

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

**SEVENTEENTH SESSION
THE HAGUE, 5-12 DECEMBER 2018**

**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 “Dec.”.

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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 (“the Assembly”), taken at the 13th meeting of its sixteenth session, on 14 December 2017, the Assembly held its seventeenth session in The Hague from 5 to 12 December 2018.
2. In accordance with the Rules of Procedure of the Assembly,¹ (“the Rules of Procedure”), 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, invitations to participate in the session as observers were also extended to representatives of intergovernmental organizations and other entities that had received a standing invitation from the General Assembly of the United Nations pursuant to its relevant resolutions,² as well as to representatives of regional intergovernmental organizations and other international bodies invited to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, June/July 1998), accredited to the Preparatory Commission for the International Criminal Court or invited by the Assembly.
4. Furthermore, in accordance with rule 93 of the Rules of Procedure, non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court, or in consultative status with the Economic and Social Council of the United Nations, whose activities were relevant to the activities of the Court or that had been invited by the Assembly, attended and participated in the work of the Assembly.
5. In 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, Eswatini, Lao People’s Democratic Republic, Lebanon, Mauritania, Micronesia (Federated States of), Myanmar, Niue, Palau, Papua New Guinea, Rwanda, Somalia, South Sudan, Tonga, Turkmenistan and Tuvalu.
6. The list of delegations to the session is contained in document ICC-ASP/17/INF.1.
7. The session was opened by the President of the Assembly of States Parties, Mr. O-Gon Kwon (Republic of Korea), who had been elected for the seventeenth to nineteenth sessions.³
8. At the Assembly’s 1st plenary meeting, on 5 December 2018, in accordance with rule 25 of its Rules of Procedure, the following States were appointed to serve on the Credentials Committee: Austria, Ecuador, Guatemala, Hungary, Japan, New Zealand, Romania, South Africa and the State of Palestine.
9. Also at its 1st plenary meeting, the Assembly appointed Ms. Fatou Oumar Ndiaye (Senegal) as Rapporteur.

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

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

³ At its sixteenth session, the Assembly had, pursuant to rule 29 of its Rules of Procedure, elected the Bureau for the seventeenth to nineteenth sessions of the Assembly, as follows: *President*: Mr. O-Gon Kwon (Republic of Korea); *Vice-Presidents*: Mr. Momar Diop (Senegal) and Mr. Michal Mlynár (Slovakia); *Other members of the Bureau*: Argentina, Australia, Austria, Colombia, Côte d’Ivoire, Denmark, Ecuador, Estonia, France, Gambia, Ghana, Japan, Mexico, Netherlands, Serbia, Slovenia, State of Palestine and Uganda. See: *Official Records... Sixteenth session... 2017* (ICC-ASP/16/20), vol.I, part I, paras. 16-17.

10. The Director of the Secretariat of the Assembly, Mr. Renan Villacis, acted as Secretary of the Assembly. The Assembly was serviced by the Secretariat.

11. At its 1st plenary meeting, on 5 December 2018, the Assembly observed one minute of silence dedicated to prayer or meditation, in accordance with rule 43 of the Rules of Procedure, and remembered, in particular victims.

12. At the same meeting, the Assembly adopted the following agenda (ICC-ASP/17/1/Rev.3):

1. Opening of the session by the President.
2. Silent prayer or meditation.
3. Adoption of the agenda.
4. Election of a Vice-President.
5. Election of a Bureau member
6. States in arrears.
7. Credentials of representatives of States at the seventeenth session:
 - (a) Appointment of the Credentials Committee; and
 - (b) Report of the Credentials Committee.
8. Organization of work.
9. General debate.
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. Election of the members of the Advisory Committee on the nomination of judges.
14. Election of the members of the Board of Directors of the Trust Fund for Victims.
15. Consideration and adoption of the budget for the seventeenth financial year.
16. Consideration of the audit reports.
17. Review of the work and the operational mandate of the Independent Oversight Mechanism.
18. Amendments to the Rome Statute and the Rules of Procedure and Evidence.
19. Cooperation.
20. Twentieth anniversary of the adoption of the Rome Statute.
21. Decision concerning the date of the next session of the Assembly of States Parties.
22. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance.
23. Other matters.

13. The annotated list of items included in the provisional agenda was contained in a note by the Secretariat (ICC-ASP/17/1/Add.1).

14. Also at its 1st plenary 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 2019. Mr. Jens-Otto Horslund (Denmark) was appointed Coordinator of the Working Group on the Programme Budget for 2019. Mr. Vincent Rittener (Switzerland) was appointed Coordinator for the consultations on the omnibus resolution.

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

1. Election of a Vice-President

15. At the 1st plenary meeting, on 5 December 2018, the Assembly, pursuant to rule 29 of its Rules of Procedure, elected Mr. Jens-Otto Horslund (Denmark) by acclamation as a Vice-President of the Assembly to complete the term of office of Mr. Momar Diop (Senegal) who had been elected Vice-President for the seventeenth to nineteenth sessions of the Assembly and who had resigned from that post effective 19 March 2018.

2. Election of a Bureau member

16. At the 1st plenary meeting, on 5 December 2018, the Assembly, pursuant to rule 29 of its Rules of Procedure, elected Bangladesh to complete the term of the State of Palestine as a member of the Bureau, from the day after the conclusion of the seventeenth session of the Assembly until the conclusion of the nineteenth session, pursuant to an internal arrangement in the Asia-Pacific group.⁴

3. States in arrears

17. At the 1st plenary meeting, on 5 December 2018, the Assembly was informed that article 112, paragraph 8, first sentence, of the Rome Statute was applicable to eleven States Parties.

18. 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 2019 in a timely manner.

4. Credentials of representatives of States Parties at the seventeenth session

19. At its 13th plenary meeting, on 12 December 2018, the Assembly adopted the report of the Credentials Committee (see annex I to this report).

5. General debate

20. At the 2nd, 3rd, 4th and 7th plenary meetings, on 5, 6 and 7 December 2018, statements were made by the representatives of Afghanistan; Andorra; Argentina; Australia; Austria (on behalf of the European Union); Bangladesh; Belgium; Bolivia (Plurinational State of); Botswana; Brazil; Bulgaria; Burkina Faso; Canada; Chile; Colombia; Costa Rica; Cyprus; Czech Republic; Democratic Republic of the Congo; Ecuador; El Salvador; Estonia; Finland; France; Gambia; Georgia; Germany; Ghana; Greece; Guatemala; Hungary; Iceland; Ireland; Italy; Japan; Kenya; Lesotho; Liechtenstein; Luxembourg; Malawi; Mali; Malta; Mexico; the Netherlands; New Zealand; Nigeria; Norway; Panama; Paraguay; Peru; Philippines; Poland; Portugal; Republic of Korea; Romania; Sierra Leone; Slovakia; Slovenia; South Africa; Spain; State of Palestine; Sweden; Switzerland; Trinidad and Tobago; Tunisia; Uganda; United Kingdom of Great Britain and Northern Ireland; Uruguay; Vanuatu; and Venezuela (Bolivarian Republic of). Statements were also made by: China (People's Republic of); Cuba and Iran (Islamic Republic of).

21. Statements were also made by the International Criminal Court Bar Association; International Humanitarian Fact-Finding Commission; International Committee of the Red Cross; and the Sovereign Order of Malta.

⁴ See: Agenda and decisions of the 4 December 2017 meeting of the Bureau at https://asp.icc-cpi.int/iccdocs/asp_docs/Bureau/ICC-ASP-2017-Bureau-07.pdf and *Official Records... Sixteenth session.... 2017* (ICC-ASP/16/20), vol. I, part I, para. 17.

22. The following civil society organizations also made statements: American Bar Association; Coalition for the International Criminal Court; Comisión Mexicana de Defensa y Promoción de los Derechos Humanos; Human Rights Centre/Georgian National Coalition for the International Criminal Court; Human Rights Watch; International Federation for Human Rights; Nigerian National Coalition for the International Criminal Court/African Network for International Criminal Justice; No Peace Without Justice; Parliamentarians for Global Action; Philippines National Coalition for the International Criminal Court; and the Transitional Justice Coordination Group.

6. Report on the activities of the Bureau

23. At its 1st plenary meeting, on 5 December 2018, the Assembly took note of the oral report on the activities of the Bureau, delivered by the President H.E. Mr. O-Gon Kwon. The President noted that, since the sixteenth session, the Bureau had held 18 formal meetings in order to assist the Assembly in the discharge of its responsibilities under the Rome Statute.

24. On behalf of the Bureau, the President expressed pleasure with the work conducted in 2018 by its working groups in The Hague and New York, and by the facilitators and the *ad country* focal points, as they had successfully carried out the mandates of the Assembly under the leadership of their respective Coordinators, Vice-President Ambassador Michal Mlynár (Slovakia) and Vice-President Ambassador Momar Diop (Senegal), followed by the Coordinator of The Hague Working Group, Ambassador Jens-Otto Horslund (Denmark). He was also pleased with the work of the Study Group on Governance under the leadership of Ambassador María Teresa Infante Caffi (Chile) and Ambassador Hiroshi Inomata (Japan), as well as the focal points for Cluster I and Cluster II. This had enabled the Bureau to submit for the Assembly's consideration the respective reports and recommendations on the issues within its mandate.

7. Report on the activities of the Court

25. At its 1st plenary meeting, on 5 December 2018, the Assembly heard statements by Judge Chile Eboe-Osuji, 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 International Criminal Court.⁵

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

26. At its 1st meeting, on 5 December 2018, 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 projects and the activities of the Board of Directors of the Trust Fund for Victims for the period 1 July 2017 to 30 June 2018.⁶

9. Election of the members of the Advisory Committee on the nomination of judges

27. At its 1st plenary meeting, on 5 December 2018, the Assembly, on the recommendation of the Bureau,⁷ appointed the following eight members of the Advisory Committee on the nominations of judges for a three-year term commencing on 5 December 2018:

- (a) Mr. Ahmad Mohammad Binhamad Barrak (State of Palestine);
- (b) Mr. Corneliu Bîrsan (Romania);
- (c) Mr. Bruno Cotte (France);
- (d) Mr. Adrian Fulford (United Kingdom);
- (e) Ms. Lucy Muthoni Kambuni (Kenya);

⁵ ICC-ASP/17/9.

⁶ ICC-ASP/17/14.

⁷ ICC-ASP/17/21.

- (f) Ms. Sanji Mmasenono Monageng (Botswana);
- (g) Mr. Enrique Eduardo Rodríguez Veltzé (Plurinational State of Bolivia); and
- (h) Ms. Sylvia Helena De Figueiredo Steiner (Brazil).

28. The ninth member of the Advisory Committee will be elected at the eighteenth session of the Assembly.

10. Election of the Board of Directors of the Trust Fund for Victims

29. In a note dated 2 November 2018,⁸ the Secretariat indicated that it had received five candidatures and submitted to the Assembly a list of the five candidates nominated by States Parties for election to the Board of Directors of the Trust Fund for Victims.

30. At its 1st meeting, on 5 December 2018, in accordance with paragraph 11 of resolution ICC-ASP/1/Res.7, the Assembly, on the recommendation of the Bureau, dispensed with the secret ballot and elected by acclamation the following five members of the Board of Directors of the Trust Fund for Victims:

- (a) Sheikh Mohammed Belal (Bangladesh);
- (b) Ms. Arminka Heli (United Kingdom);
- (c) Ms. Mama Koite Doumbia (Mali);
- (d) Mr. Gocha Lordkipanidze (Georgia); and
- (e) Mr. Felipe Michelini (Uruguay).

31. The members of the Board elected at the seventeenth session were elected for a three-year term commencing on 5 December 2018.

11. Consideration and adoption of the budget for the seventeenth financial year

32. At its 8th meeting, on 10 December 2018, the Assembly heard statements by Mr. Peter Lewis, Registrar of the Court, and Mr. Hitoshi Kozaki, Chair of the Committee on Budget and Finance (“the Committee”).

33. The Assembly, through its Working Group on the Programme Budget, considered the 2019 proposed programme budget, the reports of the Committee on Budget and Finance and the reports of the External Auditor.

34. At its 13th meeting, on 12 December 2018, the Assembly adopted the report of the Working Group on the programme budget (ICC-ASP/17/WGPB/CRP.1) wherein it, *inter alia*, conveyed the recommendation of the Working Group that the Assembly endorse the recommendations of the Committee at its thirty-first session, with an additional adjustment to Major Programme VI, as reflected in resolution ICC-ASP/17/Res.4.

35. At the same meeting, the Assembly also considered and approved, by consensus, the programme budget for 2019.

36. At the same meeting, the Assembly adopted, by consensus, resolution ICC-ASP/17/Res.4, concerning the programme budget in relation to the following:

- (a) Programme budget for 2019, including appropriations totalling €148,135,100 and staffing tables for each of the major programmes. This amount is reduced by the instalments for the host State loan;
- (b) Working Capital Fund for 2019;
- (c) Outstanding contributions;
- (d) Contingency Fund;
- (e) Scale of assessment for the apportionment of expenses of the Court;
- (f) Financing of appropriations for 2019;

⁸ ICC-ASP/17/18.

- (g) Premises of the Court;
- (h) Transfer of funds between major programmes under the 2018 approved programme budget;
- (i) Audit;
- (j) Budget Management Oversight;
- (k) Development of budget proposals;
- (l) A strategic approach to an improved budgetary process;
- (m) Human Resources;
- (n) Referrals by the Security Council;
- (o) Amendments to the Financial Regulation and Rules;
- (p) Five-Year Information Technology and Information Management Strategy; and
- (q) Amendments to the Rules of Procedure of the Committee on Budget and Finance.

37. At its 11th meeting, on 11 December 2018, further to the mandate contained in resolution ICC-ASP/16/Res.1,⁹ the Assembly adopted by consensus resolution ICC-ASP/17/Res.1 concerning the remuneration of the judges of the International Criminal Court.

12. Consideration of the audit reports

38. At its 8th meeting, on 10 December 2018, the Assembly heard a statement by Mr. Guy Piolé on behalf of the External Auditor, Mr. Didier Migaud. 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 2017¹⁰ and of the Trust Fund for Victims for the same period.¹¹

13. Review of the work and operational mandate of the Independent Oversight Mechanism

39. By resolution ICC-ASP/17/Res.5, the Assembly requested the Bureau to continue the review of the work and the operational mandate of the Independent Oversight Mechanism and, further, to consider amending the mandate to include investigations of allegations against former officials.

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

40. The Assembly took note of the report of the Working Group on Amendments.¹² At its 11th meeting, on 11 December 2018, the Assembly adopted resolution ICC-ASP/17/Res.2, by which it decided to amend rule 26 of the Rules of Procedure and Evidence, pursuant to article 51 of the Rome Statute.

15. Cooperation

41. At its 5th plenary meeting, on 7 December 2018, the Assembly considered the topic of cooperation with the Court, in a three-segment plenary discussion on financial investigation: a follow-up on the Paris declaration; arrests: follow-up on The Hague seminar conclusions; and voluntary agreements: feedback and future prospects. At the same meeting, the Court signed an agreement on enforcement of sentences with Slovenia.

42. At its 11th plenary meeting, on 11 December 2018, the Assembly adopted, by consensus, resolution ICC-ASP/17/Res.3 on cooperation.

⁹ Section N, para.1.

¹⁰ *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part C.1.

¹¹ *Ibid.*, part C.2.

¹² ICC-ASP/17/35.

16. Twentieth anniversary of the adoption of the Rome Statute

43. At its 6th meeting, on 7 December 2018, the Assembly held a plenary panel discussion on the topic “Rome Statute 20 years – Addressing current and future challenges”. States Parties, regional organizations, as well as non-governmental organizations, participated in the discussion, which aimed at identifying a vision of the support, capacity and adaptation needed for the Court and the broader Rome Statute system to continue carrying out its mandate effectively.

17. Decision concerning the dates and venues of the next sessions of the Assembly of States Parties

44. At its 13th meeting, on 12 December 2018, the Assembly requested the Secretariat to present options for scheduling the next session of the Assembly, and requested the Bureau to decide on the date and venue of the eighteenth session by 31 January 2019.

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

45. At its 13th meeting, on 12 December 2018, the Assembly decided that the Committee on Budget and Finance would hold its thirty-second and thirty-third sessions in The Hague, from 29 April to 3 May 2019 and 26 August to 6 September 2019, respectively.

19. Other matters*a) Panel discussion on victims’ participation and legal representation*

46. At its 10th plenary meeting, on 11 December 2018, the Assembly held a panel discussion which focused on “Achievements and challenges regarding victims’ participation and legal representation 20 years after the adoption of Rome Statute”.

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

47. The Assembly expressed its appreciation to Finland, Ireland and Philippines 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.

48. The Assembly noted with satisfaction that four delegations had made use of the Trust Fund to attend the seventeenth session of the Assembly.

Part II

External audit, programme budget for 2019 and related documents

A. Introduction

1. The Assembly of States Parties (“the Assembly”) had before it the 2019 proposed programme budget submitted by the Registrar of the International Criminal Court (“the Court”), in an advance version, on 25 July 2018,¹ the reports of the thirtieth² and thirty-first³ sessions of the Committee on Budget and Finance (“the Committee”), the financial statements for the period 1 January to 31 December 2017,⁴ and the financial statements of the Trust Fund for Victims for the period 1 January to 31 December 2017.⁵ The Assembly also had before it annex IV of the report of the Committee on the work of its thirty-first session, in which the Court outlined the budgetary implications of the Committee’s recommendations on the budgets of the major programmes.

2. At its eighth plenary meeting, the Assembly heard statements by the Registrar of the Court, Mr. Peter Lewis, the Chair of the Committee, Mr. Hitoshi Kozaki, and the representative of the External Auditor (*la Cour des comptes* (France)), Mr. Guy Piolé. The Assembly was further assisted by a member of the Committee, Ms. Elena Sopková.

3. The Working Group on the Programme Budget met on 10 and 11 December 2018. Informal consultations were also convened during the Assembly session. Diverging views were expressed regarding participation in the informal consultations. Some States noted that it was important for representatives of the Court to participate in the negotiations on the budget of the Court. On the other hand, some States noted that the budget negotiations should be a State-driven process. The Court had attended most of the informal consultations prior to the Assembly session.

4. During the meeting on 11 December 2018, the draft resolution was considered and finalized.

B. External audit

5. The Assembly noted with appreciation the reports of the External Auditor and the related comments of the Committee, contained in the report on the work of its thirty-first session.

C. Amount of appropriation

6. The Court’s 2019 proposed programme budget amounted to €150,876,500, including €3,585,100 for Major Programme VII-2 (Host State Loan).

7. The Committee considered the Court’s 2019 proposed programme budget at its thirty-first session and concluded that there were a number of areas where savings could be made. Accordingly, the Committee recommended that the budget allocation be reduced to a total of €148,285,800, including €3,585,100 for Major Programme VII-2 (Host State Loan).

8. The Assembly commended the Court’s efforts to find savings and efficiencies, particularly in Major Programme III. Some States expressed serious concerns at the level of increase for Major Programme II and Major Programme VI. Others underlined that no additional savings should be made in Major Programme II, whereas there was a broad understanding regarding Major Programme VI.

9. The Assembly endorsed the recommendations contained in the report of the Committee, with an additional adjustment to Major Programme VI, as reflected in resolution ICC-ASP/17/Res.4.

¹ *Official Records ... Seventeenth session ... 2018*, (ICC-ASP/17/20), vol. II, part A.

² *Ibid.*, part B.1.

³ *Ibid.*, part B.2.

⁴ *Ibid.*, part C.1.

⁵ *Ibid.*, part C.2.

