be prohibited from carrying out any action within the purview of its mandate.

#### **II. Functions**

5. The effective and comprehensive oversight of the Court by the IOM will be conducted through inspection, evaluation and investigation as prescribed by article 112, paragraph 4, of the Rome Statute.

##### **A. Inspection**

###### **1. Legal mandate**

6. The IOM shall conduct unscheduled/ad hoc inspections of any premises or processes, as requested by the Bureau. Such inspections are defined as special, unscheduled, on-the-spot verifications made of an activity directed towards the resolution of problems which may or may not have been previously identified.<sup>2</sup>

7. The Independent Oversight Mechanism may conduct unscheduled or ad hoc inspections when requested by a Head of Organ.

###### **2. Procedures**

8. The IOM will implement recognized best practices and adhere to the highest ethical standards in carrying out all inspections.

9. All requests of the Bureau to the IOM to conduct inspections will be notified to the appropriate Head of Organ.

10. An inspection requested by the Bureau shall be preceded by a consultation with the appropriate Head of Organ, within five working days of the notification.

11. The concerned Head of Organ may appoint a representative of his/her office, who may witness the inspection.

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<sup>1</sup> Establishment of an Independent Oversight Mechanism, adopted at the 7<sup>th</sup> plenary meeting on 26 November 2009, by consensus. See: *Official Records ... Eighth session ... 2009* (ICC-ASP/8/20), vol. I, part II.

<sup>2</sup> See JIU Glossary of Evaluation Terms (JIU/REP/78/5).

### **3. Confidentiality**

12. All requests to the IOM to conduct an inspection will be kept confidential, subject to the provisions of paragraph 5 above.
13. All information gathered during an inspection shall be kept confidential by the IOM, in accordance with and subject to the provisions of paragraphs 43 and 44 below.
14. Upon completion of an inspection requested by the Bureau, the IOM shall deliver the report to the President of the Assembly, who shall forward it to the Assembly or its Bureau, as appropriate. The Assembly or the Bureau is solely responsible for any subsequent distribution or publication.
15. In those cases where the IOM agrees to conduct an inspection following a request from a Head of Organ, it shall deliver its inspection report to the requesting authority upon completion, who will be solely responsible for any subsequent distribution or publication.

## **B. Evaluation**

### **1. Legal mandate**

16. The IOM shall provide evaluations of any programme, project or policy as requested by the Assembly or the Bureau. Evaluation is defined as a judgement made of the relevance, appropriateness, effectiveness, efficiency, impact and sustainability of a project or programme, based on agreed criteria and benchmarks. It involves a rigorous, systematic and objective process in the design, analysis and interpretation of information to answer specific questions. It provides assessments of what works and why, highlights intended and unintended results, and provides strategic lessons to guide decision-makers and inform stakeholders.<sup>3</sup>

17. The IOM may conduct an evaluation if requested by a Head of Organ.
18. The IOM may, upon request of the Assembly, its Bureau or any Head of Organ, provide coordination for any evaluation conducted by an external consultancy or by any high-level peer-review panel established by the Assembly, its Bureau or any Head of Organ, for the purposes of evaluating any aspect of the Court's operations.
19. The IOM may provide, upon request of any Head of Organ, technical support to the relevant Organ in establishing or maintaining internal monitoring or evaluation of any project, programme or initiative.
20. The IOM shall have unrestrained access to all internal evaluations conducted by the Court.

### **2. Procedures**

21. The IOM will implement recognized best practices and adhere to the highest ethical standards in carrying out all evaluations.
22. If, following an assessment of its resources and of the pending requests for evaluation from the Assembly or the Bureau, the IOM determines that it cannot undertake the evaluation requested by a Head of Organ, it shall provide a written response to the requesting authority, providing technical guidance so that the evaluation can be conducted internally or make recommendations on outsourcing options.

### **3. Confidentiality**

23. All requests for carrying out an evaluation, addressed to the IOM by the Assembly, its Bureau or the Court, will be kept confidential by the IOM.
24. All information gathered during an evaluation process shall be kept confidential by the IOM, in accordance with and subject to the provisions of paragraphs 43 and 44 below.

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<sup>3</sup> See United Nations Development Programme, Evaluation Policy, para. 9 (<http://web.undp.org/evaluation/policy.htm>).

25. Upon completion of an evaluation requested by the Assembly or its Bureau, the IOM shall deliver an evaluation report to the President of the Assembly, who shall forward it to the Assembly or its Bureau, as appropriate. The Assembly or the Bureau is solely responsible for any subsequent distribution or publication.

26. In those cases where the IOM agrees to conduct an evaluation requested by a Head of Organ, it shall deliver the evaluation report to the requesting authority upon completion, who will be solely responsible for any subsequent distribution or publication.

## C. Investigation

### 1. Legal mandate

27. The authority of the IOM does not in any way impede the authority or independence granted by the Rome Statute to the Presidency, judges, Registrar or Prosecutor of the Court. In particular, the IOM will fully respect the judicial and prosecutorial independence and its activities will not interfere with the effective functioning of the Court.

28. The IOM may receive and investigate reports of misconduct<sup>4</sup> or serious misconduct,<sup>5</sup> including possible unlawful acts by a judge, the Prosecutor, a Deputy Prosecutor, the Registrar and the Deputy Registrar of the Court (hereinafter “elected officials”), all staff subject to the Staff and Financial Regulations and Rules of the Court (hereinafter “staff” or “staff member”) and all contractors and/or consultants retained by the Court and working on its behalf (hereinafter “contractors”).<sup>6</sup> An investigation is defined as a legally based and analytical process designed to gather information in order to determine whether wrongdoing has occurred and, if so, the persons or entities responsible.<sup>7</sup>

29. The IOM will not investigate contractual disputes or human resource management issues, including work performance, conditions of employment or personnel-related grievances.

30. The IOM will not investigate offences under article 70 of the Rome Statute.

### 2. Procedure

31. In carrying out all investigations, the IOM will implement recognized best practices and adhere to the highest ethical standards.

32. The IOM shall notify the Presidency, Registrar or Prosecutor of the receipt of a report that merits an investigation of misconduct or serious misconduct, including possible unlawful acts, by staff and contractors under their respective authority. Such notification does not include revealing the identity of the information source or any such circumstance, which might lead to the identification of the source, and such notification, must be treated as strictly confidential.

33. All reports of misconduct or serious misconduct, including possible unlawful acts, made against an elected official, staff member or contractor shall, if received by the Court, be submitted to the IOM.<sup>8</sup> Any person submitting such reports may also elect to submit a copy to the Presidency of the Court for informational purposes only. Likewise, staff members submitting a report against other staff members may elect to submit a copy of their report to the Prosecutor or Registrar, as appropriate.

<sup>4</sup> As defined in rule 25.1.b of the Rules of Procedure and Evidence. Misconduct, also described in the Staff Rules as “unsatisfactory conduct”, which includes any act or omission by elected officials, staff members or contractors in violation of their obligations to the Court pursuant to the Rome Statute and its implementing instruments, Staff and Financial Regulations and Rules, relevant administrative issuances and contractual agreements, as appropriate.

<sup>5</sup> As defined in rule 24.1.b of the Rules of Procedure and Evidence.

<sup>6</sup> The term “contractor” or “consultant” does not include an “intermediary”, who is broadly defined as an individual or entity that facilitates contact between the Court and a witness, victim or other source of information. Therefore the scope of the Independent Oversight Mechanism does not extend to the activities of an “intermediary” and any reported misconduct received by the mechanism regarding an “intermediary” shall be duly referred to the relevant organ head for their information.

<sup>7</sup> OIOS Investigations Manual, March 2009, ([http://www.un.org/depts/oios/pages/id\\_manual\\_mar2009.pdf](http://www.un.org/depts/oios/pages/id_manual_mar2009.pdf)), p.3.

<sup>8</sup> The IOM shall duly consider all reported misconduct claims submitted to it, however, the mechanism retains discretionary authority to decide which matters to investigate. Those matters which the IOM does not intend to investigate will be referred to the relevant entity for their appropriate action.

34. Any investigation of a staff member or contractor by the IOM shall be preceded by a consultation with the appropriate Head of Organ. That consultation shall take place within five working days of the IOM's notice to the Head of Organ of an intention to investigate a matter. The IOM shall use all appropriate diligence to address concerns of heads of organs in order to avoid any negative impact on on-going investigative, prosecutorial and judicial activities resulting from the proposed investigation.

35. Should, following consultation between the IOM and the relevant Head of Organ, there be a basis to believe that the proposed investigation by the IOM is outside of its legal mandate, the Head of Organ shall report such concerns to the Bureau and may seek a determination of the matter from the Presidency of the International Criminal Court. In order to reach that determination, the Presidency will follow the procedure established in regulation 120.1 of the Regulations of the Court.<sup>9</sup> A determination of the matter will be issued within 15 working days. Should the Presidency not be able to reach a decision within 15 working days, it may order a one-time extension of an additional 15 working days. The proposed investigation shall be suspended pending the Presidency's decision and such decision shall be final and binding.

36. Investigations into reported misconduct or serious misconduct, including possible unlawful acts, by contractors will be undertaken pursuant to the terms of the contract where stipulated, otherwise the IOM will act in accordance with its own established procedures reflecting recognized best practices.

37. The transmittal to the IOM of reports of misconduct or serious misconduct, including possible unlawful acts, with knowledge of their falsity or with wilful disregard of their truth or falsity shall constitute misconduct, for which disciplinary measures may be imposed.

### **3. Confidentiality**

38. Reports of possible misconduct or serious misconduct received by the IOM shall be treated in complete confidence, in accordance with and subject to the provisions on paragraphs 43 and 44 below.

39. The procedures and related arrangements described below are designed to protect individual rights:

i) Staff of the IOM shall be responsible for safeguarding the reported allegations from accidental, negligent or unauthorized disclosure, as well as for ensuring that the identity of the staff members and others who submitted such reports to the office is not disclosed, except as otherwise provided in the present resolution;

ii) Unauthorized disclosure of the said reports by staff of the IOM shall constitute misconduct, for which disciplinary measures may be imposed;

iii) The identity of a staff member or other person who submits reports to the IOM may only be disclosed by the office where such disclosure is necessary for the conduct of proceedings, whether administrative, disciplinary or judicial and only with their consent. However, such protection will not be provided when a staff member or other person discloses their own identity to a third party, including the Court, or submits a knowingly false or wilfully reckless report to the office;

iv) Confidential reports of misconduct or serious misconduct, including possible unlawful acts, may be used in the official reports of the IOM, without attribution directly or indirectly as to the source or identity of the individuals involved or implicated.

### **4. Recommendations and follow-up**

40. The results of investigations conducted by the IOM shall be transmitted to the Presidency, Registrar or Prosecutor of the Court, as appropriate, together with recommendations, including those for consideration of possible disciplinary or jurisdictional action.

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<sup>9</sup> Regulation 120 of the Regulations of the Court should be amended to include the determination of whether a proposed investigation is within the legal mandate of the IOM.

