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**Report of the Committee on Budget and Finance
on the work of its fifteenth session**

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I. Introduction

A. Opening of the session and adoption of the agenda

1. The fifteenth session of the Committee on Budget and Finance (the “Committee”) was convened in accordance with the decision of the Assembly of States Parties (the “Assembly”) taken at the 8th plenary meeting of its eighth session, on 26 November 2009, and the further decision of the Committee on its dates, on 8 May 2010. The session, comprising 15 meetings, was held from 23 to 31 August 2010. The President of the International Criminal Court (the “Court”), Judge Sang-Hyun Song, delivered welcoming remarks at the opening of the session.
2. The Secretariat of the Assembly of States Parties (the “Secretariat”) provided the substantive servicing for the Committee, and its Director, Mr. Renan Villacis, acted as Secretary of the Committee.
3. The following members attended the fifteenth session of the Committee:
 1. David Banyanka (Burundi)
 2. Carolina María Fernández Opazo (Mexico)
 3. Gilles Finkelstein (France)
 4. Fawzi A. Gharaibeh (Jordan)
 5. Masud Husain (Canada)
 6. Shinichi Iida (Japan)
 7. Juhani Lemmik (Estonia)
 8. Rossette Nyirinkindi Katungye (Uganda)
 9. Gerd Saupe (Germany)
 10. Ugo Sessi (Italy)
 11. Elena Sopková (Slovakia)
 12. Santiago Wins (Uruguay)
4. At its 1st meeting, the Committee adopted the following agenda (CBF/15/1):
 1. Opening of the session
 2. Adoption of the agenda
 3. Participation of observers
 4. Organization of work
 5. States in arrears
 6. Financial performance data of the 2010 budget
 7. Consideration of the proposed programme budget for 2011
 8. Administrative matters
 9. Governance
 10. Audit matters:
 - (a) Audit reports
 - (i) Financial statements of the International Criminal Court for the period 1 January to 31 December 2009;
 - (ii) Financial statements for the Trust Fund for Victims for the period 1 January to 31 December 2009; and
 - (iii) Report of the Office of Internal Audit.
 - (b) Report of the Audit Committee

11. Field offices
12. Family visits
13. Premises of the Court
14. Other matters:
 - (a) Addis Ababa Liaison Office

5. The following organs of the Court were invited to participate in the meetings of the Committee to introduce the reports: the Presidency, the Office of the Prosecutor and the Registry.

B. Participation of observers

6. The Committee decided to accept the request of the Coalition for the International Criminal Court to make a presentation to the Committee. The Committee expressed its appreciation for the presentation.

II. Consideration of issues on the agenda of the Committee at its fifteenth session

A. Review of financial issues

1. Status of contributions

7. The Committee reviewed the status of contributions as at 27 August 2010 (annex II). The Committee noted that a total €71,183,574 had been received for the 2010 financial period, that is 68.7 per cent of the assessed 2010 contributions, and that €32,987,169 was outstanding from current and previous financial periods. The Committee expressed concern over the level of the arrears and that only 45 States were fully paid up for all their outstanding contributions at this point in the fiscal year. The Committee noted that such a trend could significantly affect the cash flow of the Court. **It encouraged all States Parties to make their best efforts to ensure that the Court had sufficient funds throughout the year, in accordance with regulation 5.6 of the Financial Regulations and Rules.**

2. States in arrears

8. According to article 112, paragraph 8, of the Rome Statute, "A State Party which is in arrears in the payment of its financial contributions towards the costs of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years." The Committee noted that on 27 January, 12 May and 21 July 2010 the Secretariat had communicated with States in arrears, informing them of their outstanding contributions and advising them of the minimum payment required to avoid the application of article 112, paragraph 8. The Committee was informed that as of 27 August 2010, eight States Parties remained in arrears and were ineligible to vote.

9. **The Committee requested the Secretariat to again advise States in arrears of the minimum payment required before the ninth session of the Assembly.**

3. Surpluses

10. In accordance with regulation 4.6 of the Financial Regulations and Rules, the estimated cash surplus that is to be returned to States Parties on 1 January 2011 amounts to €0.4 million, and comprises the provisional cash surplus for 2009 and assessed contributions in respect of prior periods that were received from States Parties in 2010.

B. Audit matters

1. Audit reports

- (a) **Financial statements of the Court for the period 1 January to 31 December 2009**
- (b) **Financial statements of the Trust Fund for Victims for the period 1 January to 31 December 2009**

11. Introducing his reports on the financial statements of the Court¹ and of the Trust Fund for Victims,² the External Auditor informed the Committee that the statements were free of material misstatement and presented fairly the financial position of the Court and of the Trust Fund and that he was able to offer an unqualified audit opinion. The Committee noted that total expenditure in 2009 amounted to €6,235,000 compared to the approved budget of €101,230,000, representing a budget implementation rate of 95 per cent.

12. The Committee welcomed the presentation by the External Auditor and **endorsed the recommendations as a whole**. In particular, the Committee appreciated the presentation of the review of the permanent premises project undertaken by the External Auditor in the presence the Chair of the Oversight Committee, the Project Director of the Assembly and officials of the Court. The Committee welcomed the confirmation from the Chair of the Oversight Committee that the Committee was studying the recommendations carefully and would take action as appropriate.

13. With respect to the Audit Committee, **the Committee endorsed the recommendation of the External Auditor for the Audit Committee to review its terms of reference and to ensure that it minimized duplication with existing bodies such as the Committee on Budget and Finance and the Oversight Committee of the permanent premises project.**

14. **With respect to the Trust Fund for Victims, the Committee endorsed the External Auditor's recommendations as a whole and in particular, the recommendation that the budget appropriations for the Secretariat of the Trust Fund for Victims be shown as income in the Fund's financial statements.**

(c) Report of the Office of Internal Audit

15. Pursuant to rule 110.1 of the Financial Regulations and Rules, the Office of Internal Audit submitted to the Committee its annual activity³ report to the Committee on Budget and Finance, outlining the activities of the Office in the second half of 2009 and the first half of 2010 as well as the report on the status of audit recommendations.⁴

16. The Committee considered the two reports of the Office of Internal Audit. It discussed the specific findings and recommendations with the Director of the Office and Court officials.

17. The Committee reiterated the importance that the internal auditor reports include objective, independent and well documented recommendations.