10. Further to discussions held by the Bureau of the Assembly on the process for the election of the Prosecutor, the Assembly noted that any costs associated with that process in 2019 would be absorbed by Major Programme IV within its approved budget.

11. The Assembly therefore approved a budget appropriation for 2019 of €148,135,100.

12. The Assembly noted that, without Major Programme VII-2 (Host State Loan), the total level of assessed contributions for the 2019 programme budget amounted to €144,550,000.

D. Working Capital Fund and Contingency Fund

13. The Assembly decided to maintain the notional level of the Contingency Fund at €7 million.

14. The Assembly authorized the Court to transfer funds between major programmes at year end if the costs of unforeseen activities could not be absorbed within one major programme while a surplus existed in other major programmes, to ensure that all appropriations for 2018 were exhausted before accessing the Contingency Fund.

15. The Assembly took note of the recommendations of the Committee and decided that the Working Capital Fund for 2019 shall be established in the amount of €1.6 million. The Assembly also decided that the Court may only use the surplus funds and funds received from the payment of outstanding contributions to reach the established level of the Working Capital Fund.

16. The Assembly welcomed the intention of the Committee to review the level of precautionary reserves and encouraged the Committee to take a comprehensive approach. Some delegations expressed the view that the Committee should, among other things: assess the level of the Working Capital Fund, including a possible increase of reserves from four to six weeks of operation; assess the actual and notional level of the Contingency Fund; assess the feasibility of using any cash surpluses above the amounts needed for the Working Capital Fund to replenish the Contingency Fund; and make recommendations to that effect.

E. Financing of appropriations for 2019

17. The Assembly resolved that, for 2019, the total assessed contributions amounted to €144,550,000.

Part III

Resolutions adopted by the Assembly of States Parties

Resolution ICC-ASP/17/Res.1

Adopted at the 11th plenary meeting, on 11 December 2018, by consensus

ICC-ASP/17/Res.1

Resolution on the remuneration of the judges of the International Criminal Court

The Assembly of States Parties,

Recalling its request to the Bureau to establish a working group, based in The Hague and open only to States Parties, to discuss a mechanism to consider a revision of the judges' remuneration in implementation of resolution ICC-ASP/3/Res.3 and to report thereon to the Assembly at its seventeenth session,¹

Noting the discussions held in the Working Group on the Revision of the Judges' Remuneration, and the identification of possible terms for a review mechanism,

1. *Welcomes* the report of the Working Group on the Revision of the Judges' Remuneration;²
2. *Decides* to extend the mandate of the Working Group on the Revision of the Judges' Remuneration for another year;
3. *Requests* the Registry to commission, in coordination with the Working Group on the Revision of the Judges' Remuneration, an expert in international remuneration systems to undertake a study on the judges' remuneration, including the salary structure and benefits package, and to consider the possible terms of reference for a mechanism to review the remuneration of judges, taking into account the cost implications and the suggestions put forward in the report of the Working Group on the Revision of the Judges' Remuneration;
4. *Requests* the expert to report to the Working Group on the Revision of the Judges' Remuneration no later than 1 July 2019 on the results of the study, including recommendations for the terms of reference for a mechanism to review the remuneration of judges;
5. *Further decides* that the Working Group on the Revision of the Judges' Remuneration shall, taking account of the recommendations of the expert, prepare the terms of reference for a mechanism to review the remuneration of judges, with a view to a decision on their adoption at the eighteenth session of the Assembly;
6. *Decides* to establish a mechanism for the review of the judges' remuneration, subject to the adoption of terms of reference by the Assembly;
7. *Encourages* the Registry to make all efforts to keep additional costs of the study referred to in paragraph 3 to a minimum, and *further encourages* the Registry to make all possible efforts to absorb any such costs within the approved budget of the Court for 2019.

¹ *Official Records ... Sixteenth session ... 2017* (ICC-ASP/16/20), vol. I, part III, ICC-ASP/16/Res.1, section N, para. 1.

² ICC-ASP/17/28.

Resolution ICC-ASP/17/Res.2

Adopted at the 11th plenary meeting, on 11 December 2018, by consensus

ICC-ASP/17/Res.2

Resolution on amendments to rule 26 of the Rules of Procedure and Evidence

The Assembly of States Parties,

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

Recalling operative paragraphs 1 and 2 of resolution ICC-ASP/9/Res.2 and article 51 of the Rome Statute,

Further recalling paragraph 9, subparagraph (c), of the annex to resolution ICC-ASP/16/Res.6,

Noting the report of the Working Group on Amendments¹ and the report of the Bureau on the Study Group on Governance,²

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

Recalling resolution ICC-ASP/12/Res.6 and the Operational mandate of the Independent Oversight Mechanism contained in the annex to that resolution,

1. *Decides* that the following shall replace rule 26 of the Rules of Procedure and Evidence:

**“Rule 26
Receipt and admissibility of complaints**

1. For the purposes of article 46, paragraph 1, and article 47 of the Statute, any complaint concerning any conduct defined under rules 24 and 25 shall include the grounds on which it is based and, if available, any relevant evidence, and may also include the identity of the complainant. The complaint shall remain confidential.

2. All complaints shall be transmitted to the Independent Oversight Mechanism which may also initiate investigations on its own motion. Any person submitting such complaints may also elect to submit a copy to the Presidency of the Court for information purposes only.

3. The Independent Oversight Mechanism shall assess complaints and set aside those complaints which are manifestly unfounded. Where a complaint is set aside as manifestly unfounded, the Independent Oversight Mechanism shall provide its reasons in a report which shall be transmitted to the Assembly of States Parties and the Presidency.

4. All other complaints shall be investigated by the Independent Oversight Mechanism. The Independent Oversight Mechanism shall transmit the results of any investigation, together with its recommendations, to the Assembly of States Parties and any other competent organ(s) as set out in articles 46 and 47 of the Statute, and rules 29 and 30.”

¹ ICC-ASP/17/35.

² ICC-ASP/17/30.

Resolution ICC-ASP/17/Res.3

Adopted at the 11th plenary meeting, on 11 December 2018, by consensus

ICC-ASP/17/Res.3 Resolution on 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, ICC-ASP/12/Res.3, ICC-ASP/13/Res.3, ICC-ASP/14/Res.3, ICC-ASP/15/Res.3, ICC-ASP/16/Res.2 and the sixty-six recommendations annexed to resolution 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 fully with the Court in its investigation and prosecution of crimes within its jurisdiction, including with regard to the execution of arrest warrants and surrender requests, as well as other forms of cooperation set out in article 93 of the Rome Statute,

Welcoming the report of the Court on cooperation¹, submitted pursuant to paragraph 32 of resolution ICC-ASP/16/Res.2,

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 from the Secretary General of the United Nations to the President of the General Assembly and the President of the Security Council,²

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

Commending international and regional organizations' support for strengthening cooperation in the area of voluntary agreements,

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. *Emphasizes* the importance of timely and effective cooperation and assistance from States Parties and other States under an obligation or encouraged to cooperate fully 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

¹ ICC-ASP/17/16.

² A/67/828-S/2013/210.

affects the efficiency of the Court and *stresses* that the non-execution of cooperation requests has a negative impact on the ability of the Court to execute its mandate, in particular when it concerns the arrest and surrender of individuals subject to arrest warrants;

2. *Expresses* serious concerns that arrest warrants or surrender requests against 15 persons remain outstanding,³ and *urges* States to cooperate fully in accordance with their obligation to arrest and surrender to the Court;

3. *Reaffirms* that concrete steps and measures to secure 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;

4. *Welcomes* the seminar organized by the co-facilitators on cooperation with the Court entitled “Arrests: a key challenge in the fight against impunity” held on 7 November 2018 at the Court’s premises in The Hague, *appreciates* the contributions of the participating international and national experts aimed at identifying practical solutions to improve cooperation between States and the Court with a view to enhancing prospects for the implementation of pending arrest warrants, and *underlines* the necessity to continue the discussions on these and other proposals contributing to ensuring the arrest and surrender of suspects;

5. *Urges* States Parties to avoid contact with persons subject to a warrant of arrest issued by the Court, unless such contact is deemed essential by the State Party, *welcomes* the efforts of States and international and regional organizations in this regard, and *acknowledges* that States Parties may, on a voluntary basis, advise the Court of their own contacts with persons subject to a warrant of arrest made as a result of such an assessment;

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

7. *Acknowledges* efforts by States, by civil society organizations 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;

8. *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, as part of efforts aimed at making national procedures for cooperation more efficient, where appropriate;

9. *Recalls* the report to the thirteenth session of the Assembly on the feasibility study of establishing a coordinating mechanism of national authorities, and *encourages* States Parties to continue the discussion;

10. *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;

11. *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 crime is crucial to the provision of reparations to victims and for potentially addressing the costs of legal aid;

12. *Underlines* the importance of effective procedures and mechanisms that enable States Parties and other States to cooperate with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible; *welcomes* the Court’s report and comprehensive presentation on cooperation challenges faced by the Court with respect to financial investigation and *calls on* all States Parties to

³ As of 12 November 2018, see ICC-ASP/17/16, para. 38.

put in place and further improve effective procedures and mechanisms in this regard, with a view to facilitating cooperation between the Court, States Parties, other States and international organizations;

13. *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;

14. *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;

15. *Acknowledges* the importance of protective measures for victims and witnesses for the execution of the Court's mandate, *welcomes* the new relocation agreement concluded since the last resolution on cooperation,⁴ and *stresses* the need for more such agreements or arrangements with the Court for the expeditious relocation of witnesses;

16. *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;

17. *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;

18. *Welcomes* the conclusion of two agreements between the Court and the Republic of Argentina on Interim Release and Release of Persons;

19. *Emphasizes* that the need for cooperation with the Court on the enforcement of sentences is likely to increase in the coming years as more cases proceed toward conclusion, *recalls* the principle enshrined in the Rome Statute that States Parties should share the responsibility for enforcing sentences of imprisonment, in accordance with principles of equitable distribution, and *calls upon* States Parties to actively consider the conclusion of agreements with the Court to this end;

20. *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 - also in cases of acquittal - and sentence enforcement which may be essential to ensuring the rights of suspects and accused persons, in accordance with the Rome Statute and guaranteeing the rights of convicted persons and *urges* all States Parties to consider strengthening cooperation in these areas;

21. *Requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its eighteenth session;

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

23. *Recognizes* the importance of ensuring a safe environment for strengthening and fostering cooperation between civil society and the Court and of taking all necessary action to address threats and intimidation directed at civil society organizations;

24. *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;

25. *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

⁴ ICC-ASP/16/2.

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;

26. *Welcomes* the replies to the 2016 questionnaire and the exchange of information on the implementation of the 66 recommendations on cooperation adopted by States Parties in 2007⁵ as a step in the reviewing process of the implementation of the 66 recommendations, *recalls* the flyer prepared by the Court that can be used by all stakeholders to promote the 66 recommendations and increase their understanding and implementation by relevant national actors and the Court, and *requests* the Bureau, through its Working Groups, to continue its review of the implementation of the 66 recommendations, in close cooperation with the Court, where appropriate;

27. *Welcomes* the organization by the Court, with the support of States Parties and international and regional organizations, of seminars on cooperation and *encourages* all stakeholders, including civil society organizations, to continue organizing events that allow for the exchange of information with the purpose of enhancing cooperation and constructively seeking solutions to identified challenges;

28. *Welcomes* the plenary session on cooperation held during the seventeenth session of the Assembly of States Parties which offered an opportunity for an enhanced dialogue between States Parties, the Court and members of civil society on the issues of financial investigations, arrests and voluntary agreements, and *welcomes* the signing of an enforcement of sentences cooperation agreement concluded between Slovenia and the Court during the cooperation plenary of the seventeenth session of the Assembly;

29. *Encourages* the Bureau to identify issues for the Assembly to continue holding plenary discussions on specific topics related to cooperation, including on the issues of financial investigations and arrests;

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

31. *Recognizes* the importance of the Court's contribution to the Assembly's efforts to enhance cooperation and *requests* the Court to submit an updated report on cooperation to the Assembly at its eighteenth session and annually thereafter.

⁵ ICC-ASP/6/Res.2, annex II.

Resolution ICC-ASP/17/Res.4

Adopted at the 13th plenary meeting, on 12 December 2018, by consensus

ICC-ASP/17/Res.4

Resolution of the Assembly of States Parties on the proposed programme budget for 2019, the Working Capital Fund for 2019, the scale of assessment for the apportionment of expenses of the International Criminal Court, financing appropriations for 2019 and the Contingency Fund

The Assembly of States Parties,

Having considered the 2019 proposed programme budget of the International Criminal Court (“the Court”) and the related conclusions and recommendations contained in the reports of the Committee on Budget and Finance (“the Committee”) on the work of its thirtieth and thirty-first sessions,

A. Programme budget for 2019

1. *Approves* appropriations totalling €148,135,100 in the appropriation sections described in the following table:

<i>Appropriation section</i>			<i>Thousands of euros</i>
Major Programme	I	Judiciary	12,107.6
Major Programme	II	Office of the Prosecutor	46,802.5
Major Programme	III	Registry	76,651.2
Major Programme	IV	Secretariat of the Assembly of States Parties	2,841.7
Major Programme	V	Premises	1,800.0
Major Programme	VI	Secretariat of the Trust Fund for Victims	3,130.3
Major Programme	VII-5	Independent Oversight Mechanism	531.1
Major Programme	VII-6	Office of Internal Audit	685.6
<i>Subtotal</i>			<i>144,550.0</i>
Major Programme	VII-2	Host State Loan	3,585.1
Total			148,135.1

2. *Notes* that those States Parties that have opted for the one-time payment in respect of the permanent premises and have made such payments in full will not be assessed for the contributions corresponding to Major Programme VII-2 Host State Loan, amounting to €3,585,100;

3. *Further notes* that these contributions will bring down the level of the 2019 programme budget appropriations that need to be assessed for contributions by States Parties from €148,135,100 to €144,550,000, and that this amount will be assessed following the principles described in section E;

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

	<i>Judiciary</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Secretariat, Assembly of States Parties</i>	<i>Secretariat, Trust Fund for Victims</i>	<i>Independent Oversight Mechanism</i>	<i>Office of Internal Audit</i>	<i>Total</i>
USG	-	1	-	-	-	-	-	1
ASG	-	1	1	-	-	-	-	2
D-2	-	-	-	-	-	-	-	-
D-1	-	3	3	1	1	-	1	9
P-5	3	18	23	1	-	1	-	46
P-4	3	36	43	1	4	1	1	89
P-3	21	77	84	1	2	-	1	186
P-2	12	71	89	1	-	1	-	174
P-1	-	33	5	-	-	-	-	38
<i>Subtotal</i>	<i>39</i>	<i>240</i>	<i>248</i>	<i>5</i>	<i>7</i>	<i>3</i>	<i>3</i>	<i>545</i>
GS-PL	1	1	15	2	-	-	-	19
GS-OL	11	79	312	3	2	1	1	409
<i>Subtotal</i>	<i>12</i>	<i>80</i>	<i>327</i>	<i>5</i>	<i>2</i>	<i>1</i>	<i>1</i>	<i>428</i>
Total	51	320	575	10	9	4	4	973

B. Working Capital Fund for 2019

The Assembly of States Parties,

Recalling that the Working Capital Fund was established to ensure that the Court be able to meet short-term liquidity problems pending receipt of assessed contributions,¹

Noting the recommendation of the Committee at its twenty-seventh session to reinstate the Working Capital Fund to represent approximately one month's expenditure of the Court's 2016 approved budget (€1.6 million),²

Further noting that the Committee recommended a consideration of a multi-year funding timetable,³

1. *Notes* that the Working Capital Fund for 2018 was established in the amount of €1.6 million;
2. *Further notes* that the current level of the Working Capital Fund is €9.1 million;
3. *Resolves* that the Working Capital Fund for 2019 shall be established in the amount of €1.6 million, 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;
4. *Welcomes* the decision of the Committee to consider the level of precautionary reserves and the liquidity issue at its thirty-second session in 2019 in light of further experience; and
5. *Decides* that the Court may only use the surplus funds and funds received from the payment of outstanding contributions to reach the established level of the Working Capital Fund.

¹ Financial Regulations and Rules 6.2.

² *Official Records ... Fifteenth session ... 2016* (ICC-ASP/15/20), vol. II, part B.2., para. 144.

³ *Ibid.*, para. 148.

C. Outstanding contributions

The Assembly of States Parties,

Welcoming the report of the Bureau on the arrears of States Parties,⁴ and in particular the conclusions and recommendations contained in that report,⁵

1. *Urges* all States Parties to make timely payments of assessed contributions and *requests* the Court and States Parties to make serious efforts and take necessary steps to reduce the level of arrears and outstanding contributions as far as possible to avoid liquidity issues for the Court, and *further requests* the Court to communicate to the Committee all information concerning outstanding contributions in advance of the eighteenth session of the Assembly of States Parties;

2. *Requests* the Court to develop guidelines, consistent with existing rules and regulations, for States Parties which are in arrears and subject to the provisions of article 112, paragraph 8 of the Rome Statute, and which face significant economic hardship, to enter into voluntary and sustainable payment plans, and *further requests* the Court to submit the guidelines to the Committee in advance of its thirty-second session, and to keep States Parties informed of any such payment plans and their implementation through The Hague Working Group facilitation on the budget.

D. Contingency Fund

The Assembly of States Parties,

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

Recalling further that the Contingency Fund was established to ensure that the Court can meet: a) costs associated with an unforeseen situation following a decision by the Prosecutor to open an investigation; b) unavoidable expenses for developments in existing situations that could not be accurately estimated at the time of the adoption of the budget; and c) costs associated with an unforeseen meeting of the Assembly,⁶

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

Recalling that the Assembly, at its sixteenth session decided that, should the Contingency Fund fall below €5.8 million by its seventeenth session, the Assembly would assess the need for its replenishment, bearing in mind the report of the Committee on Budget and Finance,⁷ and regulation 6.6 of the Financial Regulations and Rules,

1. *Notes* that the current level of the Contingency Fund is €5.2 million;

2. *Decides* to maintain the Contingency Fund at the notional level of €7.0 million for 2019;

3. *Welcomes* the decision of the Committee to consider the level of precautionary reserves and the liquidity issue at its thirty-second session in 2019 in light of further experience; and

4. *Requests* the Bureau to keep the €7.0 million threshold under review in light of further experience on the functioning of the Contingency Fund.

⁴ ICC-ASP/17/37.

⁵ ICC-ASP/17/37, paras. 19-22.

⁶ Financial Regulations and Rules 6.6.

⁷ *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.2.

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

The Assembly of States Parties,

1. *Decides* that for 2019, the contributions of States Parties should be provisionally assessed, based on the agreed scale of assessment published in the report of the United Nations Committee on Contributions,⁸ in the absence of the approved scale for 2019, and adjusted in accordance with the principles on which the scale is based;⁹
2. *Further decides* that the final assessments be based on the scale adopted by the United Nations General Assembly at its 73rd session for its regular budget, applied for 2019, and adjusted in accordance with the principles on which that scale is based; and
3. *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 assessment.

F. Financing of appropriations for 2019

The Assembly of States Parties,

1. *Notes* that the payments corresponding to Major Programme VII-2 Host State Loan will reduce the level of the budget appropriations to be assessed for contributions by States Parties to €144,550,000; and
2. *Resolves* that, for 2019, assessed contributions for the budget amounting to €144,550,000, approved by the Assembly under section A, paragraph 1 of the present resolution, will be financed in accordance with regulations 5.1 and 5.2 of the Financial Regulations and Rules of the Court.