41. Where criminal acts by elected officials, staff members or contractors of the Court are reasonably suspected to have occurred, the IOM shall hand over the results of the investigation to the Court. The IOM may recommend that the Court refer the matter for possible criminal prosecution to relevant national authorities, such as those of the State where the suspected criminal act was committed, the State of the suspect's nationality, the State of the victim's nationality and, where applicable, of the host State of the seat of the Court.

### **III. Mode of operation**

#### **A. Operational independence**

42. The staff of the IOM shall have direct and prompt access to all elected officials, staff and contractors, and shall receive their full cooperation. Failure to provide such cooperation, without reasonable excuse, shall be duly reported upon and may result in disciplinary action.

43. Additionally, staff of the IOM shall have access to all (electronic or otherwise) Court records, files, documents, books or other materials, assets and premises, and shall have the right to obtain such information and explanations as they consider necessary to fulfil their responsibilities.

44. Any unauthorized disclosure of information shall constitute misconduct, for which disciplinary measures may be imposed.

45. Notwithstanding the provisions outlined in paragraphs 42 and 43 above, the right of access granted to the IOM shall be subject to confidentiality considerations envisaged by the Rome Statute in the context of judicial proceedings, a pre-existing obligation of confidentiality to the originator of the information or document, the safety and security of witnesses, victims and third parties, and the protection of national security information of States Parties.<sup>10</sup>

#### **B. Reporting procedures**

46. The Independent Oversight Mechanism will submit quarterly activity reports directly to the Bureau and will submit a consolidated annual report on its operations to the Assembly. Within this annual report, the IOM shall also provide the Assembly with a comprehensive section on the internal evaluations carried out by the Court during that year.

47. All reports made by the IOM to the Bureau or Assembly shall respect the confidentiality of staff members, elected officials and contractors. All reports created in accordance with paragraph 45 shall be copied to the Presidency, the Prosecutor, the Registrar and the Committee on Budget and Finance.

48. Prior to submission of the annual report, the IOM shall circulate the draft of the annual report it proposes to submit to the Presidency, Prosecutor and Registrar. The Court shall have an opportunity to comment upon the draft report. The IOM shall duly consider any comments and inform the appropriate organ in case of any disagreement. The Court shall have the opportunity to provide its views on any matter contained in the report as an annex to the report.

#### **C. Recommendations and follow-up**

49. The Presidency, Registrar or Prosecutor, as appropriate, shall provide the Head of the IOM twice yearly with written updates regarding the follow-up of disciplinary procedures involving cases previously investigated by the IOM, together with information, if any, on the application of sanctions made in individual cases.

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<sup>10</sup> This includes articles 54, 57, 64, 68, 72 and 93 of the Rome Statute.

50. The President, Registrar or Prosecutor, as appropriate, shall also provide the Head of the IOM with an annual written update regarding the implementation of recommendations made in the course of any inspection, evaluation or review process undertaken by the IOM or by an external panel coordinated by the IOM.

## **IV. Staff and budget**

51. The Head of the IOM shall be selected by the Bureau of the Assembly.

52. The evaluation of the work performance of the Head of the IOM shall be undertaken by the President of the Assembly. The Head of the IOM may be removed only for cause and by the decision of the Bureau of the Assembly.

53. Any complaints regarding the actions of the Head of the IOM shall be submitted to the President of the Assembly, who shall assess such complaints for impact on any investigation and the possibility of investigative misconduct, as well as any performance implications.<sup>11</sup> The President of the Assembly shall submit a copy of all such complaints and a report of the outcome thereof to the heads of organs. Such reports will be treated as confidential.

54. All staff members of the IOM are considered staff of the Court. As such, their appointment, conditions of employment and standard of conduct must be in accordance with the Staff and Financial Regulations and Rules and relevant administrative issuances of the Court. Therefore, as part of the Court, the staff of the IOM shall enjoy the same rights, duties, privileges and immunities, benefits of all staff members. The Registry shall facilitate any administrative arrangements.

55. By resolution ICC-ASP/8/Res.1,<sup>12</sup> the Assembly established the IOM as a separate and distinct new major programme budget to recognize and ensure its operational independence.

56. Future programme budget proposals for the provision of adequate resources for the effective functioning of the IOM shall be submitted by the Head of the office for consideration by the relevant Court entities according to established procedures for final review and approval by the Assembly.

57. The Head of the IOM shall have delegated certifying authority for all of the accounts of the office, which are subject to internal and external auditing established for the Court.

58. The Head of the IOM shall exercise control over personnel and resources of the office that is necessary to achieve its objectives, in accordance with the Staff and Financial Regulations and Rules of the Court.

## **V. Final provisions**

59. In the conduct of its duties, the IOM shall respect the individual rights and all conditions of employment for elected officials, staff members and contractors, and shall act with strict regard for fairness and due process.

60. Pending the adoption by the Court of the “Anti retaliation / whistle blower Policy”, the IOM will take action on any act of retaliation. The actions of the IOM will be guided by the following guidelines:

a) No action may be taken against staff or others as a reprisal for submitting a report, providing information or otherwise cooperating with the IOM;

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<sup>11</sup> Investigative misconduct is any material deviation from prescribed norms, procedures or practices in an investigation that is perpetrated intentionally or with reckless disregard for proper practices. In some instances, investigative misconduct may also constitute unsatisfactory conduct as provided for in the Staff Regulations and Rules of the Court and such conduct shall be duly addressed within the existing disciplinary structure of the Court by the Registrar upon the recommendation of the President of the Assembly of States Parties.

<sup>12</sup> *Official Records ... Eighth session ... 2009 (ICC-ASP/8/20)*, vol. I, part II.

b) Any reprisal action taken against any person suspected of having submitted a report, provided information or otherwise cooperated with the IOM shall constitute misconduct, for which disciplinary measures may be imposed; and

c) Disciplinary proceedings shall be initiated and disciplinary action shall be taken in respect of any elected official or staff member who is proven to have retaliated against a staff member or other person who has submitted a report, provided information or otherwise cooperated with the IOM.

## **Resolution ICC-ASP/12/Res.7**

*Adopted at the 12th plenary meeting, on 27 November 2013, by consensus*

### **ICC-ASP/12/Res.7**

#### **Amendments to 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 common interest both for the Assembly of States Parties and the Court,

*Commending*, in this regard, the judges of the Court, acting pursuant to article 51, paragraph 2 (b), of the Rome Statute,

*Noting* the report of the Working Group on Amendments<sup>1</sup> and the report of the Bureau on the Study Group on Governance,<sup>2</sup>

1. *Decides* that the following shall replace rule 100 of the Rules of Procedure and Evidence:<sup>3</sup>

#### **“Rule 100**

##### **Place of proceedings**

1. In a particular case, where the Court considers that it would be in the interests of justice, it may decide to sit in a State other than the host State, for such period or periods as may be required, to hear the case in whole or in part.

2. The Chamber, at any time after the initiation of an investigation, may *proprio motu* or at the request of the Prosecutor or the defence, decide to make a recommendation changing the place where the Chamber sits. The judges of the Chamber shall attempt to achieve unanimity in their recommendation, failing which the recommendation shall be made by a majority of the judges. Such a recommendation shall take account of the views of the parties, of the victims and an assessment prepared by the Registry and shall be addressed to the Presidency. It shall be made in writing and specify in which State the Chamber would sit. The assessment prepared by the Registry shall be annexed to the recommendation.

3. The Presidency shall consult the State where the Chamber intends to sit. If that State agrees that the Chamber can sit in that State, then the decision to sit in a State other than the host State shall be taken by the Presidency in consultation with the Chamber. Thereafter, the Chamber or any designated Judge shall sit at the location decided upon.”

2. *Further decides* that the following shall replace rule 68 of the Rules of Procedure and Evidence,<sup>4</sup> emphasizing article 51, paragraph 4, of the Rome Statute according to which amendments to the Rules of Procedure and Evidence shall not be applied retroactively to the detriment of the person who is being investigated or prosecuted, with the understanding that the rule as amended is without prejudice to article 67 of the Rome Statute related to the rights of the accused, and to article 68, paragraph 3, of the Rome Statute related to the protection of the victims and witnesses and their participation in the proceedings:

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<sup>1</sup> ICC-ASP/12/44.

<sup>2</sup> ICC-ASP/12/37.

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

<sup>4</sup> Ibid.

**"Rule 68****Prior recorded testimony**

1. When the Pre-Trial Chamber has not taken measures under article 56, the Trial Chamber may, in accordance with article 69, paragraphs 2 and 4, and after hearing the parties, allow the introduction of previously recorded audio or video testimony of a witness, or the transcript or other documented evidence of such testimony, provided that this would not be prejudicial to or inconsistent with the rights of the accused and that the requirements of one or more of the following sub-rules are met.

2. If the witness who gave the previously recorded testimony is not present before the Trial Chamber, the Chamber may allow the introduction of that previously recorded testimony in any one of the following instances:

(a) Both the Prosecutor and the defence had the opportunity to examine the witness during the recording.

(b) The prior recorded testimony goes to proof of a matter other than the acts and conduct of the accused. In such a case:

(i) In determining whether introduction of prior recorded testimony falling under sub-rule (b) may be allowed, the Chamber shall consider, *inter alia*, whether the prior recorded testimony in question:

- relates to issues that are not materially in dispute;
- is of a cumulative or corroborative nature, in that other witnesses will give or have given oral testimony of similar facts;
- relates to background information;
- is such that the interests of justice are best served by its introduction; and
- has sufficient indicia of reliability.

(ii) Prior recorded testimony falling under sub-rule (b) may only be introduced if it is accompanied by a declaration by the testifying person that the contents of the prior recorded testimony are true and correct to the best of that person's knowledge and belief. Accompanying declarations may not contain any new information and must be made reasonably close in time to when the prior recorded testimony is being submitted.

(iii) Accompanying declarations must be witnessed by a person authorized to witness such a declaration by the relevant Chamber or in accordance with the law and procedure of a State. The person witnessing the declaration must verify in writing the date and place of the declaration, and that the person making the declaration:

- is the person identified in the prior recorded testimony;
- assures that he or she is making the declaration voluntarily and without undue influence;
- states that the contents of the prior recorded testimony are, to the best of that person's knowledge and belief, true and correct; and
- was informed that if the contents of the prior recorded testimony are not true then he or she may be subject to proceedings for having given false testimony.

(c) The prior recorded testimony comes from a person who has subsequently died, must be presumed dead, or is, due to obstacles that cannot be overcome with reasonable diligence, unavailable to testify orally. In such a case:

(i) Prior recorded testimony falling under sub-rule (c) may only be introduced if the Chamber is satisfied that the person is unavailable as set out above, that the necessity of measures under article 56 could not be anticipated, and that the prior recorded testimony has sufficient indicia of reliability.

(ii) The fact that the prior recorded testimony goes to proof of acts and conduct of an accused may be a factor against its introduction, or part of it.