18. Pursuant to its mandate under rule 110.1, the Committee would like to highlight to the Assembly the low implementation rate of the audit recommendations. **The Committee recommended that the Court ensure that it took appropriate measures to consider and implement audit recommendations.**

19. **The Committee also strongly endorsed the recommendation that the Court implement a zero-based budget approach in a limited number of sections as pilot projects and requested the Court to submit a first feasibility report at the Committee's next session.**

¹ ICC-ASP/9/13.

² ICC-ASP/9/14.

³ CBF/15/8.

⁴ CBF/15/11.

(d) Report of the Audit Committee

20. The Committee had before it the report of the Audit Committee,⁵ which had been received on 24 August 2010. The Committee noted that the Audit Committee, which had been established by Presidential Directive ICC/PRES/D/G/2009 of 11 August 2009, had held its first meeting in April 2010 with the full membership of three internal and four external members, and that it proposed to hold a second meeting in October 2010. The Committee observed that the Audit Committee had considered a number of issues, including the Audit Plan, International Public Sector Accounting Standards (IPSAS) implementation and risk management, and had made recommendations to the Assembly regarding separate preparation of the financial statements for the permanent premises project and the appointment of the External Auditor. In that regard, the Committee recalled the recommendation of the External Auditor on the need to review the terms of reference of the Audit Committee to avoid duplication.

Appointment of the External Auditor

21. The Committee noted that the term of appointment of the External Auditor was due to expire in 2010 and that a decision would be required by the Assembly pursuant to regulation 12.1 of the Financial Regulations and Rules to either renew the term of the current Auditor or to select a new Auditor for the period 2011-2015. The Committee recalled the international practice of the appointment of External Auditors to non-renewable terms. **The Committee recommended that the Assembly adopt a policy of limiting the term of the External Auditor to four years with a possibility of one renewal. Given the fact that the Court had had the same External Auditor for eight years, in order to implement this policy, the Committee recommended that the Court undertake a bidding exercise among States Parties and submit the results to the Assembly in order for the Assembly to take a decision at its ninth session. The Committee also requested the Court to submit to the ninth session of Assembly the amendments to the Financial Regulations and Rules that may be required.**

2. Governance

22. As stated in the report of the Committee on Budget and Finance on the work of its fourteenth session, the Committee had considered the Report of the Court on measures to increase clarity on the responsibilities of the different organs prepared by the President of the Court⁶ and had requested the President to present a follow-up report on the implementation and operation of the governance arrangements for the sixteenth session of the Committee.⁷

23. However, the Committee decided to consider issues of governance at this session on the basis of certain concerns raised by the External Auditor with respect to the Statement of Internal Control,⁸ and of questions from The Hague Working Group regarding the mandate of the Committee and that of the Independent Oversight Mechanism.⁹

⁵ CBF/15/14.

⁶ ICC-ASP/9/CBF.1/12.

⁷ ICC-ASP/9/5.

⁸ ICC-ASP/9/13, paras. 49-53 and recommendation 11.

⁹ 1. To what extent are evaluation and inspection of the Court, excluding its judicial functions, already covered by the mandate of the Committee on Budget and Finance? Should the Committee be of the view that it does cover evaluation and inspection, the Committee is requested to illustrate the extent and scope of these functions already performed by the Committee.

In the absence of generally accepted definitions of evaluation and inspection, in answering this question the Committee on Budget and Finance should take as a starting point the definitions contained in the United Nations documents by which the United Nations Office of Internal Oversight Services was established, as well as the report of the Court (paragraphs 6 and 7). (These definitions can be found in paragraphs 13-15 of the facilitator's introductory paper, dated 2 March 2010. Further guidance as to the meaning of inspection and evaluation may be found in paragraphs 4-11 of the Court's Paper, dated 30 June 2010.)

2. What is the Committee on Budget and Finance's position regarding the relationship between its mandate and work, and the mandate of the Independent Oversight Mechanism as provided in article 112, paragraph 4, of the Rome Statute (comprising investigation, evaluation and inspection)?

24. Similarly, the Committee had previously asked for information on the number of days each judge had spent in The Hague in 2009. This question prompted a discussion with representatives of the Presidency and Chambers as to the proper understanding of the independence of judges under article 40 of the Rome Statute and the relationship of the Court to the Assembly of States Parties under article 112, paragraph 2(b). However, the Committee found that no relevant information had been provided.

(a) **Statement of Internal Control**

25. The Committee considered the concerns raised by the External Auditor with respect to the responsibilities of the Registrar when signing the Statement of Internal Control in relation to the Major Programmes of the Court, in particular the Office of the Prosecutor and the Project Office for the Permanent Premises.¹⁰ The External Auditor recommended that the Registrar establish a process “to receive written representations on the risk and control environment from heads of organs, and from senior managers in respect of compliance with rules and regulations.”¹¹ **The Committee strongly endorsed this approach and recommended that the effectiveness of this approach be further considered to ensure that risks were identified and mitigated.** The Committee invited the three heads of organs to agree on developing clear institutional arrangements in accordance with rule 101.1 of the Financial Regulations and Rules.

(b) **Committee on Budget and Finance and Independent Oversight Mechanism**

26. The Committee noted that its own mandate was clear as it had been given the responsibility for “the technical examination of any document submitted to the Assembly that contains financial or budgetary implications or any other matter of a financial, budgetary or administrative nature, as may be entrusted to it by the Assembly of States Parties.”¹²

27. In the view of the Committee, its mandate will, by necessity, include some aspects of inspection and evaluation, particularly when evaluating the proposed programme budget of the Court as well as the recommendations of the External and Internal Auditors. For example, members of the Committee had visited field offices to meet with staff, review control procedures for inventory and discuss the use of the resources. That had been very useful when considering budget requests from the Court in relation to reclassifications, capital replacements and other staffing requests.

28. At this point, there would seem to be little scope for overlap with the IOM¹³ which was currently staffed to focus on setting up investigation procedures, something that the Committee did not undertake. On the contrary, reports from the IOM on specific cases would be useful inputs to the Committee when considering governance arrangements, management practices and the review of requests for new resources. However the Committee was concerned with the potential for excessive oversight that may cause duplication and consume resources should the inspection and evaluation functions of the IOM be activated.

29. **From this perspective, the Committee recommended that fuller consideration be undertaken of all the existing oversight mechanisms for the Court, their respective mandates, areas of activity and their reporting responsibilities, with a view to avoiding unnecessary duplication and potentially unnecessary costs.**

¹⁰ ICC-ASP/9/13, paras. 52-53.