G. Premises of the Court

The Assembly of States Parties,

1. *Takes note* of the information provided by the Court on solutions for funding of long-term capital replacements at its Headquarters in The Hague; *notes further* the endorsement made by the Committee as regards the proposal that the Court periodically present a five-year expenditure estimate along with an outlook on long-term plans; *further notes* that any capital replacement needs arising in the foreseeable future should be financed within the scope of the regular budget process to the extent the expenditure is justified; *further notes* that the Court will seek the views of the incoming main contractor, and that funding should be reviewed when major cost spikes are approaching and once the proposed longer-term estimates become available; and
2. *Reaffirms* that the Bureau is entrusted with the mandate concerning the governance structure and total cost of ownership, via its Hague Working Group which has a facilitation on the budget, or, if necessary, a subcommittee thereof; and *requests* that a report on the topic be submitted for consideration by the eighteenth session of the Assembly.

H. Transfer of funds between major programmes under the 2018 approved programme budget

The Assembly of States Parties,

Recognizing that under regulation 4.8 of the Financial Regulations and Rules no transfer between appropriation sections may be made without authorization by the Assembly,

1. *Decides* that, in line with established practice, the Court may transfer any remaining funds between major programmes at the conclusion of 2018 should costs for activities which were unforeseen or could not be accurately estimated be unable to be absorbed

⁸ A/73/11.

⁹ Rome Statute of the International Criminal Court, article 117.

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.

I. Audit

The Assembly of States Parties,

Having regard to the Charter of the Audit Committee, adopted at its fourteenth session,¹⁰ as amended,

Noting the Annual Report of the Audit Committee for 2018,¹¹

Further noting the recommendations of the Committee on Budget and Finance that the Assembly approve one of the current members of the Committee on Budget and Finance as a member of the Audit Committee,¹² and that an *ad hoc* Selection Panel headed by the Coordinator of The Hague Working Group make recommendations for filling the two remaining vacant seats on the Audit Committee,¹³

1. *Welcomes* the Annual Report of the Audit Committee for 2018;¹⁴
2. *Notes* that the term of the External Auditor, the *Cour des comptes*, will end with the financial statements of the Court and the Trust Fund for Victims for 2019, and *further notes* that a detailed selection procedure for procurement of an External Auditor will be completed in time for the eighteenth session of the Assembly of States Parties;
3. *Decides* to appoint Ms. Margaret Wambui Ngugi Shava (Kenya) as a member of the Audit Committee for a term of three years starting on 1 January 2019, while serving as an active member of the Committee on Budget and Finance; and
4. *Takes note* of the recommendations made by the *ad hoc* Selection Panel and *further decides* to appoint Mr. Herman Ebskamp (Netherlands) and Mr. Aiman Hija (Australia) as members of the Audit Committee for a term of three years starting on 1 January 2019.

J. Budget Management Oversight

The Assembly of States Parties,

1. *Notes* that the Strategic Plans of the Court and the Office of the Prosecutor are dynamic and are updated on a regular basis;
2. *Notes* the intention of the Court, the Office of the Prosecutor and the Registry to prepare Strategic Plans for the period 2019-2021 in the first quarter of 2019, *stresses* the importance of receiving Strategic Plans at the earliest possible time, and preferably before the beginning of the Strategic Plan period, and *requests* the Court, the Office of the Prosecutor and the Registry to update States Parties on the development of those plans;
3. *Renews* its invitation to the Office of the Prosecutor to inform the Bureau on the implementation of its Strategic Plan for 2016-2018, and any lessons learnt;
4. *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;
5. *Recalls* its invitation to the Court to hold annual consultations with the Bureau in the first trimester on the implementation of its strategic plans during the previous calendar year, with a view to improving performance indicators;
6. *Welcomes* the progress made by the Court in the area of risk management, specifically in relation to the establishment of the Risk Management Committee and the organization of training sessions for risk owners;

¹⁰ *Official Records ... Fourteenth session ... 2015* (ICC-ASP/14/20), vol. II, part B.3, annex IV.

¹¹ *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.2, annex VI.

¹² *Ibid.*, part B.2, para. 233.

¹³ *Ibid.*, para. 234.

¹⁴ *Ibid.*, annex VI.

7. *Notes* the oversight roles of the Audit Committee, the Committee on Budget and Finance, the External Auditor, the Independent Oversight Mechanism, and the Office of Internal Audit, and *recommends* that these bodies continue to expand their coordination in order to improve the timely exchange of information and reporting of results amongst them, the organs of the Court, the Bureau, and the Assembly, to optimize their oversight capacities and to avoid duplication of competence and work.

K. Development of budget proposals

The Assembly of States Parties,

1. *Requests* the Court to present a sustainable budget proposal for its 2020 programme budget, based on transparent and strict financial assessments and needs-analysis. Proposed increases above the level of the 2019 approved budget should be requested only when necessary for the purpose of mandated activities and after all possible steps have been taken to finance such increases through savings and efficiencies;
2. *Recalls* that the proposed programme budget should present the costs for the following year by first highlighting the costs of maintaining current activities, then proposing changes to those activities including full costings of such changes;
3. *Invites* the Court to continue to ensure a stringent internal budgetary process steered by the Registry as part of an annual cycle taking into account past expenditure and leading to a sound and transparent budget proposal, thus allowing the Court to manage its financial situation responsibly;
4. *Welcomes* the constructive dialogue between the Committee on Budget and Finance and the Court at the thirtieth session of the Committee on the presentation of budget proposals and *requests* the Court to set Court-wide annual efficiency targets and to present an annex to the 2020 programme budget on the achievements of these efficiency targets, as well as detailed information which clearly distinguishes, to the extent possible, between savings, efficiencies, non-recurrent cost reductions and additional cost reductions achieved in 2019 and estimations for 2020; and *welcomes* the recommendations of the Committee in relation to the presentation of this information. The Committee will be updated ahead of its thirty-third session on the measures taken by the Court and will include its comments in its reports to the Assembly of States Parties.

L. A strategic approach to an improved budgetary process

The Assembly of States Parties,

Bearing in mind the independence and confidentiality required to allow the Judiciary and the Office of the Prosecutor to carry out its duties,

1. *Emphasizes* the central role that the report of the Committee on Budget and Finance has on budget discussions in preparation for the Assembly sessions, and *requests* the Committee to ensure that its reports are published as soon as possible after each session;
2. *Reiterates* that in principle documentation should be submitted at least 45 days before the beginning of the respective session of the Committee in both working languages of the Court;
3. *Stresses* the utmost importance of achieving economies of scale, streamlining activities, identifying potential duplications and promoting synergies within as well as between the different organs of the Court;
4. *Welcomes* the Court's continued efforts to fully implement the "One-Court principle" when establishing the proposed programme budget, which has resulted in improvements to the budgetary process;
5. *Welcomes* the inclusion of comparative tables in the report of the Committee showing the yearly increases in approved programme budgets 2013-2018 and budget allocation per active investigation in Major Programme II and *invites* the Court to include updated versions of these tables in future budget proposals;

6. *Welcomes* the continued work of the Court on the topic of performance indicators as an important tool to fulfil its functions, in particular with regard to effective leadership and management, and *encourages* the Court to continue to share with States Parties any update on the development of performance indicators;
7. *Invites* the Board of Directors of the Trust Fund for Victims to consider the recommendations of the Committee on the Secretariat of the Trust Fund for Victims, *encourages* the Secretariat of the Trust Fund for Victims to continue its close coordination with the other organs of the Court, and *requests* the Independent Oversight Mechanism to conduct an evaluation of the administration of the Secretariat of the Trust Fund for Victims with a view to increasing its efficiency and effectiveness in implementing its mandate as set out in resolution ICC-ASP/3/Res.7, and to report to the President of the Assembly, who shall share it with the Assembly in the first half of 2019;
8. *Requests* the Court, in consultation with the Committee, to continue to develop its budgetary process, guided by the Registry, by:
- (a) Further strengthening the “One-Court principle” by ensuring that the budget process and its underlying assumptions and objectives are based on coordinated and robust strategic planning and prioritization;
 - (b) Further enhancing dialogue and information sharing between the Court and States Parties on the assumptions, objectives and priorities which underpin the draft programme budget at an early stage;
 - (c) Employing maximum flexibility in the management of its human resources in reacting to unexpected situations, and to the extent possible redeploying resources based on actual workload requirements;
 - (d) Continuing to explore ways to preserve the Court’s long-term ability to deliver on its mandate effectively and efficiently, while being mindful of the financial constraints of States Parties;
 - (e) Enhancing the dialogue and information sharing between the Court and States Parties on potential medium-term cost drivers with a view to enhancing budget predictability;
 - (f) Continuing to make all efforts to ensure accurate forecasting and expenditure in all budget lines;
9. *Requests* the Court to continue submitting its annual report on activities and programme performance including, as appropriate, relevant information on the approved budget, expenditure and variance at the sub-programme level with all budget lines, as well as the provisional expenditures and revenues for all trust funds administered by the Court, also being provided by the Court in its financial statements;
10. *Requests* the Court to provide to States Parties monthly figures on cash flow, showing balances of the General Fund, the Working Capital Fund and the Contingency Fund; the status of assessed contributions; and monthly and annual cash flow forecasts;
11. *Commits* itself to financial practices which give utmost priority to the annual budget cycle and *calls for* a restrictive use of multi-annual funds administered outside the cycle.

M. Human Resources

The Assembly of States Parties,

Recalling its decision, during its fifteenth session,¹⁵ to approve the implementation of all the elements of the new compensation package applicable as of 1 January 2017, in alignment with the changes and timelines approved by the United Nations General Assembly,

¹⁵ ICC-ASP/15/Res.1, section N, para. 1.

Further noting the report of the Committee on Budget and Finance on the work of its twenty-eighth session, which welcomed the development of the policy put forward by the Court regarding the compensation review package,¹⁶

1. *Welcomes* the work undertaken by the Court to implement the changes with respect to the new compensation package for staff members in the Professional and higher categories in conformity with the United Nations common system standards;
2. *Notes* that the Court has received the full text of the amended Staff Rules relating to the United Nations education grant, special education grant and related benefits, and that the Court is in the process of aligning its Staff Rules accordingly;
3. *Requests* the Court to submit to the Committee, at its thirty-second session, and to the Assembly, during its eighteenth session, the full text of the amended provisional Staff Rules related to the education grant, special education grant and related benefits, pursuant to regulation 12.2 of the Staff Regulations;
4. *Notes* the Administrative Instruction on the Classification and Reclassification of Posts promulgated by the Registrar,¹⁷ *requests* the Committee to review the Administrative Instruction at its thirty-second session and to report to the Assembly, *decides* not to approve any requested reclassifications for 2019, *stresses* that reclassifications of posts cannot be used as a promotion tool or as a consequence of increased workloads and *recalls* the importance of fairness and transparency in all Human Resources decision-making;
5. *Notes* the External Auditor's recommendation that the Court strive to apply a unified set of Human Resources management policies through the same operational rules with the Registry responsible for maintaining, developing and promoting these unified Court-wide Human Resources rules, in cooperation with the other organs; and
6. *Notes* the External Auditor's recommendation that the Court develop and publish an ethics charter.

N. Referrals by the Security Council

The Assembly of States Parties,

Noting with concern that, to date, expenses incurred by the Court due to referrals by the United Nations Security Council¹⁸ have been borne exclusively by States Parties,

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,

1. *Notes* the report of the Registry on the approximate costs allocated so far within the Court in relation to referrals by the Security Council,¹⁹ and *notes* that to date the approved budget allocated in relation to the referrals amounts to approximately €1 million, borne exclusively by States Parties;
2. *Encourages* States Parties to continue discussions on a possible way forward on this issue; and
3. *Invites* the Court to continue including this matter in its institutional dialogue with the United Nations and to report thereon to the eighteenth session of the Assembly.

¹⁶ *Official Records ... Sixteenth session ... 2017* (ICC-ASP/16/20), vol. II, part B.1, para. 105.

¹⁷ ICC/AI/2018/002, 22 November 2018.

¹⁸ United Nations Security Council resolutions 1593 (2005) and 1970 (2011).

¹⁹ ICC-ASP/17/27.

O. Amendments to the Financial Regulations and Rules

The Assembly of States Parties,

Having regard to the Financial Regulations and Rules²⁰ adopted at its first session on 9 September 2002, as amended,

Bearing in mind the recommendations of the Committee on Budget and Finance at its thirtieth session,²¹

1. *Decides* to amend Financial Regulations 5, 6 and 7, and Rules 105.1 and 105.2 as set forth in the annex to this resolution.

P. Five-Year Information Technology and Information Management Strategy

The Assembly of States Parties,

Noting the recommendation of the Committee at its thirty-first session with regard to multi-year budgeting of the Five-Year IT/IM Strategy,²²

1. *Requests* the Court to provide the Committee, at its thirty-second session, with a solution within the parameters of the Financial Regulations and Rules for the transfer of unspent funds of the Strategy, caused by objective delays in procurement, from one financial year to the following.

Q. Amendments to the Rules of Procedure of the Committee on Budget and Finance

The Assembly of States Parties,

1. *Takes note* of the proposed amendments to the Rules of Procedure of the Committee on Budget and Finance contained in paragraphs 23 to 25 and annex V of the report of the Committee on the work of its thirtieth session;²³

2. *Recalls* that all proposed amendments shall be justified for the Assembly to consider their adoption, bearing in mind that the Assembly of States Parties is the only decision making body having the necessary authority to review its resolutions;

3. *Requests* the Committee to provide more detailed background information on the proposed amendments; and

4. *Requests* The Hague Working Group to discuss the proposed amendments, including any additional information provided by the Committee, in the context of the budget facilitation, with a view to enabling the Assembly to take a decision, as appropriate.

²⁰ *Official Records ... First session ... 2002* (ICC-ASP/1/3 and Corr.1), part II.D.

²¹ *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.1, paras. 133-136, 138-140 and annexes VI and VII.

²² *Ibid.*, part B.2, para. 104.

²³ *Ibid.*, part B.1.

Annex

Amendments to the Financial Regulations and Rules

A. Amendments concerning the financial obligations of withdrawing States Parties

Regulation 5: Provision of funds

5.1 The funds of the Court shall include:

(a) Assessed contributions made by States Parties in accordance with article 115, subparagraph (a), of the Rome Statute;

(b) Funds provided by the United Nations in accordance with article 115, subparagraph (b), of the Rome Statute;

(c) Voluntary contributions by Governments, international organizations, individuals, corporations and other entities, in accordance with article 116 of the Rome Statute;

(d) Such other funds to which the Court may become entitled or may receive.

5.2 The appropriations, subject to the adjustments effected in accordance with the provisions of regulation 5.4, shall be financed by contributions from States Parties in accordance with an agreed scale of assessment, as provided for in article 117 of the Rome Statute. This scale shall be based on the scale adopted by the United Nations for its regular budget, and adjusted in accordance with the principles on which that scale is based, in order to take into account the differences in membership between the United Nations and the Court. The scale shall be adopted by the Assembly of States Parties. Pending the receipt of such contributions, the appropriations may be financed from the Working Capital Fund.

5.3 The appropriations provided for in regulation 4.2 shall be financed from the assessed contributions from States Parties in accordance with regulation 5.2 up to a limit to be decided upon by the Assembly of States Parties in each budget resolution. Pending the receipt of such contributions, the appropriations may be financed from the Working Capital Fund.

5.4 The contributions of States Parties shall be assessed for a financial period on the basis of the appropriations approved by the Assembly of States Parties for that financial period. Adjustments to the assessments of States Parties shall be made in respect of:

(a) Any balance of the appropriations surrendered under regulation 4.7;

(b) Contributions resulting from the assessment of new States Parties under the provisions of regulation 5.10;

(c) Reassessed contributions of withdrawing States Parties under the provisions of regulation 5.12;

(d) Miscellaneous income.

5.5¹ After the Assembly of States Parties has reviewed and adopted the budget and determined the amount of the Working Capital Fund or the Contingency Fund if the Assembly of States Parties has determined in accordance with regulation 6.6 that the Fund shall be financed from assessed contributions, the Registrar shall:

(a) Transmit the relevant documents to the States Parties;

(b) Inform the States Parties of their commitments in respect of annual assessed contributions and advances to the Working Capital Fund or the Contingency Fund;

(c) Request them to remit their contributions and advances.

¹ As amended by ICC-ASP/4/Res. 10.

Rule 105.1**Time frame for application of regulation 5.5**

The Registrar shall comply with regulation 5.5 within thirty days of the decision by the Assembly of States Parties approving the budget and the level of the Working Capital Fund.

5.6 Assessed contributions and advances shall be considered as due and payable in full within thirty days of the receipt of the communication of the Registrar referred to in regulation 5.5 or as of the first day of the calendar year to which they relate, whichever is the later. As of 1 January of the following calendar year, the unpaid balance of such contributions and advances shall be considered to be one year in arrears.

5.7² Contributions and advances to the Working Capital Fund and, as appropriate, to the Contingency Fund, shall be assessed and paid in the currency of the statutory headquarters of the Court. The contributions and advances to the Working Capital Fund and, as appropriate, to the Contingency Fund, may also be paid in any other currency that is freely convertible into the currency of the statutory headquarters of the Court. Any currency exchange cost will be borne by the State Party which decided to pay in a currency other than the currency of the statutory headquarters of the Court.

Rule 105.2**Applicable rate of exchange for contributions**

The equivalent in euros of contributions paid in other currencies is calculated at the most favourable rate of exchange available to the Court on the date of payment.

5.8³ Payments made by a State Party shall be credited first to the Working Capital Fund, then to the contributions due to the General Fund, and then to the Contingency Fund, in the order in which the State Party was assessed.

5.9 The Registrar shall submit to each meeting of the Assembly of States Parties a report on the collection of contributions and advances to the Working Capital Fund.

5.10 New States Parties shall be required to make contributions for the year in which they become States Parties and to provide their proportion of the total advances to the Working Capital Fund at rates to be determined by the Assembly of States Parties.

New States Parties shall be required to make a contribution to the total cost of the permanent premises at the time of their ratification, acceptance, approval of or accession to the Rome Statute.

5.11 A State Party shall not be discharged, by reason of its withdrawal from the Rome Statute, from any financial obligations, including, but not limited to, that State Party's contribution to the total costs of the permanent premises and any other multi-year financial obligations which have accrued while it was a Party to the Rome Statute.

5.12 States Parties that withdraw from the Rome Statute shall be required to make proportional payments of the assessed annual contributions related to the year in which the withdrawal takes effect. The State Party's final financial status will be determined on the basis of its share in:

- (a) A cash surplus in the budget, if any;
- (b) The Working Capital Fund; and
- (c) The Contingency Fund.

² As amended by resolution ICC-ASP/4/Res.10.

³ As amended by resolution ICC-ASP/3/Res.4, annex.

B. Amendments concerning seizure of assets

Regulation 6: Funds

6.5 Trust funds and special accounts funded wholly by voluntary contributions, or by funds received by the Court in connection with judicial proceedings, including upon seizure further to cooperation requests from the Court, may be established and closed by the Registrar and shall be reported to the Presidency and, through the Committee on Budget and Finance, to the Assembly of States Parties.

Reserve accounts and special accounts funded wholly or in part by assessed contributions may be established by the Assembly of States Parties.

The purposes and limits of each trust fund, reserve and special account shall be clearly defined by the appropriate authority. Unless otherwise decided by the Assembly of States Parties, such funds and accounts shall be administered in accordance with these Regulations.