(d) The prior recorded testimony comes from a person who has been subjected to interference. In such a case:

(i) Prior recorded testimony falling under sub-rule (d) may only be introduced if the Chamber is satisfied that:

- the person has failed to attend as a witness or, having attended, has failed to give evidence with respect to a material aspect included in his or her prior recorded testimony;

- the failure of the person to attend or to give evidence has been materially influenced by improper interference, including threats, intimidation, or coercion;

- reasonable efforts have been made to secure the attendance of the person as a witness or, if in attendance, to secure from the witness all material facts known to the witness;

- the interests of justice are best served by the prior recorded testimony being introduced; and

- the prior recorded testimony has sufficient indicia of reliability.

(ii) For the purposes of sub-rule (d)(i), an improper interference may relate, *inter alia*, to the physical, psychological, economic or other interests of the person.

(iii) When prior recorded testimony submitted under sub-rule (d)(i) relates to completed proceedings for offences defined in article 70, the Chamber may consider adjudicated facts from these proceedings in its assessment.

(iv) The fact that the prior recorded testimony goes to proof of acts and conduct of an accused may be a factor against its introduction, or part of it.

3. If the witness who gave the previously recorded testimony is present before the Trial Chamber, the Chamber may allow the introduction of that previously recorded testimony if he or she does not object to the submission of the previously recorded testimony and the Prosecutor, the defence and the Chamber have the opportunity to examine the witness during the proceedings."

3. *Further decides* that the following should be inserted after rule 134 of the Rules of Procedure and Evidence:

**"Rule 134 bis**

**Presence through the use of video technology**

1. An accused subject to a summons to appear may submit a written request to the Trial Chamber to be allowed to be present through the use of video technology during part or parts of his or her trial.

2. The Trial Chamber shall rule on the request on a case-by-case basis, with due regard to the subject matter of the specific hearings in question.

**Rule 134 *ter*****Excusal from presence at trial**

1. An accused subject to a summons to appear may submit a written request to the Trial Chamber to be excused and to be represented by counsel only during part or parts of his or her trial.
2. The Trial Chamber shall only grant the request if it is satisfied that:
  - (a) exceptional circumstances exist to justify such an absence;
  - (b) alternative measures, including changes to the trial schedule or a short adjournment of the trial, would be inadequate;
  - (c) the accused has explicitly waived his or her right to be present at the trial; and
  - (d) the rights of the accused will be fully ensured in his or her absence.

3. The Trial Chamber shall rule on the request on a case-by-case basis, with due regard to the subject matter of the specific hearings in question. Any absence must be limited to what is strictly necessary and must not become the rule.

**Rule 134 *quater*****Excusal from presence at trial due to extraordinary public duties**

1. An accused subject to a summons to appear who is mandated to fulfill extraordinary public duties at the highest national level may submit a written request to the Trial Chamber to be excused and to be represented by counsel only; the request must specify that the accused explicitly waives the right to be present at the trial.
2. The Trial Chamber shall consider the request expeditiously and, if alternative measures are inadequate, shall grant the request where it determines that it is in the interests of justice and provided that the rights of the accused are fully ensured. The decision shall be taken with due regard to the subject matter of the specific hearings in question and is subject to review at any time.”

## **Resolution ICC-ASP/12/Res.8**

*Adopted at the 12th plenary meeting, on 27 November 2013, by consensus*

### **ICC-ASP/12/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 the crime of 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 and holding to account the perpetrators of the most serious crimes of concern to the international community and persons criminally responsible under the Statute 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 and the contribution of the Court to guarantee lasting respect for and the enforcement of 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 the Court's 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,

*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, and *reiterating* that such presence would promote dialogue with the Court and the understanding of its mission within the African Union and among African States, individually and collectively,

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

*Conscious* of the importance of equitable geographical representation and gender balance in the organs of the Court, and, as appropriate, 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,*

## **Universality of the Rome Statute**

1. *Welcomes the State that has become a Party to the Rome Statute of the International Criminal Court since the eleventh session of the Assembly and invites States not yet parties to the Rome Statute of the International Criminal Court, to become parties to the Rome Statute, as amended, 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,<sup>1</sup> 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 civil society to enhance the effectiveness of universality-related efforts and to encourage States to become parties to the Rome Statute, as amended, and to the Agreement on Privileges and Immunities, as well as relevant efforts undertaken in the framework of the Universal Periodic Review of the Human Rights Council, and endorses the recommendations of the report;*

## **Agreement on Privileges and Immunities**

5. *Welcomes the States Parties that have become a Party to the Agreement on the Privileges and Immunities of the International Criminal Court and recalls that the Agreement and international practice exempt salaries, emoluments and allowances paid by the Court to its officials and staff from national taxation, and in this regard 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 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;*
6. *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*

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<sup>1</sup> ICC-ASP/12/26.

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;

## **Cooperation**

7. *Refers* to its resolution ICC-ASP/12/Res.3 on cooperation;
8. *Calls upon* States Parties to comply with their obligations under the Rome Statute, in particular the obligation to cooperate in accordance with Part 9, and *calls upon* States Parties 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;
9. *Calls upon* States Parties to continue to express their political and diplomatic support to the Court, *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 and to strengthen their efforts to ensure full and effective cooperation with the Court;
10. *Recognizes* the negative impact that the non-execution of Court requests can have on the ability of the Court to execute its mandate, *takes note* of the report of the Bureau on non-cooperation,<sup>2</sup> and *calls upon* all stakeholders to continue assisting the President of the Assembly of States Parties, including when accomplishing her task with the support of the regional focal points for non-cooperation;

## **Host State**

11. *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;

## **Relationship with the United Nations**

12. *Recognizes* the need for enhancing the institutional dialogue with the United Nations, including on Security Council referrals;
13. *Welcomes* the statement by the President of the Security Council of 12 February 2013 in which the Council reiterated its previous call regarding the importance of State cooperation with the Court in accordance with the respective obligations of States and expressed its commitment to effective follow-up of Council decisions in this regard, and *encourages* further strengthening of the Security Council's relationship with the Court, such as through support for international justice in peacekeeping mandates, holding of annual open debates on the Court and identifying other means to institutionalize cooperation;
14. *Welcomes* the report of the Court on the status of ongoing cooperation with the United Nations, including in the field,<sup>3</sup> and *invites* the Court to continue its institutional dialogue with the United Nations, based on the Relationship Agreement between the United Nations and the International Criminal Court;
15. *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;
16. *Welcomes* the presentation of the ninth report of the Court to the General Assembly of the United Nations;<sup>4</sup>
17. *Notes with concern* that, to date, expenses incurred by the Court due to referrals by the United Nations Security Council have been borne exclusively by States Parties, and in

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<sup>2</sup> ICC-ASP/12/34.

<sup>3</sup> ICC-ASP/12/42.

<sup>4</sup> United Nations document A/68/314.

that regard *urges* States Parties to begin discussions on the proper implementation of article 115, paragraph (b), of the Rome Statute;

## **Relationships with other international organizations and bodies**

18. *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; *recognizes* the engagement of the President of the Assembly with officials of the African Union in Addis Ababa and *calls upon* all relevant stakeholders to support strengthening the relationship between the Court and the African Union;

19. *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;

## **Activities of the Court**

20. *Takes note* of the latest report on the activities of the Court to the Assembly of States Parties;<sup>5</sup>

21. *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 Council<sup>6</sup> referred to the Court or which the Prosecutor initiated *proprio motu*;

22. *Invites* the Court to continue to take note of best practices of other relevant international and national organizations and tribunals, including those gained by national institutions that have investigated and prosecuted crimes that fall within the Court's jurisdiction, in solving operational challenges similar to those encountered by the Court, while reiterating its respect for the independence of the Court;

23. *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;

24. *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, 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;

25. *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;

26. *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;

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<sup>5</sup> ICC-ASP/12/28.

<sup>6</sup> United Nations Security Council resolution 1593 (2005) and 1970 (2011).

## **Elections**

27. *Emphasizes* the importance of nominating and electing the most highly qualified judges in accordance with article 36 of the Rome Statute, and for this purpose *encourages* States Parties to conduct thorough and transparent processes to identify the best candidates;
28. *Takes note* of the reports of the Advisory Committee on Nominations,<sup>7</sup> *welcomes* the recommendations contained therein in relation to the election to fill a judicial vacancy at the twelfth session, *notes* that the Advisory Committee will also carry out its mandate in relation to the judicial elections to be held during the thirteenth session and *requests* the Committee to report to the thirteenth session on the progress of its work well in advance of that session;
29. *Decides* to adopt the amendments to the procedure for the nomination and election of judges<sup>8</sup> contained in annex II to the present resolution;
30. *Takes note* of the report of the Bureau on the evaluation of the process for electing the second Prosecutor of the International Criminal Court and the annexed option paper;<sup>9</sup>

## **Secretariat of the Assembly of States Parties**

31. *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;

## **Counsel**

32. *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;
33. *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;

## **Legal aid**

34. *Acknowledges* the Court’s efforts to continue implementing the revised legal aid remuneration policy as adopted by the Bureau on 23 March 2012 and *notes* the Registry’s single policy document on the Court’s legal aid system,<sup>10</sup> the report of the Registry on the comprehensive review of the legal aid system of the Court<sup>11</sup> and the Registry’s quarterly reports on monitoring and assessing the implementation performance of legal aid;<sup>12</sup>
35. *Stresses* the need for continuous monitoring of the efficiency of the revised legal aid system to uphold and strengthen the principles of the legal aid system, namely fair trial, objectivity, transparency, economy, continuity and flexibility;<sup>13</sup>

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<sup>7</sup> Report of the Advisory Committee on Nominations of Judges on the work of its first meeting, ICC-ASP/12/23, and Report of the Advisory Committee on Nominations of Judges on the work of its second meeting, ICC-ASP/12/47.

<sup>8</sup> Official Records ... Third session ... 2004 (ICC-ASP/3/25), part III, ICC-ASP/3/Res.6.

<sup>9</sup> ICC-ASP/12/58.

<sup>10</sup> ICC-ASP/12/3.

<sup>11</sup> ICC-ASP/12/21.

<sup>12</sup> ICC-ASP/12/2, ICC-ASP/12/50, ICC-ASP/12/51.

<sup>13</sup> ICC-ASP/3/16, para. 16.