¹¹ *Ibid.*, recommendation 11.

¹² Resolution ICC-ASP/1/Res.4, annex, para. 3.

¹³ The IOM was established by resolution ICC-ASP/8/Res.1.

(c) Management oversight of the Assembly and its relationship to the Court

30. At its fourteenth session, the Committee had requested information regarding the presence of judges in The Hague. In the absence of a reply, the Committee repeated the request at its fifteenth session. The Presidency replied that, in its interpretation, the judiciary was independent under article 40 of the Rome Statute and as such, it would be inappropriate for the Committee to seek such information.

31. The Committee was of the view that, as a subsidiary body of the Assembly, it could seek information on the leave and travel of elected officials as that was a matter within the management oversight of the Assembly and that no official of the Court should in principle be exempt from accountability for administrative matters.

32. As those issues had not been addressed in the Report of the Court on measures to increase clarity on the responsibilities of the different organs,¹⁴ and in order to clarify the issue, **the Committee recommended that the Assembly might wish to clarify whether elected officials are accountable for administrative matters and the differentiation between independence in the exercise of functions versus administrative independence. On this regard, the Presidency expressed its willingness to provide a further report to the Committee on its interpretation of the relationship of elected officials to the Assembly.** In case the Assembly decides to request such a report, the Committee recommends that such a report should also include the existing administrative accountability measures within each organ and Court-wide for elected officials and identify possibilities to reinforce these measures.

33. **The Committee further recommended that the Assembly consider its relationship to the Court, including the adequacy of its role in selecting key elected officials such as the President of the Court and the Registrar. The Assembly may also wish to consider whether the office of the President of the Court should be reinforced to provide for greater vertical authority to oversee the administration of judges as well as the allocation of judges to chambers to minimize problems and costs resulting from the excusal of judges.**

C. Budgetary matters**1. Financial performance data of the 2010 budget as at 30 June 2010**

34. The Committee had before it the Report of the Court on the budget performance as at 30 June 2010.¹⁵ It noted that the implementation rate for 2010 as at 30 June was 50.5 per cent, representing an expenditure of €1,618,000. The implementation was the same as in 2009. The projected implementation rate to 31 December 2010 was 97 per cent based on a projected expenditure of €9,186,000.

(a) Contingency Fund

35. The Court noted that it had made notifications¹⁶ to the Committee that it would be required to access the Contingency Fund in order to cover the costs for parallel trials and for the investigation into the Kenya situation. The total notional cost for these unforeseen activities was €8,241,200.

¹⁴ ICC-ASP/9/CBF.1/12.

¹⁵ ICC-ASP/9/16.

¹⁶ In 2010, the Court provided supplementary budget notifications to the Committee in the following instances:

(a) By letter dated 15 April 2010, the Registrar submitted a short supplementary budget notification for the sum of €1,957,100 in respect of certain unavoidable costs in the new situation, Kenya.

(b) By letter dated 10 May 2010, the Registrar submitted a notification for the sum of €2,968,100 to cover parallel trials for the second half of 2010.

36. Given a forecast budget implementation rate of 97 per cent for the regular budget, and a forecast implementation rate of 86 per cent for the Contingency Fund supplementary budgets, the Court estimated that its actual access to the Contingency Fund would be approximately €1,975,000 in 2010. Such expenditure would not bring the Contingency Fund below the €7 million replenishment threshold.

37. The Committee noted that 2010 would likely see the first access to actual resources from the Contingency Fund as the Court had been able in past years to cover all unforeseen activities through underspend in the regular budget.

38. The Committee noted that, as the implementation rate of the regular budget approached 100 per cent, use of the Contingency Fund would have a more direct financial impact on States Parties than in the past, as there was less flexibility within the regular budget. Replenishment of the fund would ultimately increase the assessed contributions of States Parties.

39. In this regard, the Committee wished to sound a note of caution to the Court and the Assembly. The Committee observed that under regulation 6.7 of the Financial Regulations and Rules, the Court may access the Contingency Fund two weeks after submitting a “short, supplementary budget notification to the Committee on Budget and Finance” and “taking into consideration any financial comments” of the Committee.

40. The Committee noted that, as there is no prior in-depth scrutiny or approval process on the access of these funds, the Court should expect to provide greater detail in its notifications and be in a position to provide much greater detail and justifications for its actual expenditures. **In this regard, the Committee recommended to the Assembly that regulation 6.7 of the Financial Regulations and Rules be amended to replace the word “short” by the word “detailed”.**¹⁷

41. Secondly, given the absence of prior in-depth scrutiny and approval, the Committee advised the Court to exercise utmost caution and restraint when preparing its supplementary budgets for accessing the Fund. In particular, the Committee cautioned the Court from taking a maximalist approach to the possible needs that might be required. In that regard, the Committee questioned whether all GTA positions submitted, as well as the acquisition of equipment and funds for training, were required in the 2010 notifications.

42. Thirdly, the Committee cautioned that the Court should ensure that it did not underestimate its requirements as part of its proposed regular programme budget with a view to accessing the Contingency Fund, as such a practice would undermine the integrity of the budget process.

43. Following established practice, the Committee recommended that the Assembly authorize 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 2010 were exhausted before accessing the Contingency Fund.

(b) Working Capital Fund

44. The Committee took note that the Court had maintained the level of the Working Capital Fund at its 2007 level for the 2011 proposed programme budget. **Given the positive cash position of the Court, the Committee recommended that the Assembly maintain the Working Capital Fund at its present level.**

¹⁷ See annex III.

2. Consideration of the proposed programme budget for 2011

(a) Presentation

45. While welcoming the improvement in the timely availability of documentation from the Court, the Committee expressed concern at the errors and inconsistencies contained in the budget document,¹⁸ which had complicated its analysis thereof. In particular the Committee was concerned at errors in calculating for the costs of reclassifications, travel and GTAs, as well as the inclusion of a budget to cover extended periods of leave, including maternity leave. A more detailed list of the errors and inconsistencies is included in annex IV of this report.