Regulation 7: Other income

7.1 All other income except:

- (a) Assessed contributions made by States Parties to the budget;
- (b) Funds provided by the United Nations in accordance with article 115, subparagraph (b), of the Rome Statute;
- (c) Voluntary contributions in accordance with article 116 of the Rome Statute and regulation 7.3, made by States Parties, other States, international organizations, individuals, corporations and other entities;
- (d) Funds received by the Court in connection with judicial proceedings, including upon seizure further to cooperation requests from the Court;
- (e) Direct refunds of expenditures made during the financial period, shall be classed as miscellaneous income, for the purpose of regulation 4.6 and 6.1, for credit to the General Fund.

Resolution ICC-ASP/17/Res.5

Adopted at the 13th plenary meeting, on 12 December 2018, by consensus

ICC-ASP/17/Res.5

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 and the duty to end 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 justice and peace are complementary and mutually reinforce each other,

Welcoming the activities and events held in commemoration of the 20th anniversary of the Rome Statute, which reaffirmed the support of States Parties, civil society and other stakeholders for the important work of the Court,

Welcoming that the international community has agreed to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels and, in this regard, encouraging societies facing conflicts to move from war to peace through peaceful solutions,

Convinced 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,

Reaffirming its commitment to the Rome Statute 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 the crimes under the Rome Statute to justice and thus to contribute to the prevention of such crimes and *noting* the jurisprudence of the Court on the issue of complementarity,

Recalling that the application of articles 17, 18 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 also 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,

Recognizing that crimes within the jurisdiction of the Court threaten the peace, security and well-being of the world and, in consequence, that these are values protected by the Rome Statute,

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,

Welcoming the statement by the President of the Security Council of 12 February 2013 in which the Council stated its intention to continue fighting impunity, 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,

Deeply concerned by the on-going lack of effective follow-up by the Security Council to its resolutions referring situations to the Court and its consequences, despite efforts by States Parties,

Recalling the full range of justice and reconciliation mechanisms with restorative measures that are complementary to criminal justice processes, including truth and reconciliation commissions, national reparations programmes and institutional and legal reforms, including guarantees of non-recurrence,

Acknowledging relevant decisions of the Court that have recognized that contributions to the promotion of peace and reconciliation may be a relevant consideration in sentencing decisions, on a case by case basis,

Recalling the success of the first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010,

Recalling also 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,

Reaffirming the importance of States Parties' cooperation with the Court to the fulfilment of its mandate, and gravely concerned by attempts at intimidation to deter cooperation,

Concerned by the recent reports of threats and intimidation directed at some civil society organizations cooperating with the Court,

Emphasizing 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, *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 and

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

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 also 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,

1. *Reconfirms* its unwavering support for the Court as an independent and impartial judicial institution, *reiterates* its commitment to uphold and defend the principles and values enshrined in the Rome Statute and to preserve its integrity undeterred by any threats against the Court, its officials and those cooperating with it, and *renews* its resolve to stand united against impunity;

A. Universality of the Rome Statute

2. *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 and *calls upon* all States Parties to intensify their efforts to promote universality;

3. *Notes with deep regret* the notification of withdrawal submitted by a State Party under article 127(1) of the Statute on 17 March 2018, and *calls upon* that State to reconsider its withdrawal;¹

4. *Welcomes with appreciation* also the continuation by the President of the Assembly and by the Bureau of the dialogue on the "Relationship between Africa and the International Criminal Court" initiated by the Bureau during the fifteenth session of the Assembly of States Parties, and *invites* the Bureau to further widen and deepen this dialogue as needed with all interested State Parties;

5. *Welcomes* the initiatives undertaken to celebrate 17 July as the Day of International Criminal Justice² as well as those to commemorate the 20th anniversary of the Rome Statute and *recommends* that, on the basis of lessons learnt, all relevant stakeholders, together with the Court, continue to engage in preparation of appropriate activities and share information with other stakeholders to that effect through the Secretariat of the Assembly³ and otherwise;

6. *Calls upon* all international and regional organizations as well as civil society to intensify their efforts to promote universality;

7. *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, and *calls upon* States to annually provide the Secretariat of the Assembly of States Parties with updated information about actions and activities in support of international justice, as per the Plan of Action (paragraph 6(h));⁴

8. *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 and when appropriate;

¹ Depository Notification C.N.138.2018.TREATIES-XVIII.10, see at: <https://treaties.un.org/doc/Publication/CN/2018/CN.138.2018-Eng.pdf>.

² *Official Records... Review Conference... 2010 (RC/11)*, part II.B, Kampala declaration (RC/Decl.1), para 12.

³ See ICC - Secretariat of the Assembly of States Parties at https://asp.icc-cpi.int/en_menus/asp/asp%20events/ICJ-D/Pages/default.aspx.

⁴ ICC-ASP/5/Res.3, annex I.

9. *Welcomes* the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute⁵ and *notes with appreciation* the efforts of the Court's President, the Office of the Prosecutor, the President of the Assembly, the Assembly, States Parties and 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;

10. *Recalls* rule 42 of the Rules of Procedure of the Assembly of States Parties, *endorses* the Bureau decision of 18 October 2017 whereby it adopted an Understanding on the Participation of Observer States in Meetings of the Assembly of States Parties,⁶ and *underscores* the importance of promoting universality of the Rome Statute and of strengthening the openness and transparency of the Assembly;

B. 20th anniversary of the Rome Statute

11. *Welcomes* the activation of the International Criminal Court's jurisdiction over the crime of aggression as of 17 July 2018, as decided by consensus by the Assembly of States Parties in its resolution ICC-ASP/16/Res.5, marking the first time that a permanent international court has the authority to hold individuals accountable in respect of this crime, thereby completing the achievements of the Rome and Kampala Conferences of 1998 and 2010;

12. *Renews* its call upon all States Parties to consider ratifying or accepting the amendments to the Rome Statute on the crime of aggression;

13. *Welcomes* the high-level event co-organized by the Court and the Assembly on 16 and 17 July 2018 in The Hague, which included a mock trial, a solemn hearing and a symposium on the topic "Enduring Value of the Rome Statute to Humanity";

14. *Welcomes* the high-level event entitled "20th anniversary of the Rome Statute: The need for universality and the International Criminal Court's jurisdiction over the crime of aggression", co-organized by 15 States Parties and held on 17 July 2018 at United Nations Headquarters in New York;

15. *Welcomes* the plenary discussion held at the seventeenth session of the Assembly entitled "Rome Statute 20 years – Addressing current and future challenges", which aimed at identifying a vision of support, capacity and adaptation needed for the Court and the broader Rome Statute system to continue carrying out its mandate effectively;

16. *Welcomes* the high-level regional seminar on "The International Criminal Court and South America: Opportunities for cooperation and exchanges of experiences at 20 years of the Rome Statute", held in Quito, Ecuador, from 7 to 8 June 2018; *takes note* of its outcome, the "Declaration of Quito on the Twentieth Anniversary of the Adoption of the Rome Statute of the International Criminal Court";⁷

17. *Welcomes* the high-level regional seminar organized by the International Criminal Court in collaboration with the Government of Georgia and the European Commission to foster regional cooperation in Eastern Europe, entitled "Opportunities for Cooperation and Exchange of Experience at 20 Years of the Rome Statute", held in Tbilisi, Georgia, from 24 to 25 October 2018;

18. *Welcomes* all other events and activities at international, regional and national level to commemorate the 20th anniversary of the Rome Statute, which contribute to a better understanding and awareness of the Rome Statute system and of the important role of the Court in fighting impunity for the most serious international crimes and notes the lists of events and activities published;⁸

⁵ ICC-ASP/17/32.

⁶ See: Agenda and decisions of the sixth meeting of the Bureau, annex II, appendix: https://asp.icc-cpi.int/iccdocs/asp_docs/Bureau/ICC-ASP-2017-Bureau-06.pdf.

⁷ https://asp.icc-cpi.int/iccdocs/asp_docs/20a/Approved%20Quito%20Declaration%20ENG.pdf.

⁸ ICC-ASP/17/32, annex II; Link to the ASP website for 20th anniversary events: https://asp.icc-cpi.int/en_menus/asp/asp%20events/20a/Pages/default.aspx.

C. Agreement on Privileges and Immunities

19. *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;

20. *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 Privileges and Immunities in which the Court's property and assets are located or through which such property and assets are transported, to protect the property and assets of the Court from search, seizure, requisition and any other form of interference;

D. Cooperation

21. *Refers* to its resolution ICC-ASP/17/Res.3 on cooperation;

22. *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 *also 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 constitutional and legislative framework, enforcement of Court decisions and execution of arrest warrants;

23. *Reaffirms* the importance of supporting all those cooperating with the Court, including States and relevant international bodies and entities, in order to secure the ability of the Court to fulfill its critical mandate of holding accountable perpetrators of the most serious crimes of concern to the international community and delivering justice to victims;

24. *Further 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;

25. *Welcomes* the seminar organized by the co-facilitators on cooperation with the Court entitled "Arrests: a key challenge in the fight against impunity" held on 7 November 2018 at the Court's premises in The Hague, *appreciates* the contributions of the participating international and national experts aimed at identifying practical solutions to improve cooperation between States and the Court with a view to enhancing prospects for the implementation of pending arrest warrants, and *urges* The Hague Working Group to continue the discussions in order to consolidate and implement these and other proposals contributing to ensuring the arrest and surrender of suspects;

26. *Welcomes* the plenary session on cooperation held during the seventeenth session of the Assembly of States Parties which offered an opportunity for an enhanced dialogue between States Parties, the Court and members of civil society on the issues of financial investigations, arrests, and voluntary agreements and *welcomes* the signing of an enforcement of sentences cooperation agreement concluded between Slovenia and the Court during the cooperation plenary of the seventeenth session of the Assembly;

27. *Underlines* the importance of effective procedures and mechanisms that enable States Parties and other States to cooperate with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible, *welcomes* the Court's report and comprehensive presentation on cooperation challenges faced by the Court with respect to financial investigation and *calls on* all States Parties to put in place and further improve effective procedures and mechanisms in this regard, with a

view to facilitating cooperation between the Court, States Parties, other States and international organizations;

28. *Recalls* the importance of the non-legally binding Declaration of Paris on asset recovery annexed to resolution ICC-ASP/16/Res.2;

29. *Recalls* the Assembly procedures relating to non-cooperation adopted by the Assembly in ICC-ASP/10/Res.5,⁹ *recognizes with concern* the negative impact that the non-execution of Court requests continues to have on the ability of the Court to execute its mandate, *welcomes* the engagement by States Parties toward the successful finalization of the review of the Assembly procedures relating to non-cooperation and *decides* to adopt the revised Assembly procedures relating to non-cooperation annexed to this resolution;

30. *Recalls* the Toolkit for the implementation of the informal dimension of the Assembly procedures relating to non-cooperation,¹⁰ *welcomes* the revised Toolkit¹¹ and *encourages* States Parties to make use of it as they see fit in order to improve the implementation of the Assembly procedures relating to non-cooperation;

31. *Takes note* of the report of the Bureau on non-cooperation,¹² *welcomes* the efforts of the President of the Assembly in implementing the Assembly procedures relating to non-cooperation and *recalls* that the President serves ex officio as focal point for his or her region,¹³ *calls upon* all stakeholders, at all levels, to continue assisting the President of the Assembly, including when accomplishing his or her task with the support of the regional focal points for non-cooperation;

32. *Recalls* the role of the Assembly of States Parties and the Security Council with respect to non-cooperation as provided for by articles 87, paragraph 5, and 87, paragraph 7, of the Rome Statute, and *welcomes* the efforts of States Parties to strengthen the relationship between the Court and the Council;

33. *Welcomes* in this regard the Arria formula meeting of the Security Council on the relationship between the Court and the Security Council on 6 July 2018 and the follow-up meeting organized on 18 September 2018 by the co-facilitators on cooperation;

34. *Calls upon* States Parties to continue their efforts to ensure that the Security Council addresses the communications received from the Court on non-cooperation pursuant to the Rome Statute, *encourages* the President of the Assembly and the Bureau to continue consulting with the Security Council and *also encourages* both the Assembly and the Security Council to strengthen their mutual engagement on this matter;

35. *Notes* the orders of the Pre-Trial Chamber to the Registrar concerning action to be taken in case of information relating to the travel of suspects,¹⁴ and *urges* States to share with the focal points on non-cooperation any information concerning potential or confirmed travel of persons against whom an arrest warrant has been issued;

E. Host State

36. *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 on-going commitment of the host State to the Court with a view to its more efficient functioning;

⁹ Annex.

¹⁰ ICC-ASP/15/31, Add.1, annex II.

¹¹ ICC-ASP/17/31, annex III.

¹² ICC-ASP/17/31.

¹³ ICC-ASP/11/29, para. 12.

¹⁴ See Corrigendum of "Orders to the Registrar concerning action to be taken in case of information relating to the travel of suspects", ICC-02/05-01/09-235-Corr (15 Apr. 2015).

F. Relationship with the United Nations

37. *Recognizes* the need for enhancing the institutional dialogue with the United Nations, including on Security Council referrals;

38. *Welcomes* the twice-yearly reports of the Prosecutor on the situations referred by the United Nations Security Council pursuant to resolutions 1593 (2005) and 1970 (2011), and *noting* the Prosecutor's repeated requests for effective Security Council follow-up, *recognizes* the efforts of some members of the Security Council in this regard, and *urges* all members of the Security Council to support future such requests;

39. *Recognizes* that ratification or accession to the Rome Statute by members of the United Nations Security Council enhances joint efforts to combat impunity for the most serious crimes of concern to the international community as a whole;

40. *Also recognizes* the Security Council's call regarding the importance of State cooperation with the Court and *encourages* further strengthening of the Security Council's relationship with the Court by:

(a) providing effective follow-up of situations referred by the Council to the Court and on-going political support;

(b) enabling financial support by the United Nations for expenses incurred by the Court due to referrals of the Council;

(c) continued support for the work of the Court through cooperation and assistance by peacekeeping and special political missions mandated by the Council, including by considering extending best practices with respect to the drafting of mandates of peacekeeping operations while respecting their basic principles, and increased cooperation between Sanctions Committees and the Court;

(d) considering mandating peacekeeping and special political missions to contribute, where appropriate, to the strengthening of national justice systems through training, outreach and other forms of assistance;

(e) enhanced engagement by the Council with Court representatives and on matters related to the Court in various formats; and

(f) institutionalizing Council cooperation with and support for the Court in this regard;

41. *Recalls* the report of the Court on the status of on-going cooperation with the United Nations, including in the field;¹⁵

42. *Encourages* all United Nations Offices, Funds and Programmes to strengthen their cooperation with the Court, and to collaborate effectively with the Office of Legal Affairs as focal point for cooperation between the United Nations system and the Court;

43. *Recalls* article 4 of the Relationship Agreement between the Court and the United Nations, and *stresses* the continuing need to ensure the ability of the Court to fully exercise its capacity of observer to the United Nations and its ability to interact and engage in dialogue with the United Nations, including through its attendance and participation as observer in the activities of the United Nations General Assembly, and through the Court's officials' regular visits to the United Nations to provide briefings and updates on its activities;

44. *Commends* the important work of the New York Liaison Office of the Court, *reiterates* its full support for the Office and *stresses* the importance of the continued and further strengthening of the implementation of its functions in accordance with ICC-ASP/4/6, paragraphs 2, 3 and 4;

45. *Notes* the redeployment of the Liaison Office to the Registry, with a view to ensuring a more effective and efficient implementation of its functions, including by enhancing synergies within the Court;

¹⁵ ICC-ASP/12/42.

46. *Welcomes* that States Parties have been informed throughout 2018 on Court-related developments at the United Nations and in particular at the Security Council, notably through regular briefings provided by the designated State Party member of the Security Council, and *calls upon* Bureau members and other States Parties to continue providing States Parties with information about their efforts at the United Nations and in any other international or regional fora to promote the fight against impunity;

47. *Welcomes* the presentation of the annual report of the Court to the General Assembly of the United Nations¹⁶ and in particular its focus on the relationship between the Court and the United Nations, *also welcomes* the adoption of resolution A/RES/73/7 by the General Assembly and *encourages* States Parties to continue their constructive engagement with United Nations Member States to further strengthen this resolution;

48. *Notes with concern* that, to date, expenses incurred by the Court due to referrals by the Security Council continue to be borne exclusively by States Parties and *notes* that, to date, the approved budget allocated so far within the Court in relation to the referrals made by the Security Council amounts to approximately €61 million;

49. *Stresses* that, if the United Nations is unable to provide funds for the Court to cover the expenses incurred due to referrals by the Security Council, this will, among other factors, continue to exacerbate resource pressure on the Court;

50. *Urges* States Parties to pursue, within the General Assembly of the United Nations, the implementation of article 115, paragraph (b), of the Rome Statute, also taking into account that article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations states that the conditions under which any funds may be provided to the Court by a decision of the General Assembly shall be subject to separate arrangements;

51. *Encourages* the Court to further engage with the relevant Sanctions Committees of the United Nations Security Council with a view to improving their cooperation and achieving better coordination on matters pertaining to areas of mutual concern;

52. *Notes* that all cooperation received by the Court from the United Nations is provided strictly on a reimbursable basis;

G. Relationships with other international organizations and bodies

53. *Welcomes* the efforts undertaken by various regional and other international organizations to support the Court in the fulfilment of its mandate;

54. *Recalls* the memoranda of understanding and agreements on cooperation concluded by the Court with the European Union, the Asian-African Legal Consultative Organization, the Organization of American States, the Commonwealth, the Organisation internationale de la Francophonie, the Parliament of the MERCOSUR, and the Inter-American Court of Human Rights;

55. *Welcomes* the efforts of the Court to engage with various regional bodies and entities, including through its participation in the bi-annual meeting of the Organization of American States on strengthening cooperation with the ICC, the EU Day against Impunity and the organization of a roundtable with the European Union, as well as the annual session of the Asian-African Legal Consultative Organization;

56. *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 *welcomes* 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;

¹⁶ United Nations document A/73/334.

57. *Welcomes* the series of meetings previously held in Addis Ababa which took the form of joint seminars between the Court and the African Union, in July 2011, October 2012, July 2014 and October 2015, and consequent retreats in October 2016 and in November 2017 organized by the Court to enable a frank and constructive dialogue between the Court and the African States Parties to the Rome Statute as a key measure to strengthen relations between the Court and its African partners and address challenges within the context of this relationship;

58. *Also welcomes* the efforts to further the presence of the Court at meetings of regional organizations, including through the organization of a side event at the 48th Pacific Islands Forum held in Apia, Samoa, from 4 to 8 September 2017;

59. *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;

H. Activities of the Court

60. *Takes note* of the latest report on the activities of the Court to the Assembly;¹⁷

61. *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 Council¹⁸ referred to the Court or which the Prosecutor initiated *proprio motu*;

62. *Recalls* its invitation to 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 already investigated and prosecuted crimes that fall within the Court's jurisdiction, in solving challenges similar to those encountered by the Court, while reiterating its respect for the independence of the Court;

63. *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;

64. *Welcomes* the continued implementation by the Office of the Prosecutor of its Policy Papers on Case Selection and Prioritization, on Children, and on Sexual and Gender-Based Crimes, and, in this regard, *stresses* the importance of the effective investigation and prosecution of sexual and gender-based crimes and crimes against children by the Court and by national courts, in order to end impunity for perpetrators of such crimes, *calls upon* States Parties to consider the Policy Papers to strengthen the investigation and prosecution of these crimes domestically and *notes* the on-going preparation of the Office of the Prosecutor's Policy Paper on the Protection of Cultural Property within the Rome Statute framework;

65. *Expresses its appreciation* to the Office of the Prosecutor for consulting with States Parties and other stakeholders before the issuance of its policies and strategies and *welcomes* the contributions made by States Parties in this regard;

66. *Also 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, efficient use of financial resources and sound management;

¹⁷ ICC-ASP/17/9.