## **Study Group on Governance**

36. *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;
37. *Takes note* of the Bureau's report on the Study Group of Governance<sup>14</sup> and the recommendations contained therein;
38. *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;<sup>15</sup>
39. *Endorses* the proposed "Revised Roadmap" which further facilitates, including through more flexible timelines, the efficient and structured dialogue between all stakeholders within the Rome Statute system to consider proposals aimed at expediting the criminal process of the Court;

## **Working methods review**

40. *Recognizes* the benefits of rationalizing the working methods of the subsidiary bodies of the Bureau and the Assembly in order to cope with an increasing workload;
41. *Welcomes* the report of the Bureau on the evaluation and the rationalization of the working methods of the subsidiary bodies of the Bureau,<sup>16</sup> *endorses* its recommendations to the Assembly and *welcomes* the steps already undertaken in this regard, as well as the Bureau's express determination to remain seized of the matter as set out in its report;
42. *Also welcomes* the efforts of the Bureau to ensure communication and cooperation between its subsidiary bodies and *invites* the Bureau to continue such efforts;
43. *Decides* to replace rule 29 of its Rules of Procedure with the text in annex III to the present resolution as of the fourteenth session of the Assembly;

## **Strategic planning**

44. *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 Outreach<sup>17</sup> in affected countries, including, where appropriate, by early outreach from the outset of the Court's involvement, including during the preliminary examination stage;
45. *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;
46. *Notes with appreciation* the initiatives undertaken to celebrate 17 July as Day of International Criminal Justice<sup>18</sup> and *recommends* that all relevant stakeholders, together with the Court, engage in preparation of the annual celebrations with a view to reinforcing the international fight against impunity;
47. *Takes note* of the revised Court's Strategic Plan for 2013-2017;
48. *Takes note* of the revised Strategic Plan of the Office of the Prosecutor for the year 2014-2015;

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<sup>14</sup> ICC-ASP/12/37.

<sup>15</sup> ICC-ASP/11/11.

<sup>16</sup> ICC-ASP/12/59.

<sup>17</sup> ICC Strategic Plan for Outreach, ICC-ASP/5/12.

<sup>18</sup> *Official Records ... Review Conference ... 2010* (RC/11), part II.B, Kampala Declaration (RC/Decl.1), para. 12.

49. *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;

### **Victims and affected communities, reparations and Trust Fund for Victims**

50. *Refers* to its resolution ICC-ASP/12/Res.5 on victims and affected communities, reparations and Trust Fund for Victims;

51. *Stresses* the central importance that the Rome Statute accords to the rights and needs of victims, in particular their right to participate in judicial proceedings and to claim reparations, and *emphasizes* the importance of informing and involving victims and affected communities in order to give effect to the unique mandate of the Court towards victims;

### **Recruitment of staff**

52. *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-related psycho-social needs and violence against women or children and *encourages* further progress in this regard;

53. *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, and *welcomes* the report of the Bureau;<sup>19</sup>

### **Complementarity**

54. *Refers* to its resolution ICC-ASP/12/Res.4 on complementarity;

55. *Recalls* 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;

### **Independent Oversight Mechanism**

56. *Refers* to its resolution ICC-ASP/12/Res.6 on the Independent Oversight Mechanism;

57. *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;

### **Programme budget**

58. *Takes note* of the important work done by the Committee on Budget and Finance, and *reaffirms* the independence of the members of the Committee;

59. *Recalls* that, according to its Rules of Procedure,<sup>20</sup> 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;

60. *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

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<sup>19</sup> Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court, ICC-ASP/12/49.

<sup>20</sup> Official Records ... Second session ... 2003 (ICC-ASP/2/10), annex III.

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;

61. *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;

62. *Takes note* of the report of the Bureau on the arrears of States Parties;<sup>21</sup>

## **Review Conference**

63. *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;<sup>22</sup> 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,<sup>23</sup> and decided to retain, for the time being, article 124 of the Rome Statute;<sup>24</sup>

64. *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 and *notes with appreciation* the recent ratifications of the amendments;

65. *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;

66. *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;

67. *Takes note with appreciation* of the moderator's summary of the panel discussion on peace and justice at the Review Conference as the latest account of the Assembly on this topic;

## **Consideration of amendments**

68. *Welcomes* the report of the Bureau on the Working Group on Amendments;<sup>25</sup>

## **Participation in the Assembly of States Parties**

69. *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;

70. *Encourages* the continuation of efforts undertaken by the President of the Assembly of States Parties to hold an ongoing dialogue with all stakeholders, including regional organizations and *calls upon* all States Parties to support the President in her undertakings aimed at strengthening the Court, the independence of proceedings and the Rome Statute system as a whole;

71. *Welcomes with appreciation* the inclusion in the agenda of the twelfth session of the Assembly of a special segment as requested by the African Union: "Indictment of sitting

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<sup>21</sup> ICC-ASP/12/30.

<sup>22</sup> *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.6.

<sup>23</sup> Ibid., RC/Res.5.

<sup>24</sup> Ibid., RC/Res.4.

<sup>25</sup> ICC-ASP/12/44.

Heads of State and Government and its consequences on peace and stability and reconciliation”;

72. *Welcomes* the substantial and constructive discussions on complementarity, victims 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;

73. *Decides* to entrust the Court, the Bureau, the President of the Assembly and the Secretariat, as appropriate, with the mandates contained in annex I to the present resolution.

## Annex I

### Mandates of the Assembly of States Parties for the intersessional period

1. With regard to **universality of the Rome Statute**, *requests* the Bureau continue to monitor the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute and to report thereon to the Assembly during its thirteenth session;
2. With regard to **cooperation**,
  - (a) *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
  - (b) *requests* the Bureau, through its Working Groups, to continue the discussions on the issue of non-essential contacts, and to report thereon to the Assembly well in advance of its thirteenth session;
3. With regard to **relationships with other international organizations and bodies**, *invites* the Court to include in its annual report to the United Nations General Assembly a section on the status and implementation of specific agreements on cooperation with other international organizations;
4. With regard to **elections**, *decides* to consider, at its thirteenth session, the continuation of the review of the procedure for the nomination and election of judges, taking into account the work conducted so far as reflected in the facilitator's discussion paper;<sup>1</sup>
5. With regard to the **Secretariat of the Assembly of States Parties**, *requests* the Secretariat to report on its current establishment and the functions of each post, including by publishing a regularly updated staff directory;
6. With regard to **Legal Aid**,
  - (a) *requests* the Court and the Bureau to keep the legal aid system under review;
  - (b) *calls* on the Court to continue implementing the revised remuneration policy as adopted by the Bureau on 23 March 2012 and to continue quarterly reporting on the implementation performance of legal aid to the Bureau;
  - (c) *requests* the Court to, in support of the on-going reorganization and streamlining of the Registry, engage independent experts to reassess the functioning of the legal aid system and to report on its findings to the Bureau within 120 days following the completion of the first full judicial cycles.<sup>2</sup> Such reassessment should pay special regard to the determination of indigence and the resources required for the legal representation of victims, including the ability of counsels to consult with victims;
  - (d) *requests* the Court to present, as appropriate, a proposal to the Bureau for adjustments of the existing legal aid system within 120 days following the presentation of the report on the findings of the reassessment to the Bureau, based on the findings of the above reassessment process and following a comprehensive consultation with relevant stakeholders in accordance with rule 20.3 of the Rules of Procedure and Evidence;
  - (e) *requests* the Court to engage independent experts to assess, as part of the on-going process of reorganization and streamlining of the Registry, the impact of the role and responsibilities of the Office of Public Counsel for the Defence on the legal aid system, as well as to prepare a Strategic Plan for the Defence and report its findings, and to present the Strategic Plan to the Bureau in advance of the thirteenth session of the Assembly of States Parties; and

<sup>1</sup> Report to the Bureau on the review of the procedure for the nomination and election of judges, ICC-ASP/12/57, annex II.

<sup>2</sup> The end of the full judicial cycles refers to the issuance of a final appeal decisions in the case of *The Prosecutor v. Thomas Lubanga Dyilo* and the case of *The Prosecutor v. Mathieu Ngudjolo Chui* respectively, including, as appropriate, a final decision on reparations.

(f) mandates the Bureau, following a proposal by the Court for adjustments to the legal aid system, as appropriate, to further consider the matter having recourse to any appropriate process, and to elaborate and propose any structural changes to the legal aid system, to be, if necessary, adopted by the Assembly, including proposing measures to further enhance the efficiency of the legal aid system;

7. With regard to the **Study Group on Governance**,

(a) requests the Bureau to extend for another year the mandate of the Study Group, as provided in resolution ICC-ASP/9/Res.2 and extended in resolutions ICC-ASP/10/Res.5 and ICC-ASP/11/Res.8, and

(b) requests the Study Group to report back to its thirteenth session;

8. With regard to **strategic planning**,

(a) requests the Bureau to continue to engage with all relevant stakeholders, on the basis of lessons learned, in dialogue with a view to developing a coordinated and comprehensive approach vis-à-vis the strategic planning of the Court, including its communication strategy;

(b) invites the Court to adapt its Strategic Plan for 2013-2017, as appropriate, on an annual basis, including for the purpose of the formulation of the budget assumptions, and to inform the Bureau thereon with a view to strengthening the budgetary process;

(c) invites the Court to hold annual consultations with the Bureau in the first trimester of each year, on the implementation of its strategic plans during the previous calendar year, with a view to improving performance indicators updated on the basis of lessons learned;

(d) encourages the Office of the Prosecutor to adjust its revised Strategic Plan for the year 2014-2015 in accordance with its implementation experience and to inform the Bureau on a regular basis thereon;

(e) 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;

(f) requests the Bureau to continue to engage in a dialogue with the Court on the development of a comprehensive risk-management strategy and to report thereon to the thirteen session of the Assembly; and

(g) requests the Bureau to continue to engage in dialogue with the Court on the implementation of the strategic approach to the Court's presence in the field with a view to the development of the Court's strategy on field operations and to report thereon on a regular basis;

9. With regard to **recruitment of staff**,

(a) 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 fourteenth session of the Assembly;

(b) requests the Court to submit a comprehensive report on Human Resources to the Assembly at its thirteenth 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 2014;

10. With regard to the **programme budget**,

(a) 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 documents that contain financial or budgetary implications are considered, and requests the Secretariat, together with the Committee on Budget and Finance, to continue to make the necessary arrangements;

(b) *decides* that, with the understanding that the facilitation in the New York Working Group and its report to the Assembly on arrears is biennialized, the Bureau should continue to monitor the status of payments received throughout the financial year of the Court and consider additional measures to promote payments by States Parties, as appropriate, and continue to engage in dialogue with States Parties in arrears; and

(c) *requests* the Secretariat to inform States Parties periodically of States that have recovered their voting rights following payment of their arrears;

11. With regard to the **Review Conference**, *requests* the Secretariat to make publicly available on the Court's website information provided by States and regional organizations on the pledges of increased assistance to the Court made in Kampala;

12. With regard to **consideration of amendments**,

(a) *invites* the Working Group on Amendments to continue its consideration of amendment proposals, including all proposed amendments to the Rome Statute submitted prior to the Review Conference<sup>3</sup> and those submitted following the decision by the Extraordinary Summit of the African Union held on 12 October 2013 in Addis Ababa, in accordance with the Terms of Reference of the Working Group; and

(b) *requests* the Bureau to submit a report for the consideration of the Assembly at its thirteenth session;

13. With regard to **participation in the Assembly of States Parties**,

(a) *decides* to hold a pledge ceremony during the thirteenth session of the Assembly on the ratification of the Agreement on Privileges and Immunities to invite States Parties to ratify it before the 20<sup>th</sup> anniversary of the Rome Statute (July 2018);

(b) *requests* the Bureau to further consider the issue of intermediaries and, in this regard, to continue engaging in a more in-depth discussion with the Court on this matter;

(c) *decides* that the Committee on Budget and Finance shall hold its twenty-second session from 28 April to 2 May 2014 and its twenty-third session from 7 to 17 October 2014; and

(d) *decides* that the Assembly shall hold its thirteenth session in New York from 8 to 17 December 2014 and its fourteenth session in The Hague.