46. The Committee was also concerned with the inadequacy of the descriptions and justifications provided in different sub-programmes for existing and new resources. **The Committee took the general approach to recommend non-funding of positions that were not properly identified or justified.**

47. More generally, the Committee could not but note the inconsistencies and inaccuracies in the budget forecasts. By way of illustration in annex III of the proposed programme budget, the number of court days was assumed to be 200 in 12 months. The Court clarified that 200 was the number of days that a courtroom and a courtroom team would be available for hearings. However, with the request in the budget for an additional courtroom team for six months, there would be approximately 300 sitting days available for trials. Similarly, the number of field offices was assumed to be seven in 2011. However, the Registrar confirmed that, while the office in Abéché would be closed in 2011, no final decision had been made to open an office in Kenya. Hence it was misleading to assume that there would be seven field offices in 2011 when there may in fact be only five. The assumptions further stated that there would be zero site visits by judges in 2011, while the budget proposal for Major Programme I included an increase in the travel budget for a site visit.¹⁹ The Committee was particularly concerned that such inaccuracies could occur in the basic assumptions underlying the Court's projected activities. The frequency of their occurrence made it substantially more difficult to determine the budgetary and financial needs of the Court.

48. The Committee acknowledged that the Court had faced considerable challenges in its budget preparation in the current year due to the delay in recruiting the Director of Common Administrative Services Division and the Head of the Budget and Finance Section.

49. In terms of presentation, the Committee noted that the Court had disaggregated training and legal aid from the former heading of "contractual services including training". However, the Court had not separated the legal aid budgets into legal aid for the defence and legal aid for victims as previously requested.²⁰ **The Committee reiterated its request that, for all future budget submissions, the Court separate legal aid into two discrete and distinct budget lines: "Legal aid for the defence" and "Legal aid for victims".**

50. The Committee further noted that the Court had included travel for family visits of indigent detainees in the proposed programme budget. The Committee recalled its earlier recommendation that "as a general rule, items that have not received the policy approval of the Assembly should not be included in the budget. ... Items that have been prepared for consideration by the Assembly, ... such as ... family visits," should "appear as annexes to the budget document".²¹ The Court replied that it had understood this recommendation to relate only to the 2010 budget. **In order to provide greater certainty, the Committee recommended that for all proposed programme budgets, now and in the future, as a general rule, items that had not received the policy approval of the Assembly should not be included in the budget.**

¹⁸ ICC-ASP/9/10.

¹⁹ ICC-ASP/9/10, para. 108 and annex III.

²⁰ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Eighth session, The Hague, 18-26 November 2009* (ICC-ASP/8/20), vol. II, part B.2, para. 36.

²¹ *Ibid.*, para. 39.

(b) Assumptions and activities for 2011

51. The assumption for 2010 was that there would be three consecutive trials in the *Lubanga*, *Katanga/Ngudjolo Chui* and *Bemba* cases. However, the decision was taken by the Court in 2010 to hold parallel trials and access the Contingency Fund in the amount of €7.768 million.

52. The Court clarified that “parallel” trials means the simultaneous use of the two courtrooms, which required two different teams of Court staff (interpreters, stenographers, security officials, etc.).

53. The 2011 proposed budget was based on the assumption of two parallel trials, *Bemba* and *Katanga/Ngudjolo Chui*, during the first half of the year, and then the *Bemba* trial only in the second half of the year. The requested increase in the budget amounted to €2,147,000 to provide for a second courtroom team over a period of six months.

54. The Committee indicated, however, that the appeals lodged in the *Lubanga* and *Bemba* trials had changed the working hypotheses. It seemed possible that three trials would have to run in parallel (*Lubanga*, *Katanga/Ngudjolo Chui* and *Bemba*) during the first semester of 2011, whilst two parallel trials would be held during the rest of the year (*Katanga/Ngudjolo Chui* and *Bemba*). Furthermore, the Committee was informed that there was the possibility of new cases in the second semester of 2011.

55. The Committee was also informed that there was a possibility of appeals and reparation proceedings to be initiated in 2011.

56. The Prosecutor informed the Committee that he will conduct six active investigations in four of the situations currently before the Court, including Kenya, and will maintain seven residual investigations.

57. The Committee observed that the budget assumptions for the Court for 2009 and 2010 had foreseen consecutive trials which would require one courtroom and one courtroom team. The budget assumptions for 2011 suggested that the Court was planning on parallel trials for two cases. Because of that new assumption, the Committee studied in depth the actual usage of courtrooms and courtroom teams in 2010. The Committee was informed that, normally, one courtroom team and one courtroom allowed for 200 sitting days. The additional GTA capacity derived from accessing the Contingency Fund allowed an increase in the number of sitting days. The Committee found that the Court had not used more than 146 days in 2010²² and was projected to not use the additional capacity in 2010,²³ due to delays in the *Lubanga* and *Bemba* trials.

58. Because of this situation, many of the GTA staff hired in 2010 to assist in the parallel trials were not able to fully perform this function. The Court advised that many of the additional staff members were assisting in clearing documentary backlog and relieving overtime requirements in other sections, functions that were unrelated to the reasons for which they had been hired. The Committee also discussed with Court officials the manner in which the sitting calendar was established.

59. The Committee recalled its earlier recommendations in relation to trial scheduling²⁴ and called upon the Court to make the most efficient use of the courtroom capacity. **In this regard, the Committee recommended that the Division of Court Services enhance its dialogue with Chambers and the Presidency to review the manner in which hearings days were scheduled in order to minimize the number of days that courtroom capacity was not used. The Committee recommended that the Court enhance its discussion with other international tribunals to find inspiration and ideas on how scheduling could be made more effective and cost-efficient.**

²² *Tableau de Bord*, provided by the Court, dated 31 July 2010.

²³ This was calculated according to the *Tableau de Bord* provided by the Court, dated 31 July 2010.

²⁴ *Official Records ... Seventh session ... 2008*, (ICC-ASP/7/20), vol. II, part B.2, para. 47, and *Official Records ... Eighth session ... 2009*, (ICC-ASP/8/20), vol. II, part B.2, para. 42.

(c) **Macroanalysis**

60. The Court informed the Committee that it had proposed a budget of €107 million for 2011, representing an increase of €4,782,900, or 4.7 per cent, over the approved budget level for 2010. The Court identified the major causes for the increase as the planned parallel trials for six months (€2.3 million), increases in the common system costs (€1 million), investigations in the Kenya situation (€0.5 million) and miscellaneous costs including detention (€0.3 million). **The Committee recommended that, as a general practice, the Court should prepare the proposed programme budget taking into account actual implementation rather than the approved budget level of the prior year.**

61. The Committee found a number of areas where, based on actual and forecast expenditure, as well as actual experience, a number of savings could be made. The recommendations of the Committee were divided into those of a cross-cutting nature, as well as specific items in the Major Programmes.