¹⁸ United Nations Security Council resolutions 1593 (2005) and 1970 (2011).

67. *Notes* the intention of the Court, the Office of the Prosecutor and the Registry to prepare Strategic Plans for the period 2019-2021 in the first quarter of 2019, *stresses* the importance of receiving Strategic Plans at the earliest possible time, and preferably before the beginning of the Strategic Plan period, and *requests* the Court, the Office of the Prosecutor and the Registry to update States Parties on the development of those plans;

68. *Notes with appreciation* the continued 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 visibility 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;

69. *Welcomes* the on-going efforts undertaken by the Court to improve its use of alternative sources of information and evidence as well as its capacities to this end, including in the field of financial investigations, *encourages* the Court to continue these efforts and *notes* the importance of providing the Court with the appropriate means for this purpose;

70. *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;

71. *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 Outreach¹⁹ in affected countries, including, where appropriate, by early outreach from the outset of the Court's involvement, including during the preliminary examination stage;

72. *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 to developing a coordinated and comprehensive approach;

I. Elections

73. *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;

74. *Stresses* the importance of elected judges who have made their solemn undertaking being available to take up their full-time service when the Court's workload so requires;

75. *Welcomes* the report of the Bureau on the Advisory Committee on Nominations;²⁰

76. *Recalls* its decision that the Advisory Committee on Nominations hold its sessions in The Hague or in New York, depending on the cost effectiveness of the particular venue;

77. *Reiterates* the importance of face-to-face interviews with candidates to the effective discharge of its mandate and *stresses* the responsibility of the nominating States to ensure that candidates attend a face-to-face interview with the Advisory Committee on Nominations;

78. *Recalls* the terms of reference of the Advisory Committee on Nominations of Judges of the International Criminal Court adopted by the Assembly via resolution ICC-ASP/10/Res.5, paragraph 19, and *requests* States Parties which may be considering nominations of their nationals as members of the Advisory Committee to bear in mind that the composition of the Committee should reflect, inter alia, "a fair representation of both genders";

¹⁹ ICC-ASP/5/12.

²⁰ ICC-ASP/17/21.

J. Secretariat of the Assembly of States Parties

79. *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;

80. *Recalls* the general oversight function of the Bureau over the Secretariat, as contained in the resolution establishing the Secretariat;²¹

81. *Welcomes* the report of the Bureau on the assessment of the Secretariat and the recommendations contained therein;²²

K. Counsel

82. *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;

83. *Takes note* of the report on the constitution and activities of the International Criminal Court Bar Association²³ and *invites* the International Criminal Court Bar Association to report to the Assembly, through the Bureau, on its constitution and activities in advance of the eighteenth session;

84. *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, paragraph 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;

L. Legal aid

85. *Acknowledges* the Court’s efforts to continue implementing the legal aid remuneration policy and *stresses* the need for continuous monitoring of the efficiency of the legal aid system to uphold and strengthen the principles of the legal aid system, namely fair trial, objectivity, transparency, economy, continuity and flexibility;²⁴

86. *Takes note* of the information provided by the Registrar²⁵ and the recommendations made by the Committee on Budget and Finance regarding this matter;²⁶

87. *Recalls* the fundamental importance of the legal aid system to ensuring the fairness of judicial proceedings as well as the right of the defendants and victims to appropriate legal representation;

M. Study Group on Governance

88. *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;

89. *Takes note* of the Bureau’s report on the Study Group on Governance;²⁷

²¹ ICC-ASP/2/Res.3, annex, para. 10.

²² ICC-ASP/17/39.

²³ ICC-ASP/17/38.

²⁴ ICC-ASP/3/16, para. 16.

²⁵ ICC-ASP/17/4.

²⁶ *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.1, paras. 112-118; part B.2, paras. 226-228.

²⁷ ICC-ASP/17/30.

90. *Extends* for another year the mandate of the Study Group, established in resolution ICC-ASP/9/Res.2 and extended in resolutions ICC-ASP/10/Res.5, ICC-ASP/11/Res.8, ICC-ASP/12/Res.8, ICC-ASP/13/Res.5, ICC-ASP/14/Res.4, ICC-ASP/15/Res.5 and ICC-ASP/16/Res.6;

91. *Encourages* the Court to continue its work in 2019 on developing common practice, in particular on victims' participation;

92. *Also welcomes* the dialogue between States Parties, the Court, members of civil society and practitioners at the plenary discussion on victim participation held during the seventeenth session of the Assembly, which focused on achievements and challenges regarding victims' participation and representation twenty years after the adoption of the Rome Statute;

93. *Calls upon* States Parties to continue considering amendment proposals by the Working Group on Lessons Learnt;

94. *Welcomes* the continued work of the Court on the topic of performance indicators as an important tool to fulfill its functions;

95. *Expresses* the Assembly's wish to continue an active dialogue with the Court on that topic, bearing in mind that the Court needs to implement its intended approach in order to produce results which can form the basis of further dialogue;

N. Proceedings of the Court

96. *Emphasizes* that the effectiveness of proceedings of the Court is essential to the rights of victims and those of the accused, the credibility and authority of the institution and the promotion of the universality of the Statute, as well as the best possible use of the Court's resources;

97. *Welcomes* the Court's efforts to enhance the efficiency and effectiveness of proceedings, as well as the efforts on the part of States Parties and civil society in this regard, *mindful* of the importance of continued dialogue on this matter and *noting* the shared responsibility of the Court and States Parties in this regard;

O. Working methods review

98. *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;

99. *Welcomes* the steps already undertaken by the Bureau for the improvement of the working methods;

100. *Decides* to continue improving the working methods of the Bureau and the governance of the Assembly, and to that effect:

(a) *recalls* the revised general roadmap for facilitations contained in annex II of resolution ICC-ASP/15/Res.5 and *stresses* the need for its full implementation;

(b) *welcomes* the holding of Bureau meetings both in New York and in The Hague;

(c) *acknowledges* the importance of ensuring that the agenda of the Assembly allows sufficient time for substantive discussions;

(d) *recognizes* the importance of exchange of information as well as mutual consultations between the New York Working Group and The Hague Working Group on matters of joint concern with a view to enhancing efficiency while avoiding duplication of efforts;

(e) *encourages* all States Parties to use the Extranet designed for the work of the subsidiary bodies of the Bureau and the Assembly containing all necessary documentation on the work in progress; and

(f) *also encourages* States Parties to deliver statements no longer than five minutes and to submit written statements instead of oral ones;

101. *Recognizes* the importance of the work carried out by the facilitators and the focal points;

102. *Recalls* the representative geographical character of the Bureau and *encourages* Bureau members to strengthen their communication with States Parties of their respective regional group to inform the discussion of the Bureau, including by establishing appropriate mechanisms for providing regular updates on the work of the Bureau;

103. *Requests* the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first semester of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau and to make recommendations to improve efficiency;

P. Victims and affected communities, reparations and Trust Fund for Victims

104. *Refers* to its resolution ICC-ASP/13/Res.4 on victims and affected communities, reparations and Trust Fund for Victims;

105. *Reiterates* that victims' right to present and have considered their views and concerns at stages of the proceedings determined to be appropriate by the Court where their personal interests are affected and to protection of their safety, physical and psychological well-being, dignity and privacy, under article 68 of the Rome Statute, as well as access to relevant information are essential components of justice and, in this regard, *emphasizes* the importance of effective outreach to victims and affected communities in order to give effect to the mandate of the Court;

106. *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;

107. *Recalls* article 75 of the Rome Statute and, in this regard, the reparative justice role of the Court, and *notes* that assistance and reparations to victims may promote reconciliation and contribute to peace-building;

108. *Acknowledges* the importance of protective measures for victims and witnesses, including considering the best interests, rights and well-being of children and maintaining the physical and psychological welfare of witnesses, particularly victims of sexual and gender-based crimes, for the execution of the Court's mandate, *stresses* the need for States to conclude agreements with the Court in order to facilitate expeditious international relocation of persons at risk, *welcomes* the relocation agreement with the Court concluded since the sixteenth session of the Assembly, *urges* all States to consider concluding such relocation agreements and *encourages* all States to contribute to the Special Fund for Relocations;

109. *Stresses* that, since the identification, tracing and freezing or seizure of any assets of the convicted 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, as required;

110. *Recalls* the Court's previous commitment to review its Revised Strategy in Relation to Victims once a judicial cycle is finished,²⁸ and therefore *requests* the Court to submit an updated strategy, including measurable and time-bound objectives, to the Assembly at its eighteenth session;

²⁸ ICC-ASP/13/Res.4, para. 1.

111. *Renews its appreciation* to the Board of Directors and the Secretariat of the Trust Fund for Victims for their continuing commitment towards victims and affected communities;

112. *Notes* the significant growth in the activities of the Trust Fund, to include four on-going reparations proceedings as well as the expansion of assistance programmes to more situations before the Court;

113. *Calls upon* States, international and inter-governmental organizations, individuals, corporations and other entities to make voluntary contributions, in accordance with their financial ability, to the Trust Fund for Victims in order to broaden its resource base, improve the predictability of funding and maintain responsiveness to harm suffered by victims as well as to the Court's judicial developments, and *renews its appreciation* to those that have done so;

114. *Invites* States Parties to respond to requests of the Trust Fund for Victims for earmarked contributions for the purposes of funding specific reparations awards, as well as of replenishing and strengthening the Trust Fund's general reparations reserve, and *expresses its appreciation* to those that have already done so;

115. *Invites* States Parties to consider making earmarked voluntary contributions to the Trust Fund to the benefit of victims of sexual and gender-based violence, and *expresses its appreciation* to those that have already done so;

116. *Notes* the intention of the Trust Fund for Victims to raise €30 million in voluntary contributions and private donations by 2020, in order to implement reparations orders and assistance mandates to the benefit of victims in cases and situations before the Court;

Q. Recruitment of staff

117. *Takes note* of the Court's report on Human Resources Management,²⁹ and *requests* the Court to strengthen its efforts, in the recruitment of staff, to seek equitable geographical representation with a particular focus on candidates from non-represented and under-represented States Parties, 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;

118. *Takes note* of the continued 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 and its recommendations;³⁰

119. *Urges* States Parties to undertake efforts to identify and enlarge pools of potential applicants to the Court's professional positions from States Parties from non- and under-represented regions and countries, including through the financing by the Assembly of the Court's internship and visiting professional programmes, and by States Parties of Junior Professional Officer (JPO) programmes, through targeted outreach initiatives and through the dissemination among relevant national institutions and organizations of the Court's vacancies;

120. *Welcomes* the establishment by the Court of a programme to fund, through voluntary contributions, the placement of interns and visiting professionals from developing regions with a particular focus on candidates from non-represented and under-represented States Parties, *welcomes* the voluntary contributions received thus far and *calls upon* States Parties to contribute to this programme;

121. *Requests* the Court to further devise mechanisms that can ensure in a more sustainable and systematic manner the funding of placements of interns and visiting professionals from developing regions, and further *requests* the Court to explore and propose modalities for implementing Junior Professional Officer (JPO) programmes for candidates from non- and under-represented States Parties, particularly from developing regions, to be funded through voluntary contributions;

²⁹ ICC-ASP/17/6.

³⁰ ICC-ASP/17/36.

R. Complementarity

122. *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 willing and able genuinely to carry out investigations and prosecutions of such crimes;

123. *Resolves* to continue and strengthen, within the appropriate fora, 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;

124. *Welcomes* the international community's engagement in strengthening the capacity of domestic jurisdictions and inter-State cooperation to enable States to genuinely prosecute Rome Statute crimes;

125. *Also welcomes* 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, and *strongly encourages* additional efforts in this regard by other international and regional organizations, States and civil society;

126. *Welcomes*, in this regard, the adoption of the 2030 Agenda for Sustainable Development³¹ and *acknowledges* the important work being undertaken with regard to promoting the rule of law at the national and international levels and ensuring equal access to justice for all;

127. *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 those laws, and *urges* States to do so;

128. *Welcomes* the report of the Bureau on complementarity,³² and *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, 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; and also including to assist on issues such as witness and victims protection and sexual and gender-based crimes;

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

130. *Encourages* States, international and regional organizations and civil society to submit to the Secretariat information on their complementarity-related activities and *further welcomes* the efforts made by the international community and national authorities, including national capacity building activities to investigate and prosecute sexual and gender-based crimes that may amount to Rome Statute crimes, in particular the continued

³¹ United Nations General Assembly resolution A/RES/70/1.

³² ICC-ASP/17/34.

efforts on the strategic actions to ensure access to justice and to enhance empowerment of victims at national level, recalling the recommendations presented by the International Development Law Organization during the fourteenth session of the Assembly;³³

131. *Encourages* the Court to continue its efforts in the field of complementarity, including through exchange of information between the Court and other relevant actors, while *recalling* the Court's limited role in strengthening national jurisdictions and *also encourages* continued inter-State cooperation, including on engaging international, regional and national actors in the justice sector, as well as civil society, in exchange of information and practices on strategic and sustainable efforts to strengthen national capacity to investigate and prosecute Rome Statute crimes and the strengthening of access to justice for victims of such crimes, including through international development assistance;

S. Independent Oversight Mechanism

132. *Notes* that the Independent Oversight Mechanism is fully staffed as of 1 November 2018 and that it is operational in respect of its investigation, inspection and evaluation functions;

133. *Takes note* of the amendment to rule 26 of the Rules of Procedure and Evidence concerning the receipt and admissibility of complaints by the Independent Oversight Mechanism;³⁴

134. *Welcomes* the discussions held during 2018 on the review of the work and operational mandate of the Independent Oversight Mechanism, and *stresses* the importance of completing that review and reporting to the Assembly at its eighteenth session;

135. *Also notes* that discussion on and potential mechanisms for the reporting of areas where the Independent Oversight Mechanism might advise the Bureau to consider requesting that the Independent Oversight Mechanism undertake an inspection or evaluation will be incorporated into the full review of the Independent Oversight Mechanism mandate and organization for Assembly consideration at its eighteenth session;

136. *Recalls* that a proposal to formally align the Regulations of the Court with the mandate of the Independent Oversight Mechanism is under consideration and *encourages* the Assembly, the Court, and the Independent Oversight Mechanism, as appropriate, to ensure that all relevant documents are updated and aligned with the mandate of the Independent Oversight Mechanism in order to harmonize the applicable rules;

137. *Welcomes* the complementary initiatives undertaken by the Bureau, the Assembly oversight bodies and the Court to try to ensure that the different organs of the Court have streamlined and updated ethics charters/codes of conduct, which should be consistent to the extent possible;

138. *Reaffirms* the critical importance of the Independent Oversight Mechanism in carrying out its work in an independent, transparent and impartial manner free from any undue influence;

139. *Reaffirms* the importance of the Independent Oversight Mechanism reporting to States Parties on the results of its activities;

140. *Emphasizes* the importance of adherence to the highest professional and ethics standards by all Court staff and elected officials, *notes* the need to further strengthen the professional and ethical framework for elected officials, *acknowledges* the essential role played and work done by the Independent Oversight Mechanism, *welcomes* the steps taken by the Court³⁵ to investigate the potential impact on the Court's work in light of allegations of misconduct surrounding former officials and *urges* the Court to take further steps to complete this investigation fully and transparently, to identify any necessary follow-up action for the Court and/or the Assembly, and to report to the Assembly in advance of its eighteenth session;

³³ International Development Law Organization paper entitled "Complementarity for sexual and gender-based atrocity crimes", November 2015.

³⁴ ICC-ASP/17/Res.2.

³⁵ ICC-ASP/17/INF.5.

T. Programme budget

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

142. *Recalls* that, according to its Rules of Procedure,³⁶ the Committee shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications and *emphasizes* the importance of ensuring that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

143. *Takes note with concern* of the report of the Bureau on the arrears of States Parties;³⁷

144. *Emphasizes* the importance of endowing the Court with the necessary financial resources, and *urges* all States Parties to the Rome Statute to transfer their assessed contributions in full and by the deadline for contributions or, in the event of pre-existing arrears, immediately, in accordance with article 115 of the Rome Statute, rule 105.1 of the Financial Regulations and Rules, and other relevant decisions taken by the Assembly;

145. *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;

U. Review Conference

146. *Recalls* 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 crime³⁸ and 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;³⁹

147. *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, *notes with appreciation* the recent ratifications of the amendments and *notes* that two States Parties have lodged declarations in accordance with article 15 *bis*, paragraph 4, of the Rome Statute;⁴⁰

148. *Calls upon* all States Parties to consider ratifying or accepting these amendments;

149. *Recalls* the discussions on the issue of peace and justice at the stock-taking exercise held at the Review Conference, *notes* the interest to resume the discussions on this issue and *invites* interested States Parties to do so;

150. *Recalls with appreciation* pledges of increased assistance to the Court made by thirty-five States Parties, one observer State, and one regional organization, *calls upon* these States and the regional organization to ensure the swift implementation of these pledges and *also calls upon* States and regional organizations to submit additional pledges and to report further at the eighteenth session of the Assembly, in written form or through their statement at the general debate on the implementation thereof;

V. Consideration of amendments

151. *Welcomes* the report of the Working Group on Amendments;⁴¹

152. *Calls upon* all States Parties to ratify or accept the amendment to article 124;

³⁶ *Official Records ... Second session ... 2003* (ICC-ASP/2/10), annex III.

³⁷ ICC-ASP/17/37.

³⁸ *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.6.

³⁹ *Ibid.*, RC/Res.5.

⁴⁰ <https://www.icc-cpi.int/resource-library#>

⁴¹ ICC-ASP/17/35.

153. *Also calls upon* all States Parties to ratify or accept the amendments to article 8 adopted at the sixteenth session of the Assembly;⁴²

W. Participation in the Assembly of States Parties

154. *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;

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

156. *Recalls*, in light of the 20th anniversary of the Rome Statute, the long-term and continuing cooperation between the Assembly, States Parties, and non-governmental organizations of civil society, and *reaffirms* resolution ICC-ASP/2/Res.8 on recognition of the coordinating and facilitating role of the NGO Coalition for the ICC;

157. *Decides* to entrust the Court, the President of the Assembly, the Bureau, the Advisory Committee on Nominations, the Working Group on Amendments, the Independent Oversight Mechanism, the Secretariat, and the Board of Directors and the Secretariat of the Trust Fund for Victims, as appropriate, with the mandates contained in the annex to the present resolution.

⁴² ICC-ASP/16/Res.4.

Annex I

Mandates of the Assembly of States Parties for the intersessional period

1. With regard to **universality of the Rome Statute**,
 - (a) *endorses* the recommendations of the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute¹; and
 - (b) *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 at its eighteenth session;
2. With regard to the **Agreement on Privileges and Immunities**, *requests* the Bureau to continue to support the ratification of the Agreement;
3. With regard to **cooperation**,
 - (a) *urges* the Bureau, through The Hague Working Group, to continue the discussions on the proposals resulting from the seminar of the co-facilitation held in The Hague on 7 November 2018 entitled “Arrests: a key challenge in the fight against impunity”;
 - (b) *requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its eighteenth session;
 - (c) *invites* the Bureau, through its Working Groups, to discuss the feasibility of establishing a coordinating mechanism of national authorities;
 - (d) *invites* the Court to continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance, including by considering consultations with the State Party concerned when necessary;
 - (e) *requests* the Bureau, through its Working Groups, to continue its review of the implementation of the 66 recommendations on cooperation adopted by States Parties in 2007,² in close cooperation with the Court, where appropriate;
 - (f) *requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court;
 - (g) *requests* the Court to submit an updated report on cooperation to the Assembly at its eighteenth session and annually thereafter;
 - (h) *mandates* the Bureau, through its Working Groups, to continue discussions on cooperation on financial investigations and the freezing and seizing of assets as set out in the Declaration of Paris;
 - (i) *requests* the President of the Assembly to continue to engage actively and constructively with all relevant stakeholders in accordance with the Assembly procedures relating to non-cooperation, both to prevent instances of non-cooperation and to follow up on any matter of non-cooperation referred by the Court to the Assembly;
 - (j) *requests* that any information concerning potential or confirmed travel of persons against whom an arrest warrant has been issued be promptly shared with the Court by the focal points on non-cooperation; and
 - (k) *requests* the Bureau to continue to actively engage throughout the intersessional period with all relevant stakeholders to continue to ensure effective implementation of the Assembly procedures relating to non-cooperation and to submit a report on its activities to the Assembly at its eighteenth session;

¹ ICC-ASP/17/32.