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<sup>3</sup> As annexed to ICC-ASP/10/32.

## Annex II

### **Amendments to resolution ICC-ASP/3/Res.6 regarding the procedure for the nomination and election of judges**

*Note: The amendments below do not have retroactive effect and will therefore only apply to future elections.*

“3. The nomination period shall open 32 weeks before the elections and shall last 12 weeks.”

“27 bis. A judicial vacancy will be declared in accordance with article 37 of the Rome Statute if an elected judge does not make his or her solemn undertaking in accordance with article 45 of the Rome Statute within six months of his or her election.”

## Annex III

The text of Rule 29 of the Rules of Procedure of the Assembly of States Parties is replaced by the following:

**“Rule 29  
Composition and function**

1. The Assembly shall have a Bureau consisting of the President, who shall preside, two Vice-Presidents and eighteen members elected by the Assembly from among the representatives of the States Parties for three-year terms. Should the regular session of the Assembly marking the end of the Bureau's term of office be held later in the calendar year than the previous regular session, the Bureau shall continue to serve until the conclusion of that session. Unless the Assembly decides otherwise, the Assembly shall elect a new composition of the Bureau at the regular session marking the end of the term of office of the Bureau. The Bureau so elected shall assume its functions only at the conclusion of the session at which it is elected and shall hold office until the end of its term. The Bureau shall assist the Assembly in the discharge of its responsibilities.
  2. The Bureau shall have a representative character, taking into account, in particular, equitable geographical distribution and the adequate representation of the principal legal systems of the world.
  3. The Bureau shall meet as often as necessary, but at least once a year.”
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## Annexes

### Annex I

#### Report of the Credentials Committee

*Chairperson:* Mr. Gonzalo Bonifaz (Peru)

1. At its first plenary meeting, on 20 November 2013, 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 twelfth session, consisting of the following States Parties: Belgium, Czech Republic, Finland, Gabon, Hungary, Kenya, Panama, Peru and the Republic of Korea.

2. The Credentials Committee held a meeting on 20, 22 and 28 November 2013.

3. At its meeting on 28 November 2013, the Committee had before it a memorandum by the Secretariat, dated 28 November 2013, concerning the credentials of representatives of States Parties to the Rome Statute of the International Criminal Court to the twelfth 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 twelfth 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 82 States Parties:

Afghanistan, Albania, Andorra, Argentina, Australia, Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Bulgaria, Burkina Faso, Burundi, Canada, Chile, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, Fiji, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guyana, Hungary, Iceland, Ireland, Italy, Japan, Kenya, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Maldives, Mali, Malta, Mexico, Mongolia, Namibia, New Zealand, Niger, Nigeria, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, Senegal, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Suriname, Sweden, Switzerland, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, 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 twelfth 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, the Minister for Foreign Affairs, or by a person authorized by either of them, by the following 20 States Parties:

Bangladesh, Belize, Benin, Brazil, Colombia, Democratic Republic of the Congo, Dominica, Dominican Republic, Gabon, Grenada, Guinea, Honduras, Jordan, Montenegro, Netherlands, Philippines, The former Yugoslav Republic of Macedonia, Tunisia, Uganda 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 twelfth 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 twelfth 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 twelfth session of the Assembly and the recommendation contained therein,

*Approves* the report of the Credentials Committee."

## Annex II

### Oral report of the Chair of the Working Group on Amendments

I have the honor to introduce the draft resolution titled “Amendment to the Rules of Procedure and Evidence”, contained in document ICC-ASP/12/L.10/Rev.1. Copies of this draft resolution are available in the room.

The Working Group’s recommendation of this draft resolution arose following its consideration of the interim report of the Study Group on Governance, which had considered the proposal of the Working Group on Lessons Learnt to amend rule 100 of the Rules of Procedure and Evidence, submitted pursuant to the *Roadmap* adopted at the eleventh session of the Assembly, as well as a proposal of the Working Group on Lessons Learnt regarding rule 68.

The proposed amendment to rule 100 which is before the Assembly provides for a more unambiguous and expeditious process for designating an alternate seat of the Court by giving the Chamber the authority to make this decision, on the basis of an assessment prepared by the Registry of the Court and an absolute majority recommendation of the judges of the relevant Chamber.

The Working Group agreed to propose the draft amendment following a process of thorough consideration and consultation by the Working Group on Lessons Learnt, the Court’s Advisory Committee on Legal Texts, the Study Group on Governance and the Working Group on Amendments itself. The proposed amendments to rule 100 are set out in operative paragraph 1 of the draft resolution before you.

Furthermore, the Working Group on Amendments recommends the amendments to rule 68 of the Rules of Procedure and Evidence which are set out in paragraph 2 of the draft resolution. This proposal also emanated from the Court. The proposed new rule 68 is aimed at allowing the judges of the Court to reduce the length of Court proceedings and streamline the presentation of evidence by increasing the instances in which prior recorded testimony could be introduced instead of hearing the witness in person, while paying due regard to the principles of fairness and the rights of the accused. This proposed amendment was also subjected to a comprehensive review by the Study Group on Governance and the Working Group on Lessons Learnt as well as all relevant organs of the Court. The Working Group recommends adoption of rule 68 emphasizing article 51(4) of the Statute according to which amendments to the Rules of Procedure and Evidence shall not be applied retroactively to the detriment of the person who is being investigated or prosecuted, with the understanding that the rule as amended is without prejudice to article 67 of the Statute related to the rights of the accused, and to article 68, paragraph 3, related to the protection of victims and witnesses and their participation in the proceedings.

In addition, the Working Group on Amendments recommends that the Rules of Procedure and Evidence be amended to include a new set of rules 134 *bis*, 134 *ter* and 134 *quater*, as set out in the draft resolution. This set of amendments concerns the issue of presence at trial, and were submitted to the Working Group by individual States Parties in accordance with article 51, paragraph 2(b), of the Rome Statute. The new set of rules specify that the Court may rely on the use of video technology in proceedings, and when and under what circumstances an accused subject to a summons to appear may be excused from being physically present at trial.

The proposals on the draft amendments to the Rules of Procedure and Evidence on amending rule 100, rule 68, and inserting new rules 134 *bis*, rule 134 *ter* and rule 134 *quater* were discussed by all delegations in a spirit of understanding, cooperation and flexibility, in close consultation with the organs of the Court. This process enabled the Working Group to propose the draft amendments which are before the Assembly for adoption by consensus. I am pleased to submit draft resolution ICC-ASP/12/L.10/Rev.1 for the consideration of the Assembly and to recommend that it be adopted by consensus.

## Annex III

### Report of the Chair of the Oversight Committee on exercise of delegated authority\*

1. The Assembly of States Parties established the Oversight Committee (“the Committee”) as a subsidiary body pursuant to article 112(4) of the Rome Statute, entrusted to act on its behalf for the strategic oversight on the construction of the permanent premises of the International Criminal Court (“the Court”),<sup>1</sup> with routine management of the project resting with the Project Director.<sup>2</sup>

2. The Committee was also empowered with delegated authority to “make key strategic decisions including the authorization of changes to the project scope<sup>3</sup> [...] where a decision is required in a time frame that would not allow for a decision by the Assembly”.<sup>4</sup> Under such circumstances, the Chairperson of the Committee is required to report to the Assembly.<sup>5</sup>

3. As the transition of the Court from the interim to the permanent premises involved operational matters within the remits of the Court, the governance of this project was established within the Court itself. However, both the budget of the construction project and that of the transition project were managed by the Project Director, under the oversight of the Committee. This dichotomy between operations and finances had brought about issues of coordination, which required an urgent alignment of the two projects.

4. The Committee made use of its delegated authority for the first time in the course of 2013, by adopting the decision to change the scope of the project with the unification of the construction and the transition projects, following a holistic approach also endorsed by the External Auditor and the Committee on Budget and Finance. This decision<sup>6</sup> was taken in full agreement with the Court and upon an extensive review of the governance arrangements of the project, which started at the end of 2012. The deadlines to be met in the construction and transition projects, and the need to finalize the revised financial structure ahead of the annual Court’s budget presentation did not allow to postpone such decision until the time of the Assembly.

5. The result of the change made is that there exists now one overall Permanent Premises Project, with one unified financial envelope. It is a major change in scope, strengthened governance, actual savings and potential efficiencies for States Parties. The relevant elements are presented in the Report on the activities of the Oversight Committee,<sup>7</sup> and summarized below:

#### (i) Management of the project

The management of the unified project is under the exclusive lead of the Project Director. His reporting lines are now to both the Oversight Committee and to the Registrar, which is expected to reconcile the different mandates of the Assembly and the Court. The Committee, in consultation with the Court, will keep the implementation of this governance structure under review;

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\*Issued as ICC-ASP/12/43/Add.1.

<sup>1</sup> Official Records ... Sixth session ... 2007 (ICC-ASP/6/20), vol. I, part III, ICC-ASP/6/Res.1, para. 5, and annex II, paras. 1 and 2.

<sup>2</sup> Ibid., annex II, para. 2.

<sup>3</sup> Ibid., para. 3(c).

<sup>4</sup> Ibid., para. 16(c).

<sup>5</sup> Ibid., para. 17: “The Chairperson of the Oversight Committee shall report to the Assembly at its next session on any exercise of this delegated authority”.

<sup>6</sup> Seventh meeting of the Oversight Committee, 5 July 2013, Agenda and decisions, annexes I and II. Available as annex I and II of the Report on the activities of the Oversight Committee, ICC-ASP/12/43.

<sup>7</sup> Report on the activities of the Oversight Committee, ICC-ASP/12/43. paras. 38-85.

(ii) *Transition costs (formerly “2gy” costs)*

The remaining estimated cost of €16.8 million until the project end - which were to be approved on an annual basis - were removed from the regular budget, thus alleviating the pressure on the resources approved by the Assembly for the Court’s operations. The 2gy part of transition costs are now reduced to a total of €1.3 million and are included in the unified envelope;

(iii) *Funding of transition costs*

While the funding of the construction costs continues to be ensured through the host State loan and the one-time payments of States Parties, transition costs are covered with a mechanism that does not envisage resorting to additional contributions of States Parties. This is achieved by utilizing the €5.7 million savings realized in the construction project, and from the surplus pertaining to the financial years 2012 through 2014, up to a maximum of €5.6 million. An amendment to regulation 4.7 of the Financial Regulations and Rules is proposed to that end;

(iv) *Overall financial envelope*

A unified envelope for the construction and transition activities is established at the level of €195.7 million, with a target to reduce this to at least €193.7 million by June 2014 upon a further detailed review by the Project Director of the transition costs.

## Annex IV

### **Letter of the host State addressed to the Registrar, dated 7 October 2013**

Dear Mr von Hebel,

With reference to the discussion taking place on the meeting facilities at the World Forum, I would like to inform you as follows.