Medium-term budgeting forecast

62. The Committee considered the updated report of the Court on capital investments replacements.²⁵ The Committee took note of the multi-year expenditure forecast approach taken by the Court. It noted further that there was a significant projected increase in expenditure in 2012 compared to 2011 from €466,000 to €9,887,000 and that the expenditure level was expected to remain near the €9 million level for three consecutive years. The Committee also noted that that figure included capital investment replacement costs as well as additional items such as rent for interim premises, implementation of the IPSAS accounting standards project and the extension of judges' terms. While welcoming the identification of cost drivers, **the Committee recommended that the proposed programme budget for replacement of capital investments should not include funds for the permanent premises, IPSAS, the extension of judges' terms and the rent for the interim premises.**

Replacement of capital investments

63. The Committee noted the very small increase for vehicles and equipment planned for 2011 (€134,000) and the much larger increase planned for those items for 2012 (€5.8 million). The Committee acknowledged the efforts of the Court to postpone investments by a year or two, but also noted that such an approach would not prevent the rapid increase in associated costs. **In order to contain costs, the Committee recommended that the Court explore alternative methods of financing of its capital investment replacement costs, such as leasing the equipment. In the absence of a policy on depreciation, it was incumbent on the Court to stretch out its replacement strategy over a longer period of time. The Committee requested the Court to provide an updated report at its next session.**

IPSAS

64. The Committee concurred with the External Auditor that IPSAS implementation was inevitable and that the Court commence its IPSAS implementation strategy. Noting that there was a revised cost had been presented, **the Committee recommended that €332,600 be added to the 2011 proposed programme budget to allow for the commencement of IPSAS implementation.**

65. **The Committee also recommended that the Court develop an overarching plan for implementation, including identifying sections of the Financial Regulations and Rules that may require amendment and report to the Committee at its next session.**

²⁵ ICC-ASP/9/19.

Other cost drivers

66. Given the assumption of parallel trials in 2011, the Committee considered carefully the cost drivers resulting from increased judicial activity. Beyond the recommendation in paragraph 59 above regarding the scheduling of hearings, **the Committee also recommended that other measures to promote efficiencies be explored. In that regard, the Committee also recommended that the judiciary consider establishing specific training modules for new judges in order to familiarize them with the considerable jurisprudence and practice that had been established in the Court.**

67. The Committee also noted the potential for cost increases resulting from the extension of judges' terms. This may become particularly acute if the Rome Statute is interpreted to require that a full panel of judges is required to sit for reparations hearings and, if so, whether it should be the same judges who handled the trial. This matter could have two-fold implications:

(a) on the workload by having three judges work on the reparations phase, instead of on other trials; and

(b) on the programme budget if one or more judges whose mandate would otherwise expire were to be extended for the purpose of being able to continue with the reparations phase.

68. In the absence of specific norms in the Rome Statute and the Rules of Procedure and Evidence, the extension of the term of a judge would be decided upon by the respective Chamber. **The Committee noted that this approach could lead to divergent decisions by different Chambers. Thus, the Committee was of the view that this was a matter where the Assembly might wish to provide guidance to the Court, for example, through an interpretative declaration, to ensure a consistent approach.** The Committee noted that having a single judge handle reparations would help avoid extending mandates of judges and the associated cost implications.²⁶ **In this connection, the Committee recommended that the Assembly consider the possibility of using judges appointed to a specific trial, i.e. ad litem judges, in order to avoid situations of prolonged extension, so as to ensure greater efficiency.**

Policy for GTA staff

69. The Committee observed that there was no standard policy for the recruitment of GTA staff by the Court and **requested the Court to report to the Committee at its sixteenth session, in the context of the agenda item on human resources, on the directives for the use of GTAs in each organ and on the criteria used in such recruitment.** The Committee noted the desirability for flexibility in the recruitment of GTA staff, and that the operational and functional needs of the Court, as well as the duration of the need for GTA were relevant.

(d) Common system costs / inflation

70. The Committee was informed that common systems costs including staff costs would increase by €1 million in 2011.

71. The Committee noted that by following the United Nations common system, the Court's common system costs represent yearly increases in the budget as follows:

2007: €1.49 million	2010: €1.00 million
2008: €2.74 million	2011: €1.00 million
2009: €2.00 million	

²⁶ The Court considered that the possibility of having a single judge may not be an option as it had not been specifically catered for in the Rome Statute or the Rules of Procedure and Evidence. As regards the annual costs associated with the extension of a judge's mandate, such costs have been estimated to range between €403.117 and €570.795. A number of varying cost-factors have to be taken into consideration when calculating the exact associated costs; these factors depend on individual circumstances. Nonetheless, the associated average annual cost of an extension of a judge's mandate would approximately be €460.023.

72. While the Court was not part of the United Nations Common System, the result of the decision to be part of the United Nations Joint Staff Pension Fund required the use of the United Nations salary scale.

73. The Committee had already expressed its views on the issue at its ninth session:

“However, the Committee also noted that this system was less than ideal for an organization with a budget denominated in euros and in which staff (with the exception of some local field staff) are paid in euros. Further, the forecasts relating to estimated staff costs are by nature imprecise and, unlike the United Nations and some other common system organizations, the Court does not report the actual level of common system costs at the end of the financial period. There was as yet insufficient experience to assess whether the actual staff costs incurred by the Court matched the multiplier for common staff costs. The Committee also noted that the system was expensive to administer since it required monthly amendment of post adjustment and salaries for all staff.”²⁷

3. Cross-cutting recommendations on the 2011 Budget

(a) Parallel trials

74. The budget of Major Programme III included €2.134 million to cover six months of parallel trials in 2011. As noted in paragraph 57 above, the Committee conducted an in-depth examination of actual usage of courtroom capacity in 2010, and the use of the additional GTAs that were funded from the Contingency Fund. The Committee noted that a number of positions requested in relation to parallel trials were not well justified. For example, a number of staff requests appeared to be more strategic rather than operational in nature and therefore were not clearly directly related to the holding of parallel trials. In other instances, the requested GTA posts did not appear to be absolutely essential but rather more desirable. In other instances, the request for GTA posts was for 12 months rather than six months. Given the fact that many of the GTA staff hired for parallel trials in 2010 were not in fact engaged on parallel trials and the fact that actual courtroom usage has never approached full capacity, **the Committee recommended that the resources provided in Major Programme III be reduced by about one third, i.e. by €700,000.** In order not to micromanage the Registry in the scheduling of trials, **the Committee recommended that the Registrar have the discretion to decide how this cut should be implemented.**