² ICC-ASP/6/Res.2, annex II.

4. With regard to the **relationship with the United Nations**,
- (a) *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; and
- (b) *requests* the Registry to update its report on the approximate costs allocated so far within the Court in relation to referrals by the Security Council³ ahead of the eighteenth session of the Assembly;
5. 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;
6. With regard to **elections**,
- (a) *decides* to continue to review the procedure for the nomination and election of judges as set forth in resolution ICC-ASP/3/Res.6, as amended, on the occasion of future elections after the sixteenth session with a view to making any improvements as may be necessary, taking into account the work conducted so far as reflected in the facilitator's discussion paper;⁴ and
- (b) *requests* the Bureau to update the Assembly, at its eighteenth session, on the progress of the review of the procedure for the nomination and election of judges;⁵
7. With regard to the **Secretariat**, *invites* the President to report to the eighteenth session of the Assembly on the implementation of the recommendations contained in the report of the Bureau on the assessment of the Secretariat;⁶
8. With regard to **legal aid**,
- (a) *mindful* of the recommendation of the Committee on Budget and Finance that the Court make every effort to present a reform that can be achieved within existing resources by exploring opportunities to contain the administrative burden without jeopardizing the need for accountability and by setting priorities accordingly,⁷ *requests* the Court to continue its review of the functioning of the legal aid system and to present, in early 2019, as appropriate, proposals for adjustments to the legal aid remuneration policy for the consideration of the Assembly, through the Committee, at its eighteenth session; and
- (b) *requests* the Bureau to establish a facilitation on legal aid to discuss the proposals from the Court and report to the Assembly thereon;
9. With regard to the **Study Group on Governance**,
- (a) *invites* the Court to further engage in a structured dialogue with States Parties 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;
- (b) *requests* the Study Group to report back to its eighteenth session;
- (c) *requests* the Study Group to follow up and, where appropriate, continue the dialogue on the evolution of indicators;
- (d) *encourages* the Court to continue to share with the Study Group any update on the development of qualitative and quantitative indicators;
- (e) *invites* the Court to monitor the use of intermediaries through its Working Group on Intermediaries with a view to safeguarding the integrity of the judicial process and the rights of the accused; and

³ ICC-ASP/17/27.

⁴ Report to the Bureau on the review of the procedure for the nomination and election of judges (ICC-ASP/15/23), annex I.

⁵ *Official Records ... Third session ... 2004* (ICC-ASP/3/25), part III, ICC-ASP/3/Res.6.

⁶ ICC-ASP/17/39.

⁷ *Official Records...Sixteenth session ...2017* (ICC-ASP/16/20), vol.II, part B.2, paras. 11, 176-183.

(f) *requests* the Court to inform States Parties, when appropriate, about important developments pertaining to the use of intermediaries, which might require the Court to amend the Guidelines;

10. With regard to **proceedings of the Court**,

(a) *invites* the Court to intensify its efforts to enhance the efficiency and effectiveness of proceedings including by adopting further changes of practice; and

(b) *encourages* the Bureau, including through the two working groups and the Study Group on Governance, to continue to support the Court's efforts to enhance the efficiency and effectiveness of proceedings;

11. With regard to the **working methods review**,

(a) *decides* that its annual session shall have a duration of seven working days with a possible extension of up to two additional days in election years, as required, and to focus, in such cases, the first two days on the elections of judges;

(b) *also decides* that its annual sessions shall include one or two plenary segments on specific agenda items;

(c) *invites* the facilitators and focal points, when appropriate, to present their work to the Assembly;

(d) *also invites* the facilitators and focal points to commit themselves for a period of up to three years considering the particularities and the complexity of each mandate and to submit, in addition to their regular reports, a final written report to the Assembly at the end of their mandate, including lessons learnt;

(e) *invites* the Bureau to implement the recommendations of the 2013 working methods report;⁸

(f) *requests* the Bureau to establish facilitations only if the mandate requires open-ended consultations, and the matter cannot be addressed by a less resource-intensive mechanism, such as a rapporteur or a focal point;⁹

(g) *invites* the Bureau to use existing technologies such as video-conferencing in order to ensure participation of members of the Bureau not represented at the venue of the Bureau meeting;

(h) *requests* the Bureau to continue conducting evaluations of the established mandates and, where appropriate, consider the inclusion of end-dates and that it prepare recommendations on the reduction of the number and length of reports; and

(i) *requests* the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first semester of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau and to make recommendations to improve efficiency;

12. With regard to **victims and affected communities, reparations and Trust Fund for Victims**,

(a) *requests* the Court to continue to establish principles relating to reparations in accordance with article 75, paragraph 1, of the Rome Statute as a priority in the context of its judicial proceedings;

(b) *encourages* the Board of Directors and the Secretariat of the Trust Fund for Victims to continue to strengthen its on-going dialogue with the organs of 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;

⁸ ICC-ASP/12/59.

⁹ As outlined, e.g., in paras. 21(a) and 23(b) of the report on the Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau (ICC-ASP/12/59).

(c) *requests* the Court and the Trust Fund for Victims to continue developing a strong collaborative partnership, mindful of each other's roles and responsibilities, to implement Court-ordered reparations;

(d) *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;

(e) *requests* the Court to submit an updated Revised Strategy in Relation to Victims, including measurable and time-bound objectives, to the Assembly at its eighteenth session;

(f) *mandates* the Bureau to continue considering victims-related issues as necessary or as they arise, having recourse to any appropriate process or mechanism; and

(g) *requests* the Court to make available to the Assembly appropriate statistics in relation to victims admitted to participate in proceedings before the Court when these are publicly submitted to the respective Chambers in the context of the judicial proceedings; such statistics may include, as appropriate, information on gender, criminal offense and situation, among other pertinent criteria as determined by the relevant Chamber;

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

(a) *endorses* the recommendations of the Committee on Budget and Finance in relation to geographical representation and gender balance contained in the report of its thirtieth and thirty-first sessions;¹⁰

(b) *requests* the Court to submit a comprehensive report on human resources to the Assembly at its eighteenth session, which would include an update on the implementation of the recommendations on the topic, which would be made by the Committee in 2019;

(c) *requests* the Bureau to continue engaging with the Court to identify ways to improve equitable geographical representation and gender balance in professional posts, as well as to remain seized of the issue of geographical representation and gender balance, and to report thereon to the eighteenth session of the Assembly; and

(d) *urges* the Court to continue to seize the opportunities of the outstanding and future recruitment processes to implement measures that would contribute to the efforts of meeting the desirable ranges of geographical representation and gender balance;

14. With regard to **complementarity**,

(a) *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, 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, and also including to assist on issues such as witness and victims protection and sexual and gender-based crimes; and

(b) *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions, and to invite States to submit information on their capacity needs for the consideration of States and other actors in a position to provide assistance, and to report on the practical steps taken in this regard to the eighteenth session of the Assembly;

15. With regard to the **Independent Oversight Mechanism**,

(a) *requests* the Bureau to continue forthwith with the review of the work and the operational mandate of the Independent Oversight Mechanism and to report thereon to the Assembly at its eighteenth session; and

¹⁰ *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.1 and B.2.

(b) *requests* the Bureau to consider amending the mandate of the IOM to include investigations of allegations against former officials during its review of the operational mandate of the IOM;

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

(a) *requests* the Secretariat, together with the Committee on Budget and Finance, to continue to make the necessary arrangements to ensure that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

(b) *decides* that the Bureau, through the President of the Assembly, the coordinator of the working group and the facilitator, should continue to monitor the status of payments received throughout the financial year of the Court and consider additional measures to promote payments by all States Parties, as appropriate, continue to engage in dialogue with States Parties that have outstanding contributions or are in arrears, and via the re-establishment of an annual facilitation on the topic of arrears, report thereon to the Assembly at its eighteenth session; and

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

17. 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;

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

(a) *invites* the Working Group on Amendments to continue its consideration of all amendment proposals, in accordance with the Terms of Reference of the Working Group; and

(b) *requests* the working group to submit a report for the consideration of the Assembly at its eighteenth session;

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

(a) *decides* that the Committee on Budget and Finance shall hold its thirty-second session from 29 April to 3 May 2019 and its thirty-third session from 26 August to 6 September 2019; and

(b) *requests* the Secretariat to present options for scheduling the next session of the Assembly and *requests* the Bureau to decide on the date and venue of the eighteenth session by 31 January 2019.

Annex II

Assembly procedures relating to non-cooperation¹

A. Background

1. Article 112, paragraph 2, of the Rome Statute provides that:
 - “2. The Assembly shall:
 - [...]
 - (f) Consider pursuant to article 87, paragraphs 5 and 7, any question relating to non-cooperation;
 - (g) Perform any other function consistent with this Statute or the Rules of Procedure and Evidence.”
2. Article 87, paragraphs 5 and 7, provide that:
 - “5. (a) The Court may invite any State not party to this Statute to provide assistance under this Part on the basis of an ad hoc arrangement, an agreement with such State or any other appropriate basis.
 - (b) Where a State not party to this Statute, which has entered into an ad hoc arrangement or an agreement with the Court, fails to cooperate with requests pursuant to any such arrangement or agreement, the Court may so inform the Assembly of States Parties, or, where the Security Council referred the matter to the Court, the Security Council.”
 - “7. Where a State Party fails to comply with a request to cooperate by the Court contrary to the provisions of this Statute, thereby preventing the Court from exercising its functions and powers under this Statute, the Court may make a finding to that effect and refer the matter to the Assembly of States Parties or, where the Security Council referred the matter to the Court, to the Security Council.”
3. Paragraph 1 of the Assembly’s cooperation resolution² adopted on 14 December 2017 provides as follows:
 - “1. *Emphasizes* the importance of timely and effective cooperation and assistance from States Parties and other States under an obligation or encouraged to cooperate fully 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 the non-execution of cooperation requests has a negative impact on the ability of the Court to execute its mandate, in particular when it concerns the arrest and surrender of individuals subject to arrest warrants.”

B. General scope and nature of non-cooperation procedures

4. For the purpose of these Procedures, non-cooperation is understood as the failure by any State Party or a State which has entered into an ad hoc arrangement or an agreement with the Court (hereafter: “requested State”) to comply with a specific Court request for cooperation (articles 89 and 93 of the Statute), as defined in article 87, paragraphs 5(b) and 7 of the Statute.
5. This needs to be distinguished from a situation where there is no specific Court request and a State Party has yet to implement the Rome Statute domestically in such a manner as to be able to comply with Court requests, which may lead to non-cooperation in the medium or longer-term future. This scenario is not under consideration here, as it is

¹ The procedures as originally adopted are contained in *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. I, part III, ICC-ASP/10/Res.5, annex.

² *Official Records ... Sixteenth session ... 2017* (ICC-ASP/16/20), vol. I, part III, ICC-ASP/16/Res.2, para 1.

dealt with by the Assembly in the context of the on-going work on cooperation, in particular the discussions held in The Hague Working Group of the Bureau.

6. Given the respective roles of the Court and the Assembly, any response by the Assembly would be non-judicial in nature and shall be based on the Assembly's competencies under article 112 of the Statute. The Procedures reflect the Assembly's efforts to support the effectiveness of the Rome Statute by deploying political and diplomatic efforts to promote cooperation and to respond to non-cooperation. These efforts, however, do not replace the judicial determinations of the Court.

7. Regarding concrete instances of non-cooperation, the following two scenarios may require action by the Assembly:

(a) A scenario where the Court has referred a matter of non-cooperation to the Assembly under article 87 of the Rome Statute.³ Depending on the circumstances, urgent action by the Assembly may bring about cooperation; and

(b) Exceptionally, a scenario where the Court has yet to refer a matter of non-cooperation to the Assembly, but there are reasons to believe that a specific and serious incident of non-cooperation, including in respect of a request for arrest and surrender of a person (article 89 of the Rome Statute), is about to occur or is currently on-going and urgent action by the Assembly may help bring about cooperation;⁴

8. The procedures outlined herein only refer to requested States as defined above. These procedures are without any prejudice whatsoever to any steps the Assembly (and its sub-organs) might decide to take in regard of cooperation (and lack thereof) in respect of other States.

C. General approach for non-cooperation procedures

9. The non-cooperation scenarios 7(a) and 7(b) require different procedures to be adopted, which may however partially overlap.

10. Scenario 7(a) requires a formal response, including some public elements, given that it has been triggered by a formal decision of the Court referring the matter to the Assembly. Depending on the specifics of the case, there may be merit in pursuing an informal and urgent response, as a precursor to a formal response, in particular where it is still possible to achieve cooperation.

11. Scenario 7(b) requires an urgent, but entirely informal response at the diplomatic and political levels, taking into account the Toolkit for the implementation of the informal dimension of the Assembly procedures relating to non-cooperation.⁵ Past experience has shown that the Bureau may not be able to respond quickly enough to an immediate situation of non-cooperation, as outlined below.

D. Specific non-cooperation procedures

12. The procedures outlined below would have to be carried out by the Bureau and the Assembly in full respect for the authority and independence of the Court and its proceedings, as enshrined in the Rome Statute and the Rules of Procedure and Evidence.⁶ These procedures are aimed at enhancing the implementation of the Court's decisions. All actors involved must ensure that their participation in these procedures does not lead to discussions on the merits of the Court request or otherwise undermine the findings of the Court. These procedures address the role of the Assembly and its subsidiary organs, and are without prejudice to actions taken by States at the bilateral or regional levels to promote cooperation.

³ The Court's decisions relating to non-cooperation can be found on the non-cooperation page of the Assembly of States Parties' website: https://asp.icc-cpi.int/en_menus/asp/non-cooperation/Pages/default.aspx.

⁴ Where the matter has not yet been referred to the Assembly by the Court but is also not urgent in nature, it appears that no specific procedures need to be adopted. Instead, it would be up to the Court to decide whether to trigger the Assembly's action by referring the matter to the Assembly or not.

⁵ Toolkit (annex II to the report of the Bureau on non-cooperation), ICC-ASP/15/31/Add.1.

⁶ *Official Records ... First session ... 2002* (ICC-ASP/1/3 and Corr.1), part II.A.

1. Formal response procedure: successive steps to be taken by the Bureau and the Assembly

(a) *Trigger*

13. A formal procedure for the Assembly to address instances of non-cooperation should only be triggered by a decision of the Court regarding non-cooperation addressed to the Assembly.⁷ Any such decision should be forwarded to all States Parties without delay by the Secretariat of the Assembly of States Parties. The general public should be informed of the decision by way of a press release of the President of the Assembly of States Parties.

(b) *Procedure*

14. Subsequent to the Court decision, it is recommended that the following actions be undertaken to address the issue, with additional optional steps to be considered on a case-by-case basis, bearing in mind that the good offices by the President of the Assembly may also continue as described in paragraph 16 below:

(a) Emergency Bureau meeting: where the matter is such that urgent action by the Assembly may still bring about cooperation, a meeting of the Bureau could be convened at short notice. The meeting would be an opportunity to receive a report from the President of the Assembly on any action taken, and to decide on what further action would be required. The fact of the convening of the Bureau meeting and any decisions taken should be announced to all States Parties.

(b) Open letters from the President of the Assembly could be sent to the requested State, reminding that State of the obligation to cooperate and requesting its views on the matter as part of a formal response procedure within a specified time. The President of the Assembly should send a copy of the letter to all States Parties, encouraging them to raise the matter with the requested State, as appropriate.

(c) At the next meeting of the Bureau a representative of the requested State should be invited to discuss the implications of the Court's decision regarding its non-cooperation and present its views on how it would cooperate with the Court in the future.

(d) Subsequently, and provided the next session of the Assembly is scheduled to take place more than three months after the Bureau meeting referred to under (c), the Bureau could request the New York Working Group to hold a public meeting on the matter to allow for an open dialogue with the requested State. This would include the participation of States Parties, observers and civil society representatives as currently provided under the Rules of Procedure of the Assembly of States Parties.⁸

(e) The Court's decision should be noted in the omnibus resolution adopted by the Assembly at its next (or on-going) session.

(f) At the next (or on-going) session of the Assembly, the report referred to in paragraph 15 could be discussed in plenary session of the Assembly with a view to enhance future cooperation with the Court. Where appropriate, the Bureau could appoint a dedicated facilitator to consult on a draft resolution containing concrete recommendations on the matter; and

(g) In cases of a finding of non-cooperation referred by the Court to the Security Council under article 87, the President of the Assembly could write to the President of the Security Council asking the Security Council to follow up on its own referrals to encourage cooperation with the Court and outline what the Assembly has done in response to the Court's referral.

15. Subsequent to the Court decision, a Bureau report on action taken in accordance with paragraph 14 above shall be submitted to the next (or on-going) session of the Assembly, including any concrete recommendations on the matter.

⁷ See https://asp.icc-cpi.int/en_menus/asp/non-cooperation/Pages/default.aspx.

⁸ *Official Records ... First session ... 2002* (ICC-ASP/1/3 and Corr.1), part II. c; part XX.

2. Informal response procedure: good offices by the President of the Assembly

16. In order for the Assembly to be able to respond to an impending or on-going situation of non-cooperation, which may still lead to cooperation in that specific case, a flexible mechanism is required for urgent action. The procedures set out below provide guidance on the use of the good offices of the President of the Assembly and the regional non-cooperation focal points and are aimed at highlighting the importance placed on cooperation by the Assembly.

(a) *Regional focal points for non-cooperation*⁹

17. In order to assist the President in his or her good offices, the Bureau should appoint four, or, if so requested by the President, five focal points on the basis of the principle of equitable geographical representation.

(b) *Trigger*

18. The President of the Assembly could become active on his or her own initiative where it is assessed that the conditions of scenario 7(b) described above are met and in consultation with the Court. Furthermore, the President should also become active on his or her own initiative where it is assessed that the conditions of scenario 7(a) are met, and, in consultation with the Court, it is assessed that the opportunity to fulfill a request for arrest and surrender may no longer exist by the time the Bureau would be able to convene an emergency meeting to discuss the matter. In any event, the President should immediately notify Bureau members of the initiative. Whenever the President becomes active the President shall indicate that he or she is acting from the good offices of the Presidency.

19. Otherwise, the President shall become or remain active as decided by the Bureau.

(c) *Mandate and procedures*

20. Where the President's good offices have been triggered as outlined above, the matter should be raised after consulting the Court, where appropriate, informally and directly with officials from the requested State and other relevant stakeholders, with a view to promoting full cooperation. The purpose of this interaction with the requested State would be to raise awareness of the issue and to promote full cooperation while that would still be possible, but not to make findings of judicial nature, which is the sole prerogative of the Court. The President may also remind the requested State of the possibility under article 97 of the Statute of consulting with the Court.¹⁰ The President may request any of the regional non-cooperation focal points, or any other Bureau member, as appropriate, to provide assistance in this interaction. In the case of scenario 7(b) above, the President should use the interaction with officials from the requested State to verify the information on the basis of which he or she became active.