#### **The Netherlands as a host country**

The Netherlands is proud to be home to leading international organizations like the International Criminal Court (ICC). As a host country, we take our responsibilities seriously. The Dutch government and the municipality of The Hague make every effort to support and facilitate international organizations and ensure they function as independently, efficiently and safely as possible. We also do our utmost to create and maintain the right setting for organizations to function adequately at an international level.

#### **Complaints by ICC States Parties**

Over the last year, ICC States Parties voiced concerns about the level of service at and facilities for the annual meetings in the World Forum. OPCW States Parties voiced similar concerns.

The host country, as represented by the Ministry of Foreign Affairs (MFA) and the municipality of The Hague, take these concerns seriously. We have examined the issue with great care over the past few months. We have also discussed it with GL Events, the commercial operator of World Forum. GL Events is committed to raising its level of service, and the improvements it has since undertaken should make a clear difference at your upcoming Assembly of States Parties. Your office has already been informed about this.

#### **Proposed solution**

Please find our joint proposal set out below. We feel this will result in meeting facilities at the World Forum that fully meet the expectations of ICC delegates for the annual ASP meeting, now and in the future.

#### **Ministry of Foreign Affairs**

The MFA is prepared to make funds available for the rental costs incurred for the ICC's next two annual meetings, i.e. in 2013 and 2015. The amount is based on the price levels indicated in the current contracts between ICC and GL Events for those years (around Euro 480.000, see annex). For administrative reasons, the rental costs will be reimbursed to ICC through a dedicated fund managed by the municipality of The Hague. The period of the reimbursements will end at the close of 2015, which is when the renovation of the World Forum is scheduled to be near completion.

#### **Municipality of The Hague**

The municipality of The Hague has earmarked €25 million over the next few years for the renovation of the World Forum. The exterior and the interior of the building will be fully renovated so the facility can function as a modern international congress facility. The municipality will see to it that certain urgent renovations are complete in time for the upcoming ICC meeting in November 2013.

In addition, the municipality of The Hague is prepared to support the ICC's annual meetings in 2013 and 2015 by contributing to the catering and service costs. The amount of this contribution for both meetings will be maximum Euro 83.760 in total.

### Final Remarks

The Ministry of Foreign Affairs and the municipality of The Hague are confident that the International Criminal Court will profit from these improved facilities and that the above-mentioned package of measures will bring congress facilities in The Hague in line with current international standards for meeting facilities. A similar package will be offered to the OPCW. We are keen to attract and retain leading international organizations such as the ICC. We wish to live up to the city's reputation as the 'legal capital of the world'.

We are confident that our proposal is a tangible reflection of our continued support for and lasting commitment to the International Criminal Court.

Yours sincerely,

[Signature]  
Nora Stehouwer-van Iersel  
Ambassador for  
International Organizations

ICC

- 2013: €235.297,50 excl. VAT and indexation
- 2015 + 2 x 2% = €244.803,51 excl. VAT and indexation

## Annex V

### Statement of the Chair of the Committee on Budget and Finance

President of the Assembly,

Ladies and gentlemen,

It is an honour and a pleasure to appear before you to present the work of the Committee on Budget and Finance for 2013.

The Committee has submitted two reports to your Assembly in accordance with the Statute. These are the result of analysis conducted by our Committee in cooperation not only with the various bodies within the Court, but also with our institution's key partners. They are also the product of our on-going partnership with all other members of the international judiciary. These two reports are instruments that seek to facilitate the work of the Assembly of States Parties by shedding light on the financial, budgetary and administrative impact of the decisions that you will be required to make.

I note that the scale of the hearing set aside for the Committee's studies year after year shows the level of interest in this body.

However, it is essential that our analysis and recommendations continue to play a purely technical role: it falls to the Assembly of States Parties – and the Assembly alone – to examine these proposals and determine the positions and stances that it considers right for the International Criminal Court.

I would add that the work of the Committee, which is a collegial and independent body, is characterized by respect for the adversarial principle in all dealings with its counterparts, keeping firmly in mind the essential nature of the Court's actions – i.e. seeking to give it the means to dispense justice. This principle is fervently applied by your financial managers.

The final preliminary remark that I would like to make concerns our working methods.

For several years now, we have been able to draw on the results of joint deliberations before embarking on our work, thanks to the essential links that we have established with other members of The Hague Working Group through numerous joint meetings and seminars. While respecting the specific powers conferred on each individual party, these exchanges have helped the Court to decide which areas to focus on in terms of its future development.

The same is true of the non-governmental organizations that come to us on a regular basis. They are a source of proposals and help to combine the requirement for sound and balanced management of the institution with our obligation to have the means to pursue perpetrators of mass crimes.

Last but not least, you will have seen from the Committee's reports that we have sought to justify each of our positions – particularly our budgetary positions – in the documents produced.

In view of the amount of time allotted to me for the presentation of our work, I propose to examine our recommendations from two perspectives, first looking at financial and budgetary issues, and then turning to questions relating to management and the administration of justice.

The budgetary and financial issues are subjects that, despite being present every year, are always somewhat different. Consequently, they are not dry issues; they change depending on the decisions taken by the Assembly.

I will not talk about the issue of contributions and arrears, but I will stress that delays in the payment of funds inevitably place an unhelpful amount of pressure on our

finances. Respect for the relevant deadlines is, in itself, a way of helping the Court and its Registrar with the day-to-day management of the institution.

In the same way, we are continuing to monitor the investment of the Court's liquid holdings in order to spread the banking risk across a number of establishments, while seeking to ensure that our reserves remain available to us.

As regards the Working Capital Fund, which has stood at €7.4 million since 2008, regulation 6.2 of the Financial Regulations and Rules provides that this is to be held in reserve to ensure that the Court has sufficient funds in the event of short-term liquidity problems. After examining financial data since 2011, your Committee has found that we did not need to draw on this fund. The Court's resources are sufficient to meet all of its liquidity needs. The Court also needs to prioritize its commitments over time in order to smooth out its regular funds. It therefore makes sense to maintain the current level.

There are still problems surrounding the Contingency Fund. On 1 January 2013 this stood at €7.5 million, and under Assembly resolution ICC/ASP/11/Res.1 €500,000 was added to the fund. Seven requests were submitted by the end of August 2013, totalling €7.21 million. However, on closer inspection, only €2.03 million was used for expenditure by 17 September 2013 – 28.1%. As regards the new situation in 2013, only 14.6% of the funding requested (€3.24 million) was used by that date.

Your Committee recommends several things in this regard:

- that the Court provide, at each session, a table breaking funds down by type of expenditure;
- that a report be systematically submitted to the Committee 60 days after the notification of funds, allowing the Committee to monitor the situation in a more appropriate manner;
- that access to the Contingency Fund be limited to unforeseeable scenarios that the regular budget is unable to cover;
- that requests by the Court be made strictly in accordance with the principles of budgetary discipline.

Indeed, it is essential that access to the Contingency Fund is not a means of circumventing the decisions of the Assembly and financing, outside of the regular budgetary procedure, work that the Assembly has already rejected.

Let us now turn to the issue of the budget for 2014.

I should like to make three preliminary observations in this regard.

First, the Committee has looked at the implementation of the budget in 2012 and the first half of 2013 in order to extract the necessary information. The total implementation rate in 2012 was 96.6% – i.e. €105.14 million out of a regular budget of €108.8 million. Taking into account requests for access to the Contingency Fund, consolidated figures show that real expenditure by the Court stood at €107.5 million, resulting in a theoretical budget surplus of €1.30 million relative to the funding approved by your Assembly for this period. From a technical perspective, spending on legal aid, costs relating to victims and witnesses, and the permanent premises was less than had been forecasted.

For the first half of 2013, the Committee observed a 3.4% increase in expenditure relative to the previous year, with the Court forecasting an annual implementation rate of around 98.4% at that time. Of course, that overall rate covers a variety of assumptions, as we stressed in the report, depending on whether you are looking at the judicial function, the Prosecutor, the Registry or the other budgets submitted to the Assembly. The consumption rate for regular funds is projected to stand at 98.4% on 31 December 2013, and the rate foreseen for the Contingency Fund is 86.6%. We have asked the Court to refine its budgetary assumptions by including workload indicators that are appropriate and aligned with the objectives of the departments concerned.

Second, the Committee has examined the budgetary process and the concept of zero-based budgeting. There are new data in this regard that the Assembly needs to be aware of.

The Court has produced a report on the financing of multi-year projects, notably on the basis of its real estate project. Although this is not the first project to necessitate multi-year financing, as the Committee, in cooperation with the Court, has launched reforms in relation to the International Public Sector Accounting Standards, we thought it necessary to return to this issue at the next session and lay down some rules to follow:

- Have clearly defined objectives and budgets for the full duration of projects.
- Clearly define the area in question and have an oversight mechanism that is suited to your needs.
- Have a project which justifies, in itself, a derogation from the budget annuality rule.
- Establish provisions concerning responsibility for both the achievement of objectives and expenditure incurred.
- Establish budgetary rules that allow funds that have not been spent in a given financial year to be carried forward, which will avoid the need to return the money to the States Parties.
- Make it possible to borrow funds in the event that it becomes necessary to carry out certain activities on the basis of a different timetable and savings can be made across other elements of the regular budget.

A mechanism of this kind would also require a separate budget submission so as to provide the members of the Assembly with a clear and transparent resourcing and staffing table.

The Committee has also studied the concept of zero-based budgeting. Looking at the current financial year, which has seen restructuring at the Court, we note the particular effort made by the current Registrar to limit requests to a zero base before contemplating any increases. We will see the impact of that later in this presentation. Already, though, I note that there has been some revision of the internal requests and justifications submitted to the Court prior to the formulation of the draft budget for the next financial year.

Third, the Committee has based its analysis on the workload assumptions for 2014.

To this end, the Committee has consulted the President of the Court, as well as the Prosecutor. The Court has submitted a draft budget totalling €126.07 million for 2014 – an increase of €10.95 million, or 9.5%, relative to the budget approved by the Assembly for 2013.

As can be seen from our report, this stems from a significant increase in judicial activity, from the number of situations, from the new strategy of the Office of the Prosecutor (as you will have seen from the document distributed on 11 October) and, consequently, from an increase in the administration of justice in the Registry. We also had to take account of important judicial decisions entailing changes to the normal course of events for certain trials, which involved very significant obligations for the parties. This had a direct impact on the Contingency Fund in 2013 and will inevitably affect the prosecution policy of the Office of the Prosecutor, forcing it to incur further costs in 2014.

The budget submitted to you is also a reflection of various reforms. The amendments to legal aid are beginning to have an impact, as underlined in our report in September. We should now allow this reform to take full effect before contemplating any further changes in this area. However, the Committee draws the Assembly's attention, once again, to the question of reparations. This is a new procedure in the field of international criminal law, which limits opportunities for comparison. We invite the Court to embark on a process of "joint" reflection in order to determine the rules to be observed.