(b) Travel

75. The Court had an overall approved travel budget of €4.997 million in 2010. Implementation was forecast to be approximately 90 per cent. The Court had requested an overall travel budget of €5.071 million for 2011. Given the actual projected implementation rate and the fact that almost all the Major Programmes had erroneously budgeted for travel to New York to a session of the Assembly of States Parties in 2011, **the Committee recommended that the travel budget of each Major Programme be reduced by 10 per cent.** For Major Programmes that had already proposed a reduction in their travel budgets, **the Committee recommended that the further reduction should be the difference between the proposed reduction and 10 per cent.** For Major Programme IV, the Secretariat of the Assembly of States Parties advised **the Committee that its travel budget had been over-estimated by €109,100 and that that amount could be removed from its proposed budget. Hence the Committee recommended that the Secretariat’s travel budget be reduced by €109,100 rather than by 10 per cent.**

²⁷ *Official Records ... Sixth Session ... 2007*, (ICC-ASP/6/20), vol. II, part B.2, para. 43.

(c) General operating expenses

76. The Committee noted that overall general operating expenses for the Court were proposed to be increased by 5.2 per cent, or €620,000. The main cost driver was the expected increase in the cost of detention cells in the Netherlands. Therefore the Committee welcomed the endeavour of the Court to negotiate appropriate terms for rent of detention cells with the host State. **The Committee recommended that, given the level of inflation,²⁸ and the fact that such negotiations with the host State were due to start, the budget for the general operating expenses of each Major Programme should be decreased by 2.5 per cent.**

(d) Materials and supplies

77. The Committee noted that costs for supplies and materials were proposed to increase by 9.4 per cent or €16,700. **Noting the level of inflation, the Committee recommended that this item be cut by five per cent across the Court. A higher amount was not justified by the items put forward for the Committee's consideration.**

(e) Vacancy rates and staff levels

78. The Court advised the Committee that it was seeking to convert seven GTA positions into permanent posts and would propose the addition of one other permanent post in 2011 for a net real increase of one post. The Court also advised that it was applying a vacancy rate of eight per cent for the office of the Prosecutor and 10 per cent for the rest of the Court.

79. The Committee reiterated its view that the establishment phase of the Court had been completed and that the Court should make greater efforts to prioritize and reallocate resources to carry out its current projected activities within existing levels. **That prioritization should include the identification of positions and functions that were no longer required or were underutilized.**

80. The Committee also noted the proposed 20 per cent increase in resources for GTA staffing in 2011. The Committee questioned whether the Court would be able to proceed as expeditiously in the recruitment of the current vacant permanent positions because of the additional workload for the Court's Human Resources Section. **Therefore the Committee recommended that this budget to be decreased by €57,500 for Major Programme II, and by €101,900 for Major Programme III.**

81. **The Committee recommended that the Court freeze the number of permanent posts at its approved 2010 level until a comprehensive re-justification of all posts had been conducted and recalled the recommendation it had made at its fourteenth session that, where established posts have been vacant for two years or more, the Court should provide a renewed justification for the positions to the Committee as part of its annual budget submission.²⁹**

82. The Committee advised that it had requested a clear schema of the staff required to run the court proceedings as well as an indication of the minimum staffing elements required under the Rome Statute in the event that there were no trials and hearings, the so-called "skeleton" of the Court. That information would help the Committee and the Assembly to assess the base needs of the Court. **The Committee reiterated its request for the Court to provide that information in a report at its next session.**

²⁸ The July 2010 inflation rate for the Netherlands was 1.3 per cent (Euro area 1.7 per cent). Source: Harmonized Index of Consumer Prices (HCIP), European Central Bank, <http://www.ecb.int/stats/prices/hicp/html/inflation.en.html>.

²⁹ ICC-ASP/9/5, para. 56.

D. Major Programmes

1. Major Programme I: Judiciary

83. Given the enhanced level of judicial activity foreseen, the Committee expressed concern with the large increase in the travel budget for this Major Programme. **In line with the general approach on travel, the Committee recommended that the overall travel budget for Major Programme I be reduced by 10 per cent. Furthermore to promote better coordination, the Committee recommended that the travel budget of Chambers be incorporated under sub-programme 1100 (the Presidency) and that the President closely monitor its implementation.**

84. The Committee further noted that this Major Programme had made a budgetary provision for two P-3 GTAs for six months to cover extended periods of leave, including annual and maternity leave but that those resources had not been explicitly identified in the proposed programme budget. The Committee observed that, as a general principle, resources that are not explicitly provided for in the budget document should not be funded. **Furthermore, the Committee recommended that the Court follow a consistent and standard approach - as was the case in other institutions, where existing staff members assumed the extra workload - and enhance productivity. Therefore the Committee recommended that the proposed GTA budget be reduced by €135,000 and that Major Programme I cover those functions through productivity gains.**

85. In Programme 1100, the Committee reviewed the request for a P-3 Legal officer to be converted from GTA on the basis that the position was required as the Presidency was entering the phase where it would be required to exercise its enforcement functions. The Committee noted that the position was not yet required on a full-time basis for enforcement issues as there were no sentenced individuals at this point. Given the current phase of the ongoing trials in the Court, and the current level of staffing in the Presidency, the Committee was not convinced that this resource was required on a permanent basis. **Therefore the Committee recommended that the position remain as a GTA.**

86. The Committee was of the view that the information on judges' salaries contained in annex V(e) of the budget document was not sufficient to allow it to form a well founded opinion. Having obtained clarification from the Court, and taking into account the basis used for calculating common costs in prior financial periods, as well as the assumption that in 2011 all the judges serving in Chambers would be present, **the Committee recommended approval of an allocation of €175,000 in total for the Presidency and Chambers, rather than the €270,000 that had been budgeted by the Court. In addition, the Committee requested the Court to provide, for its next session, the relevant components providing the basis for the common costs calculation.**

87. In sub-programme 1310 (New York Liaison Office), the Committee recalled the decision of the Assembly when it created the Liaison office to keep the structure limited. The Committee was again not convinced that increasing resources in the New York Liaison Office was justified by a cost-benefit analysis. **The Committee therefore recommended that the provision for a P-2 position financed on GTA not be approved and that the budget be reduced by €88,800.** The Committee further noted that provision had been made for a P-2 GTA for four months to cover medical and long-term sick leave but had not been identified in the budget. **The Committee therefore recommended that the proposed GTA budget for sub-programme 1310 be reduced by an additional €29,600.**

88. In sub-programme 1320 (African Union Liaison Office), the Committee considered the report on the opening of an African Union Liaison Office,³⁰ introduced by the Registry, as well as an oral update on the developments regarding the mission of a Senior Legal Officer to Addis Ababa. The Court informed the Committee that, as at 27 August 2010, the actual expenditure associated with the opening of the African Union Liaison Office had been €38,300.³¹

³⁰ CBF/15/17.