21. The President should provide a report to the Bureau on his or her engagement, including notifying the Bureau about information received from the UN Secretariat as set out in the Guidance on contacts with persons who are the subject of arrest warrants or summonses issued by the International Criminal Court.¹¹

22. The regional focal points for non-cooperation should assist in the exercise of the President's good offices as outlined above by engaging, as appropriate, with officials from the requested State, representatives of the Court and other relevant stakeholders with a view to promoting full cooperation. Where appropriate, the regional focal points should share information with States Parties to encourage them to engage in outreach, in respect of which States Parties may wish to draw on the Toolkit for the implementation of the informal dimension of the Assembly procedures relating to non-cooperation. The regional focal points should maintain contact with the Court to seek advice and share information.

⁹ As amended by resolution ICC-ASP/11/Res.8, annex I.

¹⁰ With regard to consultations pursuant to article 97(c) of the Rome Statute, see ICC-ASP/16/Res.3 and annex.

¹¹ See: https://digitallibrary.un.org/record/747189/files/A_67_828_S_2013_210-EN.pdf.

23. The Secretariat of the Assembly of States Parties should fully assist in the President's formal response procedure and the exercise of good offices as outlined above. Where appropriate, the Secretariat should assist and share information, such as official contact point, with the regional focal points.

Annexes

Annex I

Report of the Credentials Committee

Chairperson: Mr. Lester Antonio Ortega Lemus (Guatemala)

1. At its first plenary meeting, on 5 December 2018, 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 seventeenth session, consisting of the following States Parties: Austria, Ecuador, Guatemala, Japan, Hungary, New Zealand, Romania, South Africa, and the State of Palestine.

2. The Credentials Committee held two meetings, on 5 and 12 December 2018.

3. At its meeting on 12 December 2018, the Committee had before it a memorandum by the Secretariat, dated 11 December 2018, concerning the credentials of representatives of States Parties to the Rome Statute of the International Criminal Court to the seventeenth session of the Assembly of States Parties. The Chairperson 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 seventeenth 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 75 States Parties: Andorra, Argentina, Australia, Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Canada, Chile, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Japan, Jordan, Kenya, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Mali, Malta, Mongolia, Netherlands, New Zealand, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Senegal, Serbia, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, the State of Palestine, Suriname, Switzerland, Tunisia, Uganda, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu, 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 seventeenth session of the Assembly of States Parties had been communicated to the Secretariat, as at the time of the meeting of the Credentials Committee, by means of a cable or a telefax from the Head of State or Government or the Minister for Foreign Affairs, by the following 15 States Parties: Afghanistan, Albania, Bangladesh, Benin, Colombia, El Salvador, Gambia, Ghana, Honduras, Italy, Mexico, Sweden, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, 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 seventeenth 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 seventeenth 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 seventeenth session of the Assembly and the recommendation contained therein,

Approves the report of the Credentials Committee.”

Annex II

Oral report on the activities of the Bureau, presented by the President of the Assembly at the 1st plenary meeting of the seventeenth session of the Assembly, on 5 December 2018

1. As the President of the Assembly, I have the honor to report to the Assembly of States Parties on the activities carried out by its Bureau during the inter-sessional period 2017-2018.

A. Meetings and mandates

2. Since the sixteenth session of the Assembly, the Bureau has, in 2018, held eighteen meetings to assist the Assembly in the discharge of its responsibilities under the Rome Statute.

3. Pursuant to the mandates given to the Bureau by the sixteenth session of the Assembly in December 2017, the Bureau assigned mandates to its working groups and appointed, on the basis of recommendations of the working groups, the facilitators and focal points for 2018.

4. The Bureau is pleased with the work conducted by its working groups during 2018, as they have successfully carried out the mandates of the Assembly.

5. I wish to express my appreciation for the work carried out by the two Vice-Presidents of the Assembly, Ambassador Mr. Michal Mlynár (Slovakia) and Ambassador Momar Diop (Senegal). I would also like to show my appreciation to Ambassador Jens-Otto Horslund who has served as Coordinator of The Hague Working Group after the departure of Ambassador Diop on 19 March 2018.

B. Independent Oversight Mechanism

6. In accordance with the mandate of the Assembly, the Independent Oversight Mechanism (IOM) has submitted periodic reports to the Bureau and the “Annual report of the Head of the Independent Oversight Mechanism to the Assembly”.¹

7. In his report to the sixteenth session, the Head of the IOM proposed amendments to rule 26 of the Rules of Procedure and Evidence relating to the administration and receipt of complaints made against elected officials of the Court. On 18 October 2017, the Bureau requested the Study Group on Governance to consider the proposals and convey its recommendations to the Working Group on Amendments, so that the latter could make a recommendation thereon to the seventeenth session of the Assembly. Following informal consultations throughout 2018, the Study Group on Governance, Cluster I, produced a report in relation to the amendment to rule 26 of the Rules of Procedure and Evidence on 2 August 2018. The Working Group on Amendments considered the proposed amendments and agreed that such amendments would be based on rule 3 of the Rules of Procedure and Evidence. The Working Group is recommending to the Assembly the adoption of a draft resolution on amending rule 26 of the Rules of Procedure and Evidence.

8. Following the resignation of the former Head of the IOM, effective 10 December 2017, the Bureau considered the measures to be put in place for the recruitment and appointment of a new Head of the IOM. The Bureau established a recruitment panel and, following the completion of the recruitment process, the Bureau adopted the panel’s recommendations at its twelfth meeting, on 16 July 2018. The new Head of the IOM, Mr. Saklaine Hedaraly, assumed office on 1 November 2018.

¹ ICC-ASP/17/8.

C. Working methods

9. Pursuant to the “Understanding on the participation of Observer States in meetings of the Assembly”,² which was adopted by a Bureau decision of 18 October 2017, the Bureau took note, at its seventeenth meeting, on 15 November 2018, of a list of meetings of the Assembly and its subsidiary bodies with general membership which had been held in private in 2018. At this meeting, the Bureau adopted the “Guidelines for the preparation and conduct of sessions of the Assembly”, which codify the practice of many years.

D. Non-cooperation/UNSC

10. Pursuant to the mandate of the Bureau, the focal points on non-cooperation engaged in consultations with relevant stakeholders in order to review the Assembly procedures relating to non-cooperation and to recommend any necessary additions and amendments.

11. It is also the Assembly’s responsibility under article 112, paragraph 2, of the Rome Statute to consider, pursuant to article 87 of the Statute, any question relating to non-cooperation. By resolution ICC-ASP/12/Res.8,³ the Assembly requested “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”. Following public consultations during 2018, the focal points recommend that the Assembly adopt the updated “Assembly procedures relating to non-cooperation”, and the updated “Toolkit for the implementation of the information dimension of the Assembly procedures relating to non-cooperation”.

12. Throughout the past year, I have, together with the focal points on non-cooperation, closely monitored and reacted to instances of travels of persons sought by the Court to States Parties and non-States Parties. The Bureau ought to continue to engage in the application of these procedures, especially their formal aspects, which are triggered once there is a judicial finding on non-cooperation.

13. On 6 July 2018, an Arria-formula meeting was held at the United Nations Headquarters on the topic of achievements, challenges and synergies in the relationship between the Security Council and the International Criminal Court, where I had the honour to participate together with Prosecutor Fatou Bensouda.⁴

E. Arrears

14. The Bureau took note that the Court could face a liquidity shortfall by November 2018, which might hamper the Court’s operations. The Committee on Budget and Finance (“the Committee”) had considered the issue of a possible liquidity shortfall at its April 2018 session and had made some recommendations thereon. In particular, the Committee had recommended that the Assembly consider establishing a mechanism to deal with liquidity issues. It had also recommended that if a liquidity shortfall arose before the session of the Assembly in December, the Bureau, in discharge of the responsibilities of the Assembly and upon the recommendation of the Committee, consider all possible options to deal with the situation.

15. I have written letters to capitals calling upon all States Parties in arrears and with outstanding assessed contributions to make every effort to begin paying those contributions, and thanked those States that had paid their contributions. I welcome the recent payments made by some States which have avoided the liquidity shortfall from materializing.

² https://asp.icc-cpi.int/iccdocs/asp_docs/Bureau/ASP2017-Bureau06-decision-ENG-ObsvrStates.pdf.

³ Annex I, para. 2 (a).

⁴ ICC-ASP/17/17, paras. 10, 11 and 27.

F. 20th anniversary of the Rome Statute

16. In 2018, the international community, the Assembly of States Parties and the Court celebrate the 20th anniversary of the signing of the Statute creating the ICC, in Rome, in July 1998. Many events were organized by States Parties, international organizations and civil society around the world to commemorate this date. I welcome and congratulate other supporters of international criminal justice who organized similar events.⁵

17. On this occasion, the co-facilitators on cooperation prepared a short video of 2-3 minutes to reaffirm at the highest level the collective support of States Parties for the fight against impunity. States Parties, officials of the Court, several key international leaders and civil society contributed to this initiative by recording a video clip of several seconds stating the following sentence: “With the ICC, I am fighting against impunity”, in one of the Court’s six official languages. This video was broadcast on social networks on the day of the 20th anniversary – 17 July 2018.

18. On 17 July, the Court and States Parties organized a memorable Commemoration of the 20th anniversary of the adoption of the Rome Statute.

G. Secretariat of the Assembly

19. Throughout the year, the Secretariat of the Assembly of States Parties has continued to carry out its mandate in assisting the Assembly and its subsidiary bodies both in The Hague and New York, in accordance with resolution ICC-ASP/2/Res.3.

20. The Assembly, through its Bureau assisted by the Secretariat, has engaged in dialogue with the Court on an increasing number of issues, some of them very complex, which has led to a greater appreciation of the respective responsibilities.

21. The Secretariat continued to support the collection of information on the promotion of universality and the full implementation of the Rome Statute. As of 31 October, the Secretariat had received four responses to the questionnaire concerning the Plan of action for achieving universality and full implementation of the Rome Statute.

22. As mandated by the Assembly at its sixteenth session, throughout 2018 the Bureau has undertaken an assessment of the core functions of the Secretariat in assisting and servicing the current needs of the Assembly. In addition, I undertook informal consultations with States Parties through The Hague Working Group and New York Working Group of the Bureau, with the assistance of Ambassadors Mlynár and Horslund. Based on these consultations, I proposed outcomes for the consideration of the Bureau. The report of the Bureau on the assessment of the Secretariat⁶ was adopted by consensus at the twentieth Bureau meeting, held on 10 December 2018.

H. Election of the next Prosecutor of the International Criminal Court

23. The Bureau discussed the process for the election of the next Prosecutor, including informal consultations with The Hague and New York working groups. A number of issues were discussed including: whether or not to establish a Search Committee; the need to enhance the 2011 model, in particular by drawing up clear and detailed terms of reference for the Search Committee, as well as the timelines of the different phases of the process which would allow States Parties to be informed of the outcome at least three months before the election at the Assembly in 2020; and the need for a transparent and inclusive process. A summary of these consultations is included as the appendix to this oral report; additional consultations are foreseen during the seventeenth session of the Assembly of States Parties.

⁵ https://asp.icc-cpi.int/en_menus/asp/asp%20events/20a/Pages/default.aspx

⁶ ICC-ASP/17/39.

I. Overview of the President's activities

24. I participated in several meetings throughout the year where cooperation, complementarity and universality were major themes of discussion.⁷ I also held a series of meetings throughout the year where I particularly encouraged States to become Parties to the Rome Statute and the Agreement on Privileges and Immunities of the International Criminal Court, and stressed the importance for States to have implementing legislation at the national level.

25. The Court is encouraged by the strong support, not only of the 123 States Parties to the Rome Statute, but also by the support it has received from other States and international organizations and civil society in carrying out its mandate. I witnessed this commitment being reaffirmed on the occasion of the 20th anniversary of the Rome Statute this July. I hope to continue to count on the commitment of the Assembly of States Parties to uphold and defend the principles and values enshrined in the Rome Statute, including in particular the judicial independence of the Court.

⁷ These events include: the regional seminar held in Quito on 7 and 8 June 2018, in which the President of the Court, Judge Chile Eboe-Osuji, and the Registrar, Mr. Peter Lewis, also participated; the Arria-Formula meeting together with Prosecutor Fatou Bensouda, on "UNSC-ICC relations: achievements, challenges and synergies" held at UN headquarters, New York on 6 July 2018; the 3rd South East and North East Asian Sessions on IHL 20-22 August in Bangkok, Thailand; the 13th Bled Strategic Forum, on 10-11 September in Slovenia; the ICRC Regional Conference on International Humanitarian Law in Asia-Pacific on 26-27 September in Jakarta, Indonesia; the 57th Annual Session of the Asian-African Legal Consultative Organization (AALCO), held on 8-12 October in Japan; the 11th Korean Lawyers Conference held on 18-19 October in Seoul, Republic of Korea; the meetings of the Permanent Representatives to the United Nations and the Legal Advisers of the EU member countries held in New York on 23 and 25 October; the 10th Consultative Assembly of Parliamentarians on the International Criminal Court and the Rule of Law (CAP-ICC) and the 40th Annual Forum of Parliamentarians for Global Action, held on 16-17 November in Kyiv, Ukraine.

Appendix

Summary of the on-going discussions on the election of the next Prosecutor of the International Criminal Court

1. The President of the Assembly introduced the topic of the election of the next Prosecutor of the Court at the fourteenth meeting of the Bureau, on 20 September in The Hague. On 6 July, all States Parties had received background information on the process followed during the previous election in 2011,¹ including the establishment of a Search Committee as well as an extensive two-year evaluation of the process following its conclusion. The Bureau carried out further discussions on 22 and 26 October in New York and on 15 November in The Hague. The Bureau's Hague Working Group also held an open segment on the election of the next Prosecutor, at its fifth meeting, on 1 November.

2. The following is a summary of the key issues raised in these meetings before the opening of the seventeenth session of the Assembly.

A. Establishment of an Advisory/ Search Committee

3. There was broad agreement among States Parties that the establishment of a Committee on the election of the Prosecutor would be preferable to having an election via secret ballot. The advantages of having a Committee include: allowing for a wider pool of candidates, particularly if there is a proactive search for qualified candidates; supporting a technical assessment of the candidates, as opposed to a political process; assisting with finding the best possible candidates; and facilitating broad support of the membership for the next Prosecutor. The 2011 model of having a Committee could thus be followed, with some improvements.

4. At the same time, a view was expressed that not all delegations were convinced that a Search Committee, with a mandate to actively search for candidates, was required, since there might be merit instead in having an advisory committee, which would evaluate the nominations received.

B. Composition of the Committee

5. Different views were expressed on the composition of the Committee on the election of the Prosecutor, which could be a State-driven process with, for example, five members, not necessarily nationals of Bureau members, or with up to ten members, that could include some technical experts. Some delegations were of the view that the experts could vary from one to three and should have an advisory role only, without having any decision-making role.

6. The point was made that the process should be State-driven, that it give due consideration to rotation among regional groups and gender balance, enhanced transparency, and also ensure that the final outcome can be readily agreed to by the Assembly of States Parties. Reference was also made to the need to find the appropriate balance between the political and diplomatic expertise with the technical expertise of the members of the Committee.

7. The President proposed that he can be entrusted with composing the Committee, which would include experts, in consultation with the regional groups, with the final decision to be made by the Bureau.

8. A view was expressed that States Parties should be consulted in all aspects regarding the Committee's composition and modalities.

¹ See ASP documents on the 2011 election of the Prosecutor: https://asp.icc-cpi.int/en_menus/asp/elections/prosecutor/Pages/prosecutor.aspx.

C. Timeline

9. Following the 2011 election, the general view was that additional time should be allocated for future elections, particularly between when the outcome of the Search Committee process concludes and the date of the election.

10. The President stated his intention to expedite the process as much as possible. He has emphasized advance preparations, and the importance of taking advantage of the upcoming seventeenth session of the Assembly, where he planned to hold consultations with regional groups on 8 December 2018. The President has suggested that, based on discussions during the seventeenth Assembly session, the Bureau could be tasked with further considering the topic (via one of its two working groups) during the intersessional period, and either taking decisions on behalf of the Assembly or presenting recommendations to the eighteenth session of the Assembly in 2019.

11. If the process is approved by the Assembly at its eighteenth session at the latest, then the Committee could begin its work immediately thereafter with the aim of having a consensus candidate for the nineteenth session of the Assembly in November/December 2020. This would allow for at least nine months before it would need to present its conclusions, well in advance of the nineteenth session of the Assembly in 2020.

12. States Parties indicated that consultation with capitals would be required to consider the proposal. Delegates specifically indicated that the Committee should be established at least one year before the election. It was also suggested that the process establishing the short-list of candidates should allow a minimum of three months in advance of the date of the election so that States Parties can use that period to engage with or interview the candidates directly. This could perhaps be modelled on the process undertaken by United Nations Member States with the candidates for Secretary-General of the United Nations.

D. Terms of reference

13. States agreed with the need to make improvements to the 2011 model, in particular regarding clear and detailed terms of reference for the Committee, which should be set out before its establishment. The terms of reference were deemed to be critical as they should include the timeframe for the work of the Committee and the criteria it would use to search for and to evaluate the candidates, as well as to explicitly indicate why some candidates were placed on the short-list. The short-list could allow the Bureau to search for a consensus candidate. It was also acknowledged that having the input from the Prosecutor, Ms. Fatou Bensouda, on the kind of expertise her successor should possess would be most helpful. It was further stated that consideration could be given to looking at best practices from other judicial institutions regarding how they identify suitable prosecutorial candidates.

14. There was also a suggestion that the criteria contained in article 42 of the Rome Statute could perhaps be further elaborated upon. While stressing that competence and relevant experience were of paramount importance and should be the primary elements to be borne in mind, other elements should also be considered: geographical rotation, gender balance, different legal systems of the world, different languages, etc.

15. Some delegations expressed the view that the process should not be politicized, but rather should be fully based on the merits of the candidates. A view was further expressed that the composition and terms of reference of the Committee should be defined at least one year in advance. It was further indicated that lessons could be learnt from the 2018 experience of the recruitment process for the Head of the Independent Oversight Mechanism (IOM). It was emphasized that the process was important for the future of the Court and that the selected candidate must be chosen on the basis of merit, objectivity and fairness.

E. Location

16. Some Bureau members expressed the view that they would like to avoid the risk of duplication of efforts and a fragmentation of discussions, stressing that the search process and, in particular decisions, could take place in New York. A view was expressed that discussions on these matters should be held in one place only, either The Hague or New York. However other Bureau members welcomed having discussions in both The Hague and New York as this would encourage transparency.

17. The point was also made that the possible budgetary implications of having the Committee meet in New York or The Hague needed to be borne in mind and could have an impact on the choice of venue for the Committee.

F. Budget

18. States Parties raised the issue of possible programme budget implications. A suggestion was made that new technology could perhaps be considered to reduce costs, while also bearing in mind that, given the crucial role played by the Prosecutor, the priority objective of finding the best candidates for such a position needed to be recalled so as to ensure the best possible outcome of the search process.

G. Observer States

19. A question was raised about whether candidates from Observer States should be proactively considered by the Committee.

H. Transparency

20. All States agreed with the need for the process to be transparent and inclusive; regular briefings to all States Parties would be required. The point was made that all States Parties should be involved at all stages of the process.