According to the information provided to the Committee, the Office of the Prosecutor envisages conducting investigations in relation to eight situations in 2014 (compared with seven in 2013), which would mean five full investigations and 13 hibernated and/or trial support-related investigations. Eight preliminary investigations are also envisaged. The Presidency expects five cases to be at the trial stage, with the enforcement of sentences and reparations in two cases. Of course, we also need to take account of cases that are at the pre-trial stage and those where appeals have been lodged.

Finally, your Assembly needs to bear in mind the Prosecutor's right to open an investigation into any new situation triggered by international developments.

Against that backdrop, your Committee makes the following proposals:

- As regards MP I, the Committee recommends approving the funding requested, in order to allow the judicial function to carry out its tasks in full. The Committee simply recommends not financing two P-2s for six months and one P-3 for six months. Hospitality costs can remain at the same level.

- As regards MP II, having heard the Prosecutor set out her arguments in support of an appreciable increase in her funding for 2014, and while noting that quality and efficiency will be the hallmarks of all of her actions, the Committee observed that this strategy was still in its infancy and requested more details and financial information. What is more, your Assembly will not have failed to notice that the new strategy was published on 11 October – almost one month after the Committee had carried out its work. In the absence of useful information provided to the Committee in the course of its work, we were unable to examine a variety of issues, such as the question of how increasing the number of investigators would allow a corresponding increase in the quality of investigations. The Committee's next session will doubtless be an opportunity to obtain financial responses to our questions. In the absence of new investigation standards justifying an increase in staffing levels, the Committee proposes that not all of the additional positions should be approved – only half of them (i.e. 16 positions).

- Given the average cost per case of €1.31 million (for the 16 current cases), the Committee considers that the 20% increase requested is in no way justified and recommends a reduction of €2.2 million, as indicated on page 14 of the second report.

- As regards MP III, the Committee has found that, from a financial perspective, the budgetary ratio applicable for a new case is 2:1. Given the reduction of €2.2 million proposed by the Committee for MP II, it suggests reducing the budget requested by the Registrar in relation to situations by €1.1 million.

As regards that last budget, the Committee welcomes the Registrar's stance and initial measures. These are decisive measures that will quickly have an impact on the day-to-day activities of the Court. The Committee, through a form of management contract, has set him the objective of achieving a 3% reduction via that reorganization, while developing new synergies between departments in the revised organizational structure.

You will notice that certain other savings are proposed for MP III. I refer you, in that regard, to our other documentation.

There are two other important budgetary issues that I would like to raise with you. You will have to decide on the costs to be borne under the budget of the Secretariat of the Assembly for the activities of the Advisory Committee on Nominations of Judges, and you will have to make a political decision on the proposals regarding the Independent Oversight Mechanism.

That being the case, I have to stress one key point as regards the determination of the budget for 2014.

Your Committee has sought to strike a balance between the various requests made by the Court and the need to keep the total financial amount within limits that are acceptable to all. Decisions have obviously been made throughout the year, and ambassadors tasked with key issues in The Hague have been constant witnesses to that. Above all, though, your Committee has based its decisions on precise assumptions and taken account of the ever-increasing caseload.

In other words, the justification of the assumptions chosen and the variables examined has been the guiding principle in our work, and I would like the same to be true of any future work in the budgetary committee. This methodology allows the Court to address its future needs on the basis of the clear and transparent rules that are necessary.

As regards the issue of the management and administration of the Court, your Committee has examined the new organizational structure and asked that a detailed joint study be produced by representatives of all of the Court's bodies by April of next year.

We have also addressed the issue of liabilities – the liability side of the balance sheet – and made proposals on this subject (which we have been looking at since 2011) regarding the reform of cost accounting and reforms relating to the International Public Sector Accounting Standards.

Finally, you will have noted the monitoring of real estate matters, as well as questions relating to human resources, issues where the Registrar has already taken decisive action in terms of restructuring. We are grateful to him for that.

President of the Assembly, ladies and gentlemen, I thank you for your attention.

## Annex VI

### **Statement by Sweden on behalf of the Netherlands, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland**

On behalf of the Netherlands, Switzerland, the United Kingdom of Great Britain and Northern Ireland and Sweden, I would like to make the following statement.

I would like to draw the attention of States Parties to a paper entitled "Action Plan for expediting the criminal process of the International Criminal Court" circulated by the delegations mentioned above.

In the paper we note that the Court has now been in existence for over ten years. During this time a significant amount of experience has been collected relating to the conduct of proceedings.

During this year, the Study Group on Governance (SGG), whose aim is to facilitate an ongoing and constructive dialogue with the organs of the Court in order to increase the Court's efficiency and expedite its proceedings, has put forward proposals for two amendments to the Rules of Procedure and Evidence (RPE) as well as proposals aimed at improving the so-called Roadmap.

In this work, the SGG has established an excellent working relationship with the Court in this area. The active participation of the Court in the process of expediting the criminal process has proven to be indispensable.

Although important progress has been made, we believe that work to expedite the criminal process of the Court needs to be accelerated further.

We intend to contribute to that by suggesting that the SGG in its work next year would focus on the "Pre-Trial and Trial relationship and common issues" cluster as described in the Court's Report on Lessons Learnt. This is further developed in the paper that we have circulated.

We also welcome the intention of the Court to look further into the language issues.

In its work, the SGG could, where appropriate, take note of the relevant work by external stakeholders directed at improving the efficiency of the Court. The SGG might, on its own initiative, and in close cooperation with the Court, carry out further analysis based on such work.

The SGG should in our view at the next session of the Assembly be able to present concrete proposals for decisions to be taken by the Assembly in all the above areas.

As Chairman of the SGG, it is my intention to be guided by directions given in this paper and I would like to encourage all States Parties to take active part in this work.

## Annex VII

### **Statement by Canada in explanation of position after the adoption of resolution ICC-ASP/12/Res.1**

Canada has consistently asked for budgetary restraint, fiscal discipline, sound management, and results across all international organizations and institutions, including this Court. Indeed, in a statement read into the record on adoption of last year's budget by Canada on behalf of Canada, France, Germany, Italy, Japan, and the United Kingdom, we called for, among other things, discipline in the use of the Court's resources.

When governments are severely reining in expenditures during these challenging financial times, it is difficult for them to contemplate increased outlays to international organizations and institutions. Canada expects the same budget discipline and cost economies for international bodies that we are exercising as governments. This includes the International Criminal Court.

Canada believes that there are additional savings that could have been found over and above those already identified by the Committee on Budget and Finance. Indeed, we have had intensive discussions with many delegations over the past week on specific ways that zero nominal growth could be achieved in 2014. Our discussions include the Registrar's plan to optimize the organizational structure of the Registry in an effort to streamline operations and achieve synergies with other major programmes. We welcome this initiative and believe it should be built upon in each of the Court's organs.

Although Canada believes further efficiencies could have been achieved in this year's budget, we have concluded that, in the circumstances of this year, the budget facilitator's proposal represents an acceptable outcome. We have therefore joined consensus on it. However, over the next year Canada will monitor carefully activities of the Court, scrutinize reform efforts undertaken, and evaluate efficiencies realized with the objective of achieving a zero nominal growth budget in 2015.

## Annex VIII

### Statement by Argentina

Please allow me to take the floor before the work of this Assembly of States Parties draws to a close to report that, since the opening of the session, the Joint Declaration on the initiative to start negotiations on a multilateral treaty on mutual legal assistance and extradition, that was open to co-sponsorship of States during this session of the Assembly, has garnered the support of the following 38 States from all the regional groups:

Albania, Andorra, Argentina, Austria, Belgium, Bulgaria, Chile, Costa Rica, Cyprus, Czech Republic, Finland, Georgia, Greece, Hungary, Ireland, Liechtenstein, Lithuania, Luxembourg, Netherlands, Malawi, Mongolia, Norway, Panama, Paraguay, Peru, Samoa, Senegal, Serbia, Seychelles, Slovenia, Slovakia, South Africa, Suriname, Sweden, The former Yugoslav Republic of Macedonia, Republic of Moldova, Trinidad and Tobago, and Uruguay.

I would also take this opportunity to urge the remaining States Parties to join the initiative.

## Annex IX

### Closing remarks of the President of the Assembly of States Parties<sup>1</sup>

As we conclude the twelfth session of the Assembly of States Parties, we all know that this session has not been business as usual. In light of the developments surrounding the Court and increased calls for a re-examination of the relationship between the African States Parties, the African Union, and the ICC, this year's Assembly was an opportune moment to address issues that have arisen in other fora, and that concern political implications of the work of the Court and affect the Rome Statute system as a whole.

These last eight days, we had numerous opportunities to have an open discussion among States Parties about the challenges that the Court, and we as an Assembly of States Parties, are currently facing. The Assembly session was opened by distinguished speakers like the UN High Commissioner for Human Rights, Ms. Navi Pillay, and the Secretary-General of l'Organisation internationale de la Francophonie, Mr. Abdou Diouf, who explained the broader global role of the ICC.

We held a general debate with considerable high-level participation, during which States had been encouraged to inform of their efforts to create domestic capacities to investigate and prosecute Rome Statute crimes in national courts. The lack of domestic capacity still constitutes a major weakness of the system. Several States took the opportunity to inform about concrete progress achieved in the domestic implementation of the Rome Statute, and I was heartened that States also expressed their willingness to assist each other in building the necessary capacity.

On 21 November the Assembly considered an item entitled “Special Segment as requested by the African Union: ‘Indictment of sitting Heads of State and Government and its consequences on peace and stability and reconciliation’”. The special segment consisted of a panel discussion and was moderated by the first President of the Assembly, H.R.H. Prince Zeid Ra’ad Zeid al Hussein (Jordan). The five-hour session was candid and lively.

The debate seemed to indicate that any substantive change to the Rome Statute was unlikely in the near future. There was nonetheless broad agreement that flexibilities within the legal framework of the Rome Statute system should be explored. One such avenue was the possibility of amending the Rules of Procedure and Evidence.

Another element generally highlighted in the debate was the importance of the principle of complementarity and the fact that the International Criminal Court is a court of last resort. Accountability should be first and foremost pursued at the national level; assisting States in strengthening their judiciary is a pivotal endeavour to which all stakeholders could contribute.

There was also a discussion regarding the delicate balancing act required to achieve the objectives of the fight against impunity on the one hand, and peace and stability on the other.

There was broad satisfaction that an open process of dialogue had been started in order to address the concerns of African States Parties and with the manner in which the special segment had been organized and conducted. On the initiative of the African group, the inclusion of the special segment in the agenda of this session is now welcomed with appreciation in the omnibus resolution.

In the days following the special segment, the Assembly continued to address issues related to the subject of the Special Segment, namely the discussion of several proposed amendments to the Rules of Procedure and Evidence introducing new rules *134 bis, ter* and *quater* concerning the presence of the accused at trial. The negotiations on these amendments were intense, and I commend the chair of the Working Group on Amendments for his dedication and endurance in finding a compromise text. As a result of the discussions, the principle that no one is above the law within the Rome Statute has been reaffirmed.

