

## 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
<b>Total</b>			<b>148,135.1</b>

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:

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

## 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,<sup>1</sup>

*Noting* the recommendation of the Committee on Budget and Finance 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),<sup>2</sup>

*Further noting* that the Committee recommended a consideration of a multi-year funding timetable,<sup>3</sup>

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 on Budget and Finance to consider the level of precautionary reserves and the liquidity issue at its thirty-second session in April 2019 in light of further experience;
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.

<sup>1</sup> Financial Regulations and Rules 6.2.

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

<sup>3</sup> *Ibid.*, para. 148.

## C. Outstanding contributions

*The Assembly of States Parties,*

*Welcoming* the report of the Bureau on the arrears of States Parties,<sup>4</sup> and in particular the conclusions and recommendations contained in that report,<sup>5</sup>

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 on Budget and Finance 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 on Budget and Finance 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,<sup>6</sup>

*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,<sup>7</sup> 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 April 2019 in light of further experience;
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.

<sup>4</sup> ICC-ASP/17/37.

<sup>5</sup> ICC-ASP/17/37, paras. 19-22.

<sup>6</sup> Financial Regulations and Rules 6.6.

<sup>7</sup> *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,<sup>8</sup> in the absence of the approved scale for 2019, and adjusted in accordance with the principles on which the scale is based;<sup>9</sup>
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 €44,550,000; and
2. *Resolves* that, for 2019, assessed contributions for the budget amounting to €44,550,000, 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 on Budget and Finance 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;
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

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<sup>8</sup> A/73/11.

<sup>9</sup> 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,<sup>10</sup> as amended,

*Noting* the Annual Report of the Audit Committee for 2018,<sup>11</sup>

*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,<sup>12</sup> 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,<sup>13</sup>

1. *Welcomes* the Annual Report of the Audit Committee for 2018;<sup>14</sup>
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;
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 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 learned;
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;

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

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

<sup>12</sup> *Official Records ... Seventeenth Session ... 2018* (ICC-ASP/17/20), vol. II, part B.2, para. 233.

<sup>13</sup> *Ibid.*, para. 234.

<sup>14</sup> *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 on Budget and Finance in relation to the presentation of this information. The Committee on Budget and Finance 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 on Budget and Finance 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 Committee on Budget and Finance report 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 fulfill 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 Budget and Finance 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 on Budget and Finance, 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, 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,

*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,<sup>15</sup>

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 on Budget and Finance, 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,<sup>16</sup> *requests* the Committee on Budget and Finance 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;
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 Council<sup>17</sup> 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,<sup>18</sup> and *notes* that to date the approved budget allocated in relation to the referrals amounts to approximately €61 million borne exclusively by States Parties;
2. *Encourages* States Parties to continue discussions on a possible way forward on this issue;
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.

<sup>15</sup> *Official Records ... Sixteenth session ... 2017* (ICC-ASP/16/20), vol. II, part B.1, para. 105.

<sup>16</sup> ICC/AI/2018/002, 22 November 2018.

<sup>17</sup> United Nations Security Council resolutions 1593 and 1970.

<sup>18</sup> ICC-ASP/17/23.



## O. Amendments to the Financial Regulations and Rules

*The Assembly of States Parties,*

*Having regard* to the Financial Regulations and Rules<sup>19</sup> 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,<sup>20</sup>

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 on Budget and Finance at its thirty-first session with regard to multi-year budgeting of the Five-Year IT/IM Strategy,<sup>21</sup>

1. *Requests* the Court to provide the Committee on Budget and Finance 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;<sup>22</sup>

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 on Budget and Finance to provide more detailed background information on the proposed amendments;

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.

<sup>19</sup> *Official Records ... First session ... 2002* (ICC-ASP/1/3 and Corr.1), part II.D.

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

<sup>21</sup> *Ibid.*, part B.2, para. 104.

<sup>22</sup> *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.

5.5<sup>1</sup> 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.

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<sup>1</sup> 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.

5.7<sup>2</sup> 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.**

5.8<sup>3</sup> 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.

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

<sup>3</sup> 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.