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Report on the activities of the Oversight Committee***I. Introduction**

1. At its sixth session, held in November/December 2007, the Assembly of States Parties established an Oversight Committee of States Parties as a subsidiary body of the Assembly to provide strategic oversight for the permanent premises project in accordance with annex II to resolution ICC-ASP/6/Res.1.¹

2. Paragraph 14 of annex II to the resolution provides that the Oversight Committee shall provide progress reports to the Committee on Budget and Finance prior to its meetings. The Oversight Committee shall submit to the Committee on Budget and Finance for advice any submissions with financial implications for the Assembly.

3. Since the seventh session of the Assembly, the Committee held four meetings to continue its consideration of current issues, such as the architectural design competition and the selection of an architect and the implementation of the host State loan. The latter was considered particularly urgent so as to provide the project with the necessary funds.

4. In December 2008, the Committee elected Ambassador Lyn Parker (United Kingdom of Great Britain and Northern Ireland) to succeed Ambassador Jorge Lomonaco (Mexico) as Chairperson.

II. Architectural designs

5. With the conclusion of the architectural design competition and the announcement of the three prize-winners in November 2008, the project has entered into the design phase. In accordance with resolution ICC-ASP/7/Res.1, paragraph 1,² the Project Board requested the three architects to adjust their designs, taking into account the recommendations of the jury of the architectural design competition and the Court, and to present revised cost estimates.

* Previously issued as ICC-ASP/8/CBF.1/9.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Sixth session, New York, 30 November - 14 December 2007* (International Criminal Court publication, ICC-ASP/6/20), vol. I, part III, resolution ICC-ASP/6/Res.1, paragraph 5 and annex II.

² *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Seventh session, The Hague, 14-22 November 2008* (International Criminal Court publication, ICC-ASP/7/20), vol. I, part III, resolution ICC-ASP/7/Res.1.

6. The Project Board is in the process of evaluating the three modified designs in accordance with the requirements contained in annex I to resolution ICC-ASP/7/Res.1. In addition, a cost consultant has been tasked with assessing the revised cost estimates.

7. Through regular status reports, the Project Board informed the Committee of the progress made in the evaluations. The Committee learned that the main issues under consideration were the fee offers submitted by the architects, the estimated cost and size of the designs, the security of the premises, issues of sustainability and the degree of modification to the designs. In this regard, the Committee was informed, at its third meeting, on 12 March 2009, that the assessment of the estimated construction costs had not yet been finalised. The preliminary impression was that the construction costs of the winning design remained relatively the highest. There was no assessment of the maintenance costs as yet. The fee offers of the first and second prize-winners would require further negotiations.

8. The Committee focused its comments on issues related to governance and procedure, as the technical evaluation of the designs had been attributed to the Project Board. In accordance with paragraph 5 of annex I, the Project Board will refer its findings and recommendations to the Oversight Committee for a final decision once the evaluation is completed. The interim report was presented to the Committee at its meeting on 2 April 2009. Only after discussing the report at the meeting tentatively scheduled to take place on 23 April 2009 will the Committee be in a position to fully review the recommendations made with regard to the selection of an architect. The Committee recalled that, at this stage, it would only decide on the architect with whom further negotiations would be conducted. On the basis of the outcome of these negotiations, a final decision on the selection of an architect would be taken.

III. Loan, mortgage and ground lease agreements

9. In accordance with paragraph 5 of resolution ICC-ASP/7/Res.1, the Committee reviewed the relevant agreements for the implementation of the host State loan, which had been prepared by the Court and the host State, in collaboration with a public notary office. At its third meeting, held on 12 March, the Committee considered the loan, mortgage and ground lease agreements and recommended that the following amendments be introduced:

- a) As regards the loan agreement, the Committee suggested that the statutory interest rate of the Netherlands be applied to the Court and the host State when in default. Moreover, when referring to the use of the loan, the Committee recommended that a reference to resolution ICC-ASP/6/Res.1, preambular paragraph 10, be included, so as to also allow for the loan to be used for payment of fees of consultants and contractors.
- b) As regards the mortgage agreement, the Committee observed that it failed to specify the date/condition on which the mortgage would terminate.
- c) As regards the ground lease agreement, the Committee recommended that the provision on the termination of the ground lease and the building rights be further clarified. Following the meeting of 12 March 2009, the Committee suggested the inclusion of a reference to the additional host State bid for the permanent premises of the International Criminal Court.³

³ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/37), annex IV and appendix.

10. Revised versions of the agreements were made available to the members of the Committee for review, which led to the incorporation of some additional amendments. The agreements were approved by the Committee via a 48 hour silence procedure, with the signature by the Court and host State done before a notary public on 23 March 2009.

IV. Technical brief and security brief

11. At its third meeting, the Committee had before it copies of the technical brief and the security brief, which, together with the functional brief prepared in April 2008, form the programme of requirements for the premises of the Court.

12. In its evaluation, the Committee focused on strategic issues and in this regard commented on the issue of sustainability. The Committee was informed by the Project Board that, at this stage, no decision had been taken on the environmental standard applicable to the project and that the expert advice of a consultant would be obtained first. The Committee observed that such decision, which would stipulate the level of sustainability to be achieved, would have significant budgetary implications. The Committee requested to be informed of the outcome of the consultations with the expert.

13. As regards the security brief, the importance was raised of clearly defining the scope of the external security which is to be provided by the host State, and of the internal security, which is the responsibility of the Court. In this connection, reference was made to the relevant provisions contained in the Headquarters Agreement, in particular article 7.⁴ The Committee requested that the Court provide further clarifications in this regard.

14. Subject to the above observations and clarifications sought, the Committee took note of the documents and agreed that they formed a sound basis for the Project Board to proceed on.

V. One-time payments

15. At its third meeting, the Committee recalled that, in accordance with resolution ICC-ASP/7/Res.1, paragraph 7, States Parties would have to inform the Registrar of their possible intention to select the option of a one-time payment of their assessed share by 30 June 2009 and of their final decision to select the option of a one-time payment by 15 October 2009. Consequently, the Committee requested the Court to send a letter to that effect to all States Parties in April 2009.

16. The Committee further agreed to continue its consideration of the financing scheme once it had received an indication from the Court on the number of States Parties interested in making a one-time payment.

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⁴ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November - 1 December 2006* (International Criminal Court publication, ICC-ASP/5/32), part III, resolution ICC-ASP/5/Res.3, annex I.