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<sup>1</sup> At the thirteenth meeting of the Assembly, on 28 November 2013.

As the Assembly of States Parties, we are constantly engaged in discussions on how to gradually improve the Rome Statute system. Indeed, we should continuously try to refine it through all available procedures.

I am satisfied that the Assembly was able to adopt three amendments to the Rules of Procedure and Evidence. Next to the additions to rule 134, the Assembly adopted amendments to rules 68 and 100. The amendment of rule 68 is intended to reduce the length of ICC proceedings and streamline evidence presentation. The amendment to rule 100 provides for a more expeditious process for designating an alternate seat for proceedings of the Court that would allow bringing justice closer to the people whose lives have been affected by crimes. It is important that justice is not only done, but is also seen to be done. In this regard, I encourage States Parties, the Court and all relevant stakeholders to continue to improve the public information and communication about the Court and its activities. This is a shared responsibility by the Court, States Parties, international and regional organizations and civil society.

The Assembly also held for the first time since the 2010 Review Conference, a plenary session dedicated to victims, focusing on participation, reparation and communication. At another plenary session on cooperation, the Assembly discussed means to strengthen State support to witness protection.

Another milestone of this year's Assembly session is the adoption of the resolution operationalizing the Independent Oversight Mechanism with the comprehensive mandate set out in article 112, paragraph 4, of the Rome Statute. After five years of difficult consultations, a very warm thank you goes to the co-facilitators.

We have also elected Mr. Geoffrey A. Henderson (Trinidad and Tobago) as judge of the ICC to fill a judicial vacancy. The Advisory Committee on Nominations assisted the Assembly in its consideration of the candidatures. The Assembly also elected six members of the Committee of Budget and Finance.

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 Vice President Ken Kanda and indeed to all facilitators and focal points that advanced the work of the Assembly throughout the year. As always, it has been a collective effort. I continue to be thankful to the Secretariat for its work in supporting the Assembly, its subsidiary organs and me personally. 2014 will be the last year for the current Bureau and we will now start to identify new members of the Bureau as well as the next President of the Assembly.

The support that we expressed during this Assembly to the Court has to be maintained throughout the year and translated into day-to-day cooperation with the Court. The Court will only be as strong as the support it receives from the 122 States Parties and other important stakeholders. As President of all States Parties, I have been and remain open to all, and I am confident that open and frank dialogue should continue within the Assembly framework. I hope that we will all continue to work together with an open spirit and keep sight of what brought us all together, the conviction that the most serious crimes should not go unpunished.

Last but not least, I express appreciation to the host State for its overall support to the Rome Statute system, and in particular for its financial contribution to offset the rental costs of the Convention Center for this twelfth session of the Assembly, as well as its commitment to make a similar contribution to the next Assembly session to be held in The Hague in 2015.

## Annex X

### List of documents

ICC-ASP/12/1	Provisional agenda
ICC-ASP/12/1/Rev.1	Provisional agenda
ICC-ASP/12/1/Add.1	Annotated list of items included in the provisional agenda
ICC-ASP/12/1/Add.2	Recommendation by the Bureau for the inclusion of an additional item in the agenda of the twelfth session of the Assembly of States Parties of the International Criminal Court
ICC-ASP/12/2	Registry's first quarterly report on monitoring and assessing the implementation performance of legal aid
ICC-ASP/12/3	Registry's single policy document on the Court's legal aid system
ICC-ASP/12/4	Report of the Court on Junior Professional Officers (JPO)
ICC-ASP/12/5/Rev.1	Report of the Committee on Budget and Finance on the work of its twentieth session
ICC/ASP/12/6	Report of the Court on human resources management
ICC/ASP/12/7	Report of the Court on its Working Capital Fund
ICC/ASP/12/8	Report of the Court on its Anti-Fraud and Whistleblower Policies
ICC/ASP/12/9	Report on activities and programme performance of the International Criminal Court for the year 2012
ICC-ASP/12/10	Proposed Programme Budget for 2014 of the International Criminal Court
ICC-ASP/12/11	Report of the Court on the impact of measures to bring the level of the International Criminal Court's budget for 2014 in line with the level of the 2013 approved budget
ICC-ASP/12/12	Financial statements for the period 1 January to 31 December 2012
ICC-ASP/12/13	Trust Fund for Victims: Financial statements for the period 1 January to 31 December 2012
ICC-ASP/12/14	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 2012 to 30 June 2013
ICC-ASP/12/15	Report of the Committee on Budget and Finance on the work of its twenty-first session
ICC/ASP/12/16	Eighth Status Report on the Court's progress regarding efficiency measures
ICC/ASP/12/17	Report of the Court on the assessment and review of asset replacement and write-off policies
ICC/ASP/12/18	Report of the Court on the amendments to the Financial Regulations and Rules necessitated by IPSAS implementation
ICC/ASP/12/19	Review of Asset Replacement Policy
ICC-ASP/12/21	Report of the Registry on the comprehensive review of the legal aid system
ICC-ASP/12/22	Concept paper of the Court on multi-year project funding
ICC-ASP/12/23	Report of the Advisory Committee on Nominations of Judges on the work of its first meeting
ICC-ASP/12/24	Report on budget Performance of the International Criminal Court as at 30 June 2013
ICC-ASP/12/25	Election of the members of the Committee on Budget and Finance
ICC-ASP/12/25/Add.1	Election of the members of the Committee on Budget and Finance - Addendum
ICC-ASP/12/26	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/12/27	Report to the Bureau on the Independent Oversight Mechanism
ICC-ASP/12/28	Report on the activities of the Court
ICC-ASP/12/29	Report of the Bureau on legal aid
ICC-ASP/12/30	Report of the Bureau on the arrears of States Parties
ICC-ASP/12/31	Report of the Bureau on complementarity
ICC-ASP/12/32	Report of the Court on complementarity
ICC-ASP/12/33	Report of the Secretariat on complementarity

ICC-ASP/12/34	Report of the Bureau on non-cooperation
ICC-ASP/12/35	Report of the Court on cooperation
ICC-ASP/12/36	Report of the Bureau on cooperation
ICC-ASP/12/36/Add.1	Summary of the Arusha seminar on witness protection
ICC-ASP/12/37	Report of the Bureau on the Study Group on Governance
ICC-ASP/12/37/Add.1	Study Group on Governance: Working Group on Lessons Learnt: Second report of the Court to the Assembly of States Parties
ICC-ASP/12/37/Add.1/Corr.1	Study Group on Governance: Working Group on Lessons Learnt: Second report of the Court to the Assembly of States Parties – Corrigendum (English only)
ICC-ASP/12/38	Report of the Bureau on victims and affected communities and Trust Fund for Victims, including reparations and intermediaries
ICC-ASP/12/39	Report of the Court on principles relating to victims' reparations
ICC-ASP/12/40	Report of the Court on the criteria for the determination of disposable means relating to reparations
ICC-ASP/12/41	Report of the Court on the implementation in 2013 of the revised strategy in relation to victims
ICC-ASP/12/42	Report of the Court on the status of ongoing cooperation between the International Criminal Court and the United Nations, including in the field
ICC-ASP/12/43	Report on the activities of the Oversight Committee
ICC-ASP/12/43/Add.1	Report on the activities of the Oversight Committee – Addendum - Report of the Chair of the Oversight Committee on exercise of delegated authority
ICC-ASP/12/44	Report of the Working Group on Amendments
ICC-ASP/12/45	Election of a judge to fill a judicial vacancy of the International Criminal Court
ICC-ASP/12/45/Add.1	Election of a judge to fill a judicial vacancy of the International Criminal Court - Addendum
ICC-ASP/12/46	Election of a judge to fill a judicial vacancy of the International Criminal Court: guide for the election
ICC-ASP/12/47	Report of the Advisory Committee on Nominations of Judges on the work of its second meeting
ICC-ASP/12/48	Report of the Bureau on the strategic planning process of the International Criminal Court
ICC-ASP/12/49	Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court
ICC-ASP/12/50	Registry's second quarterly report on monitoring and assessing the implementation performance of legal aid
ICC-ASP/12/51	Third Quarterly Report of the Registry on monitoring and assessing the implementation performance of legal aid from the time the amendments came into force to the end of August 2013
ICC-ASP/12/52	Refined report of the Court on Junior Professional Officer programme
ICC-ASP/12/53	Second Report of the Court on the financial implications of the draft Guidelines governing the relations between the Court and Intermediaries
ICC-ASP/12/54	Report of the Court on its current lease agreements for the interim premises
ICC-ASP/12/55	Consolidated report of the Independent Oversight Mechanism on its activities during 2013
ICC-ASP/12/56	Report of the Bureau on salary and all allowances for judges, whose terms have been extended in accordance with article 36, paragraph 10
ICC-ASP/12/57	Report to the Bureau on the review of the procedure for the nomination and election of judges
ICC-ASP/12/58	Report on evaluation of the process on the election of the Prosecutor
ICC-ASP/12/59	Report of the Bureau: Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau
ICC-ASP/12/60	Agenda of the Assembly of States Parties
ICC-ASP/12/61	Special segment as requested by the African Union: "Indictment of sitting Heads of State and Government and its consequences on peace and stability and reconciliation"
ICC-ASP/12/INF.1	Delegations to the twelfth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court

ICC-ASP/12/INF.2	Informal Summary of the retreat: ICC - the challenges and opportunities in light of the upcoming November Assembly of States Parties
ICC-ASP/12/L.1	Draft report of the Assembly of States Parties to the Rome Statute of the International Criminal Court
ICC-ASP/12/L.2	Draft report of the Credential Committee
ICC-ASP/12/L.3	Draft resolution: Strengthening the International Criminal Court and the Assembly of States Parties
ICC-ASP/12/L.4	Draft Resolution of the Assembly of States Parties on the Programme budget for 2014, the Working Capital Fund for 2014, scale of assessments for the apportionment of expenses of the International Criminal Court, financing appropriations for 2014and the Contingency Fund
ICC-ASP/12/L.4/Corr.1	Draft Resolution of the Assembly of States Parties on the Programme budget for 2014, the Working Capital Fund for 2014, scale of assessments for the apportionment of expenses of the International Criminal Court, financing appropriations for 2014 and the Contingency Fund – Corrigendum (French only)
ICC-ASP/12/L.5	Draft resolution on permanent premises
ICC-ASP/12/L.6	Draft resolution on cooperation
ICC-ASP/12/L.6/Rev.1	Draft resolution on cooperation
ICC-ASP/12/L.7	Draft resolution on complementarity
ICC-ASP/12/L.8	Draft resolution on victims and affected communities, reparations and Trust Fund for Victims
ICC-ASP/12/L.9	Draft resolution on the Independent Oversight Mechanism
ICC-ASP/12/L.10	Draft resolution: Amendments to the Rules of Procedure and Evidence
ICC-ASP/12/L.10/Rev.1	Draft resolution: Amendments to the Rules of Procedure and Evidence
ICC-ASP/12/WGPB/CRP.1	Draft report of the Working Group on the 2014 proposed programme budget of the International Criminal Court

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