³¹ A total of €346,600 had been approved in the 2010 budget for this sub-programme.

89. The Court further informed the Committee of the decision of the African Union “to reject for now, the request by ICC to open a Liaison Office to the AU in Addis Ababa, Ethiopia”.³²

90. In light of these developments, and pending a revision of that decision by the African Union, **the Committee recommended that no funds be assessed for the Addis Ababa Liaison Office in the 2011 budget.** In order to promote clarity for the Assembly on the budgetary implications of opening the Liaison Office, **the Committee recommended that a draft budget for the Liaison Office be annexed to the proposed programme budget.**

2. Major Programme II: Office of the Prosecutor

91. The Committee took note of the effort by Major Programme II to contain its travel costs. The Committee observed, however, that the travel budget continued to be quite substantial and questioned the appropriateness of the amount requested, in particular in light of the future increase in judicial activity. Consequently, given the efforts made to reduce the travel budget, in line with the general approach outlined in paragraph 73 above, **the Committee recommended that the travel budget of this Major Programme be decreased by 5.3 per cent.**

92. The Committee also noted that provision had been made in the GTA budget of sub-programme 2320 (Planning and Operations Section) for a Transcriber at GS-OL level for 1.5 months and in sub-programme 2410, for a P-3 legal officer for 1.3 months. As a justification for these GTAs had not been provided directly in the proposed programme budget, **the Committee recommended that the GTA budget for sub-programme 2320 be reduced by €8,413 and that the GTA budget for sub-programme 2410 be reduced by €9,664.**

93. In Programme 2300 (Investigation Division), the Committee noted the proposal by the Prosecutor to the Assembly to abolish the post of Deputy Prosecutor for Investigations³³, which had remained vacant for three years. **The Committee noted that it would be for the Assembly to decide on the course of action to take regarding the post of an elected official.** For its part, the Committee recalled that the salary for the post of Deputy Prosecutor for Investigations³⁴ had not been included either in the 2010 approved budget or in the 2011 proposed budget, so that no savings would be made through its abolition.

94. In Programme 2400 (Prosecution Division), with respect to the request of the Prosecutor to reclassify the post of Prosecution Coordinator from P-5 to D-1, **the Committee recalled that in 2009 it had recommended the reallocation of a P-5 position to the Prosecution Division by redistributing the responsibilities of the Chef de Cabinet to other positions.** The Prosecutor indicated that the request contained in the proposed budget for 2011 to convert the P-5 post to a D-1 post was based on the need to have a coordinator to ensure consistency for the filings in all the cases and to prosecution teams. With the changes requested, the structure of the Office of the Prosecutor would consist of the Prosecutor, a single Deputy Prosecutor and three D-1 posts for the three main areas of competence: cooperation, investigations and prosecution.

95. **Subject to the agreement of the Assembly to abolish the position of Deputy Prosecutor for Investigations, the Committee recommended that the reclassification of the P-5 Prosecution Coordinator be approved.**

³² Decision on the progress report of the Commission on the implementation of decision Assembly/AU/Dec.270 (XIV) on the Second Ministerial Meeting on the Rome Statute of the International Criminal Court (ICC), Doc. Assembly/AU/10(XV), para. 8.

³³ ICC-ASP/9/10, para. 134.

³⁴ Foreseen at the ASG level with a salary of €210,000 per year.

3. Major Programme III: Registry

96. The Committee welcomed the fact that the travel budget for Major Programme III had been reduced by 1.7 per cent from the 2010 approved budget level. In application of the general principle set out in paragraph 73 above, **the Committee recommended that the travel budget be further reduced by 8.3 per cent.**

97. **Furthermore, as the Committee had recommended a cut of €700,000 in Major Programme III with respect to parallel trials, the Committee will not provide recommendations on specific GTA positions related to that function.**

98. **The Committee noted with concern that a number of sub-programmes had provided minimal description and justification in the proposed programme budget for their activities, in particular the Office of Internal Audit, the Legal Advisory Services Section and the Budget and Finance section. The Committee reiterated the importance of providing sufficient detail and justification for the resources in the budget document.**

99. In sub-programme 3110 (Immediate Office of the Registrar), the Committee was informed that a P-5 Administrative Officer had been redeployed from the Secretariat of the Trust Fund for Victims. The Committee recalled that this post had originally been located in the former Office of the Controller. After the reorganization of the unit, the post was found to be surplus. However given requirements for special financial assistance in the Secretariat of the Trust Fund for Victims, the Assembly had approved the recommendation of the Committee to redeploy this post to the Secretariat for one year (subsequently extended until the Executive Director of the Secretariat was in office).

100. The Registrar understood that this would merely be a temporary redeployment and that the post would ultimately return to the Registry in a different function. The Committee was of the view that, while the texts of its prior reports were not as clear on the matter as would be desirable, a post that is found to be surplus would normally be abolished. Furthermore, it was standard practice to clearly indicate a redeployment in the budget document. The Committee noted that no mention is made in sub-programme 3110 of the redeployment or of the functions of this post. The Committee stressed that posts must be clearly identified and justified, including redeployments, especially senior-level posts. **Therefore the Committee recommended that the budget for professional staff in this sub-programme be reduced by €140,100. The Committee further recommended that, should the Registrar wish to maintain this post, she could use existing resources within Major Programme III in 2011 and provide full justification for this post in the proposed programme budget for 2012.**

101. In sub-programme 3140 (Security and Safety Section), the Committee considered the request for the reclassification of the existing post of Field Security Coordination Officer from P-2 to P-3.³⁵ The Committee reviewed the existing structures and found that not all field security Coordination Officers were classified at the P-3 level. **Therefore the Committee recommended that this post not be reclassified.**

102. In sub-programme 3180 (Field Operations Section), the Committee considered the request for reclassification of the four P-3 field office managers to P-4 Registry field coordinators.