Annex III

Statement of the Chair of the Committee on Budget and Finance to the Assembly at the 8th plenary meeting of the seventeenth session of the Assembly, on 10 December 2018

1. It is an honour to present the main outcomes of the thirtieth and thirty-first session of the Committee on Budget and Finance.
2. At the outset, I would like to take this opportunity to thank my fellow colleagues from the Committee for their devotion and hard work in the course of the last two sessions, as well as to the Executive Secretary and his team for their outstanding support.
3. During its thirty-first session, the Committee focused on the consideration of the 2019 proposed programme budget of the Court. I will now briefly outline the budget performance for 2018 and the main outcomes of our discussions on the recommended resources for 2019.

A. Budget performance

4. As regards the budget performance, the Committee noted the updated¹ forecast implementation rate for the Court for the end of 2018, including the interest and capital repayments on the premises, is expected to be 97.4 per cent, or €143.6 million, against the 2018 approved budget.
5. The Committee had received four Contingency Fund notifications so far in 2018. These notifications were related to the extension of the terms of two judges, the situation in the Republic of Burundi, the situation in the Republic of Mali and the situation in the Central African Republic. On 6 November 2018, the Registrar submitted a revised CF notification for Burundi informing that the Court had reduced its original estimate, resulting in a revised notification for Burundi of €1.12 million. Thus, the total revised amount notified in relation to the four Contingency Fund notifications amounts to €3.21 million.² The Committee noted that the Court's forecast implementation could create room to absorb these unforeseen expenditures within the regular budget.

B. Consideration of the 2019 proposed programme budget

6. The Committee scrutinized the Court's 2019 proposed programme budget and an Addendum to the budget submitted on 7 September 2018 in accordance with the Financial Regulations and Rules.³ The revised proposed budget, when taking into account the Addendum, amounts to €147.3 million (excluding the instalments for the host State loan of €3.6 million). This represents an increase of €3.44 million (2.3 per cent) compared to the 2018 approved budget.
7. The Committee noted that the proposed increase in the budget for 2019 was the lowest in recent years and welcomed the Court's efforts to identify savings and efficiencies, non-recurrent costs and other cost reductions, thereby absorbing potential increases. The Committee believed that such a budget level provides a sufficiently flexible base, if complemented by prudent and sound financial management as well as strict prioritisation of activities.
8. In line with the One-Court principle, the Committee compared the budget requested for each major programme against the workload presented, as well as the Court-wide impact across the organs. Noting that the Court would continue to face unforeseen developments, the Committee recommended that the Court adopt flexible policies and

¹ Updated forecast of the Court on its budget implementation for 2018 (CBF31/16P01), dated 19 November 2018.

² €16,792 for the extension of the mandate of two judges in order to render decisions in two appeals in the *Bemba* case in the situation in the Central African Republic; revised amount of €1.12 for the situation in the Republic of Burundi; €1.75 million for *Al Hassan* in the situation in the Republic of Mali and €220,300 for the transfer of Mr. Alfred Yekatom in the situation in the Central African Republic.

³ Regulations 3.5bis of the Financial Regulations and Rules.

manage its human resources in a manner that would allow for the redeployment of resources based on workload requirements.

9. After carefully scrutinizing the 2019 proposed programme budget and the justifications provided, the Committee recommended that total reductions in the amount of €2.59 million could be achieved. The adjusted 2019 proposed programme budget would thus amount to €144.7 million (without instalments for the host State loan). This represents an increase of €54.4 thousand (or 0.6 per cent) compared to the 2018 approved budget.

C. Recommendations for the main major programmes

10. I will now briefly touch upon the Committee's key recommendations for the main major programmes as contained in the Report of the Committee on the work at its thirty-first session (ICC-ASP/17/15).

1. Major Programme I

11. In relation to Major Programme I (Judiciary) the Committee noted that various non-recurrent costs (for example, in relation to the appointment of the newly elected judges to the Court, which were only needed in 2018) would result in reduced resource requirements for 2019. Furthermore, the Committee took note of the transfer of the New York Liaison Office from Major Programme I to Major Programme III. After scrutinizing all staff and non-staff costs, the Committee recommended total reductions in the amount of €270 thousand for Major Programme I.

2. Major Programme II

12. The resource requirements for Major Programme II (Office of the Prosecutor) were based on the following assumptions: nine preliminary examinations, eleven situations, eight active investigations,⁴ three trial teams, and five final appeals.

13. The Committee noted that the requested increase of €2.1 million for the Programme, of which staff costs amounted to €1.2 million, was primarily related to the Burundi situation. Taking into account the OTP's capacity to flexibly reallocate available resources according to workload requirements, emphasizing the need to exhaust all possible efforts before requesting additional resources, and having carefully reviewed all staff and non-staff costs, the Committee recommended reductions of €1.3 million in Major Programme II.

3. Major Programme III

14. The 2019 proposed budget for Major Programme III (Registry), when taking into account the Addendum, amounted to €76.87 million, representing a decrease of €273 thousand (or - 0.4 per cent) against the 2018 approved budget.

15. The Committee welcomed the approach taken by the Registry with regard to its proposed budget, resulting in a zero-nominal-growth request, which was achieved by offsetting increases through the reallocation of resources, savings and efficiencies, as well as through non-recurrent costs and cost reductions.

16. The Committee recommended total reductions in the amount of €217 thousand in Major Programme III.

4. Major Programme VI

17. The Committee noted that Major Programme VI (Secretariat of the Trust Fund for Victims) requested a budget of €4.02 million, representing an increase of €1.5 million (58.5 per cent) against the 2018 approved budget. The requested increase resulted mainly from staff costs with the aim to expand the TFV's organizational capacity, in particular in relation to its reparations mandate.

⁴ Burundi, Central African Republic II(a), Central African Republic II(b), Côte d'Ivoire, Georgia, Darfur, Libya III and Libya IV.

18. The Committee noted with concern the constant under-implementation of Major Programme VI, as well as the continuing lack of workload indicators. Bearing this in mind, the Committee was of the view that all efforts should be made to make best use of available resources within the STFV and recommended that some of the requested established posts be approved on a GTA basis. The Committee recommended total reductions in the amount of €747 thousand in Major Programme VI.

D. Status of contributions

19. The Committee noted with concern the large amount of outstanding contributions amounting to €9.2 million (13.4 per cent) for the 2018 approved budget as at 31 August 2018. Total outstanding contributions, including those from previous years, for the regular budget, the Contingency Fund and the instalments for the host State loan, stood at €36.9 million.

20. The Committee noted that 19 States Parties had paid their outstanding contributions amounting to a total of €5.4 million in the period from 1 September 2018 until 7 December 2018, which significantly improved the cash flow situation of the Court. The Committee urged all remaining States Parties to settle their payments as soon as possible in order to ensure an adequate cash-flow for the Court. The Committee took note of the Court's efforts to actively manage its budget with a view to finding savings and efficiencies.

21. While continuing to closely monitoring the use and level of the Working Capital Fund and the Contingency Fund, the Committee decided that it would come back on precautionary reserves and the liquidity issue at its thirty-second session in April 2019.

E. Amendments proposed by the Committee with regard to its own Rules of Procedure

22. As an advisory body to the Assembly, the Committee is continuously striving to improve its internal processes and procedures to ensure compliance with the evolution of internal best practices and standards with a view to providing timely and reliable advice to the Assembly, while tackling a continuously growing workload.

23. The Committee worked for the last two years to update its Rules of Procedure, which had been adopted by the Assembly in 2002. The Committee reached consensus at its thirtieth session in April 2018 on amendments reflecting improvements in its internal practices and relevant decisions taken by the Assembly. Fully aware that the final decision-making pertains to the Assembly, an amendment proposal was submitted for consideration and approval by the Assembly.

24. I would like to stress that a review of the Rules of Procedure is a good internal governance practice. Let me also emphasize that the proposed amendments neither have budgetary implications nor are they aimed at creating a new governance structure. The Committee is looking forward to exchanging further with States Parties on the proposed amendments and stands ready to provide all required background information and with a view to enabling the Assembly to take a decision, as appropriate. The Committee will further continue to closely coordinate with other oversight bodies with a view to providing expert advice to the Assembly.

Annex IV

Statement by Belgium in explanation of position after the adoption of the budget resolution¹ at the 13th plenary meeting of the seventeenth session of the Assembly, on 12 December 2018

1. On behalf of Argentina, Belgium, Costa Rica, Finland, Liechtenstein, Luxembourg, the Netherlands, Slovenia, Sweden, and Switzerland, we wish to express our disappointment with the programme budget for 2019. Our delegations would have liked a budget more in line with the real needs of the Court and a negotiation process that is conducive to forging the unified front among States Parties that is necessary to defend the independence of the Court and the mission of the Rome Statute system during these turbulent times.

2. Indeed, we regret that the decision adopted by the Assembly of States Parties is lower than the recommendation of the Committee on Budget and Finance, the technical expert body established by States Parties to examine financial, budgetary, and administrative documents submitted by the International Criminal Court to the ASP. The suggested increase of 0.6 per cent was already very modest and does not even cover the inflation rate in the Netherlands in 2018. Our fear is that the operational capacity of the Court will be negatively impacted and that the budget process will result, year after year, in insufficient funding to allow the Court to effectively manage the fight against impunity. In our view, it is essential to find the right balance between the search for efficiency in the use of resources and an adequate budget to enable the Court to implement its mandate.

3. We also wish to reiterate our concern about the fragile situation the Court is facing in terms of liquidity. For several years, the Court, the Committee on Budget and Finance and auditors have warned States Parties of the Court's vulnerable cash flow situation. Ensuring sufficient precautionary reserves is a matter of responsible fiscal management. The level of the Contingency Fund, initially set at €10 million by the Assembly, is currently at €5.2 million, its lowest historical level. We regret that the States Parties have not been able to agree on replenishing the Fund, nor agree on long-term measures to address an issue that is likely to re-emerge in the future.

4. Twenty years ago, we had a common vision of what international criminal justice should be, and today, in a difficult context, we must ensure that the Court has adequate resources to meet the growing demand for justice in order to ensure that victims have access to the justice they deserve.

5. Finally, we would like to thank the facilitator and his team for their commitment and excellent work.

¹ ICC-ASP/17/Res.4.

Annex V

Statement by Brazil in explanation of position after the adoption of the budget resolution¹ at the 13th plenary meeting of the seventeenth session of the Assembly, on 12 December 2018

1. I express my gratitude for the work of the facilitator, who worked very hard on such a sensitive and important matter.
2. Brazil deeply regrets the adoption of another budget resolution with nominal growth and is unable to join the consensus. In a constructive stance, however, Brazil decided not to block this consensus.
3. Here in the International Criminal Court, as in every other international organization, we oppose decisions which entail increases to our contributions. We urge the Court to undertake a serious revision of the process that leads to constant increases in its budget.
4. While this year, as a result of months of negotiations, the percentage may seem small, the ICC record of successive higher budgets is significant.
5. As Brazil has been stating, an ever-increasing budget is politically unsustainable, incompatible with the budgetary reality of States Parties and detrimental to the Court's ability to attract new parties.

¹ ICC-ASP/17/Res.4.

Annex VI

Statement by Japan in explanation of position after the adoption of the budget resolution¹ at the 13th plenary meeting of the seventeenth session of the Assembly, on 12 December 2018

1. Japan would like to extend its appreciation to the budget facilitator and his team for steering the States Parties throughout the difficult negotiations. Taking this opportunity, Japan would also like to express its gratitude for the work of the Committee on Budget and Finance (CBF). The recommendations of the CBF, our expert body, have been our navigating beacon throughout the budget process.
2. Reflecting on this year's budget process, please allow me to make some remarks on a couple of points.
3. It has been twenty years since the adoption of the Rome Statute. From Japan's perspective, the ICC has to mature and enter a phase of stable development. Although the budget level has continuously increased over the past years, more room can be found for optimizing resources and processes. Like many other States Parties, we underscore the importance of fiscal prudence, and urge the Court to exercise strict budgetary discipline in all organs. In this connection, we also note that a real effort was made by some organs of the Court, especially by the Registry, in producing the 2019 budget proposal. It is for this reason that Japan joined the consensus without insisting on further reduction of the budget. We encourage all organs of the Court to demonstrate their efficiency.
4. We envisage the review of several important policies that may impact the future budget of the Court. They include the remuneration of judges, the Court-wide reclassifications and legal aid. Japan would like to request the Court to provide the related information to States Parties and to the CBF in a timely fashion. We also look forward to receiving the Strategic Plan of the Office of the Prosecutor for the next phase and the information on a closure strategy for preliminary examinations. Japan will take part in the discussion on these important matters in a constructive manner.
5. To end my remarks, I would like to remind all that the credibility of the Court also depends on its capacity to ensure efficient, transparent and accountable implementation of its budget. Japan believes that the Court is able to carry out this important duty.

¹ ICC-ASP/17/Res.4.

Annex VII

Statement by Venezuela (Bolivarian Republic of) in explanation of position after the adoption of the budget resolution¹ at the 13th plenary meeting of the seventeenth session of the Assembly, on 12 December 2018

1. My delegation appreciates the opportunity it has been given to share its position on this very important item on the agenda.
2. I would like to start by thanking the facilitator for his laudable efforts in seeking to put forward a solution which is acceptable to all of the States Parties. Similarly, I would like to thank the Registrar of the Court for the efforts made to formulate an appropriate budget which meets our expectations as States Parties in this regard.
3. My country, like other States, has repeatedly indicated that we espouse a zero nominal growth policy and we can only regret that the budget we have just adopted moves us away from this prospect. However, just as other States have done, and in order to keep a spirit of consensus and to work constructively, we did not block this resolution. We did however point out that we will remain highly vigilant with regard to the efficient use of resources allocated to the Court by the States Parties.
4. We understand that we, as States Parties, are responsible for this, but we are also responsible for pursuing a policy of austerity, which by no means precludes efficiency. We would like to encourage the Registry and all of the organs of the Court to continue to work towards identifying savings which will allow for a further reduction in the budget allocated to the Court which is already onerous for States Parties. Obviously, all of these efforts need to be made without sacrificing efficiency or jeopardizing the expectations for justice placed on this Court by all of the victims, expectations which underpin the support we give as States Parties.

¹ ICC-ASP/17/Res.4.

Annex VIII

Statement by Brazil in explanation of position after the adoption of the omnibus resolution¹ at the 13th plenary meeting of the seventeenth session of the Assembly, on 12 December 2018

1. I would like to thank the facilitator for his tireless work in finding points of convergence in the face of so many different positions.
2. Brazil joined the consensus, although deeply frustrated by the inability of the Assembly to agree on a proposal regarding the composition of the Bureau.
3. The current composition of the Bureau no longer reflects the reality of the membership of the Rome Statute. It has been almost 15 years since the distribution of seats was last reviewed.
4. Brazil presented a paragraph with a view to initiate a discussion on the question of equitable geographic representation in the Bureau's structure, without prejudging the results.
5. Although the draft paragraph, and alternative language brought forward during the negotiation, commanded the support of a significant number of delegations from different regional groups, there was no consensus.
6. The fact that the issue of equitable representation in the Bureau is not reflected in the resolution just adopted does not mean that the problem will fade away. On the contrary, the merits of an in-depth discussion were recognized by a large majority of States Parties.
7. Brazil is therefore convinced that consensus is possible. We will continue to raise this issue with all delegations, here and in New York, and will once again, in the next negotiating cycle, offer draft language on the subject.

¹ ICC-ASP/17/Res.5.

Annex IX

List of documents

<i>Document symbol</i>	<i>Title</i>
ICC-ASP/17/1/Rev.3	Provisional agenda
ICC-ASP/17/1/Add.1	Annotated list of items included in the provisional agenda
ICC-ASP/17/2	Report on activities and programme performance of the International Criminal Court for the year 2017
ICC-ASP/17/3	Report on the performance of the Court's legal aid system in 2017
ICC-ASP/17/4	Report on the progress of the development of proposals for adjustments to the legal aid remuneration system as of 2019
ICC-ASP/17/5	Report of the Committee on Budget and Finance on the work of its thirtieth session
ICC-ASP/17/6	Report of the Court on Human Resources Management
ICC-ASP/17/7	Final audit report on Human Resources Management
ICC-ASP/17/8	Annual report of the Head of the Independent Oversight Mechanism
ICC-ASP/17/9	Report on the activities of the International Criminal Court
ICC-ASP/17/10	Proposed Programme Budget for 2019 of the International Criminal Court
ICC-ASP/17/10/Corr.1	Proposed Programme Budget for 2019 of the International Criminal Court - Corrigendum
ICC-ASP/17/10/Add.1	Proposed Programme Budget for 2019 of the International Criminal Court - Addendum
ICC-ASP/17/11	Report on Budget Performance of the International Criminal Court as at 30 June 2018 (
ICC-ASP/17/12	Financial statements of the International Criminal Court for the year ended 31 December 2017
ICC-ASP/17/13	Financial statements of the Trust Fund for Victims for the year ended 31 December 2017
ICC-ASP/17/14	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 2017 to 30 June 2018
ICC-ASP/17/15	Report of the Committee on Budget and Finance on the work of its thirty-first session
ICC-ASP/17/15/Corr.1	Report of the Committee on Budget and Finance on the work of its thirty-first session – Corrigendum
ICC-ASP/17/16	Report of the Court on cooperation
ICC-ASP/17/16/Corr.1	Report of the Court on cooperation – Corrigendum
ICC-ASP/17/17	Report of the Bureau on cooperation
ICC-ASP/17/18	Sixth election of members of the Board of Directors of the Trust Fund for Victims
ICC-ASP/17/19	Designation of the members of the Advisory Committee on Nominations
ICC-ASP/17/21	Report of the Bureau on the Advisory Committee on Nominations
ICC-ASP/17/22	Request by the State of Palestine for inclusion of an item on the provisional agenda of the seventeenth session of the Assembly
ICC-ASP/17/23	Report of the Court on solutions for the funding of long-term capital replacements at its Headquarters in The Hague
ICC-ASP/17/24	Options for securing payment of withdrawing States Parties' contributions to the loan granted by the host State
ICC-ASP/17/25	Report on reclassification matters at the Court
ICC-ASP/17/26	Report of the Registry on financial investigations conducted by the Registry and the seizure and freezing of assets
ICC-ASP/17/27	Report of the Registry on the approximate costs allocated so far within the Court in relation to referrals by the Security Council
ICC-ASP/17/28	Report of the Working Group on the Revision of the Judges' Remuneration

<i>Document symbol</i>	<i>Title</i>
ICC-ASP/17/29	Report of the Bureau on the Review of the work and the Operational Mandate of the Independent Oversight Mechanism
ICC-ASP/17/30	Report of the Bureau on the Study Group on Governance
ICC-ASP/17/31	Report of the Bureau on non-cooperation
ICC-ASP/17/32	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/17/33	Report of the Bureau on the Budget sub-topics of Budget Management Oversight and Premises
ICC-ASP/17/34	Report of the Bureau on complementarity
ICC-ASP/17/35	Report of the Working Group on Amendments
ICC-ASP/17/36	Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court
ICC-ASP/17/37	Report of the Bureau on the arrears of States Parties
ICC-ASP/17/38	Report on the constitution and activities of the International Criminal Court Bar Association (“ICCBA”)
ICC-ASP/17/39	Report of the Bureau on the assessment of the Secretariat
ICC-ASP/17/INF.2	Election of the Registrar of the International Criminal Court - Withdrawal of candidature - Sierra Leone
ICC-ASP/17/INF.3	Election of the Registrar of the International Criminal Court - Withdrawal of candidature - Netherlands
ICC-ASP/17/INF.4	Proposed Programme Budget for 2019 of the International Criminal Court – Executive Summary
ICC-ASP/17/INF.5	Briefing by the Prosecutor on 14 November 2018