103. The Committee studied this issue carefully and **recommended that the reclassification not be approved at this time for the reasons set out in the paragraph hereunder.**

104. The Committee recalled that, at its thirteenth session, it had recommended the reclassification of two posts in this sub-programme.³⁶ The Committee was of the view that it would be important to first evaluate the impact of these reclassifications in terms of the improvement of coordination of the field offices before considering additional reclassifications.

³⁵ ICC-ASP/9/10, para. 238.

³⁶ *Official Records ... Eighth Session ... 2009*, (ICC-ASP/8/20), vol. II, part B.2, para. 82.

105. Furthermore, four members of the Committee had conducted an ad hoc inspection of the Kampala and Bunia field offices to consider directly issues raised in the report on field offices and noted that each field office had its specific needs, operated in its own environment and was at a different stage of development and that it was therefore not desirable to apply the same criteria to all field offices.

106. The Committee also noted that enhancement of the strategy for field offices had not yet advanced sufficiently to justify large increase in the staffing budget and was not convinced that an improvement of coordination would be directly related to the level of a post.

107. Furthermore, the Committee noted that in the text of the proposed programme budget,³⁷ the amount of the reclassifications would amount to only €15,000 for the four posts. This amount was subsequently found to be wrong and underestimated; the financial costs were actually estimated at over €80,000.

108. The Committee had also raised some concerns with the proposed process for reclassification and had asked to review the legal bases for the process at its last session. This information had not yet been provided.

109. For the same reasons, the Committee also recommended that the reclassification of the GS-PL Forward field officer manager to P-2 not be approved.

110. In sub-programme 3190 (Counsel Support Section), the Committee reiterated its recommendation³⁸ that Counsel costs be separated as distinct budget items: “Legal aid for the Defence” and “Legal aid for victims”.

111. In sub-programme 3220 (Human Resources Section), the Committee remained unconvinced that the post of a P-2 Staffing Officer had undergone a significant change in functions on the basis of the information provided. **Therefore, the Committee recommended that this reclassification not be approved.**

112. The Committee further noted that a P-4 position in the Human Resources Section had been vacant for a significant amount of time for the last two years. Given the recommendation that a freeze on established posts be applied, **the Committee recommended that no funding be allocated in this sub-programme in 2011 for this post until a rejustification of this post had been presented in the context of a revised strategy of human resources in accordance with recommendations made on a staffing freeze and the vacancy rate for vacant posts.**

113. In sub-programme 3330 (Detention Section), as noted in paragraph 50 above, **the Committee recommended that the funds for family visits be removed from the proposed programme budget and included as an annex to that document.**

114. In sub-programme 3340 (Court Interpretation and Translation Section), the Committee reviewed the reasoning provided for one P-3 post, Court Interpreter (Swahili/Lingala) for 12 months, and one P-3 post, Court Interpreter (Swahili) for six months. The Committee was not convinced that the functions of the posts were needed. **Therefore, the Committee recommended that those two posts not be approved.**

115. In sub-programme 3350 (Victims and Witnesses Unit), the Committee reviewed the reasoning provided for the reclassifications of the Head of the Support Unit from P-3 to P-4 and the Legal officer from P-2 to P-3. The Committee was not convinced that the functions of the posts had increased significantly enough to warrant reclassifications. **Therefore the Committee recommended that those reclassifications not be approved.**

116. The Committee noted that the Court had budgeted five more GTA positions in the Victims and Witnesses Unit than were identified in the budget document. As per paragraph 46 above, **the Committee recommended that the GTA budget for this sub-programme be reduced by €270,400.**

³⁷ ICC-ASP/9/10, para. 262.

³⁸ *Official Records ... Eighth Session ... 2009*, (ICC-ASP/8/20), vol. II, part B.2, para. 36.

117. In sub-programme 3360 (Victims Participation and Reparations Section), the Committee noted that the Court had budgeted two reclassifications (P-4 to P-5 and a P-1 to P-2) without making a specific request in the budget document or providing a justification for the reclassifications in the budget. **The Committee therefore recommended that these reclassifications not be approved.**

118. In Programme 3400 (Public Information and Documentation Section), the Committee noted that for the past three years the post of the Court's Spokesperson had only been occupied for relatively short periods of time. Thus the Committee was of the view that financing for this post should not be included in the budget for 2011.

119. However, taking into account that the Court intends to present a Strategic Communications Plan to the ninth session of the Assembly, **the Committee recommended that financing for the post continue to be provided on the understanding that the Court would examine and address the reasons for its constant underutilization.** Furthermore, should the post not be satisfactorily filled during the next financial year, then the Committee would consider recommending the abolishment of this post.

4. Major Programme IV: Secretariat of the Assembly of States Parties

120. **With respect to the travel budget, the Committee recommended a reduction of €109,100 as per paragraph 73 above.**

121. With respect to the request to abolish the P-4 post of Conference Service and Protocol Officer, and the request for a new P-2 Special Assistant to the Director and a new P-2 Associate Legal Officer, the Committee welcomed the initiative to abolish positions that were no longer required. The Committee was of the view that this abolition constituted an example of the flexible use of resources that could be emulated.

122. **The Committee recommended that the P-4 Conference Services and Protocol Officer post be abolished, that a P-2 level Special Assistant to the Director post be established and that funds be provided for a GTA P-2 Associate Legal Officer for 10 months.**

5. Major Programme VI: Secretariat of the Trust Fund for Victims

123. The Committee welcomed the presence of the Chairperson of the Board of Directors of the Trust Fund for Victims, Ms. Elizabeth Rehn, who informed the Committee that the new Executive Director of the Secretariat of the Trust Fund for Victims, Mr. Pieter de Baan, would assume his duties on 1 September 2010. The Committee noted that this key post had remained vacant for over one year.

124. The Committee recalled that at its fourteenth session, the Court had reported that it had not engaged gratis personnel. However on the organizational chart, the position of a legal officer funded by a government was indicated.

125. The Secretariat of the Trust Fund informed the Committee that, in its opinion, the offer of a legal officer did not fall under the regime of gratis personnel, but was rather funded through an earmarked contribution. Thus article 44, paragraph 4, of the Rome Statute and the Guidelines for the selection and engagement of gratis personnel at the International Criminal Court³⁹ did not apply.

126. The Committee expressed its intention to revert to the Court's policy on gratis personnel, including at the Secretariat of the Trust Fund for Victims, at its sixteenth session in the context of the agenda item on human resources and **requested the Court to address in its report on human resources the question of the application of the rules on gratis personnel to the Secretariat of the Trust Fund.**

³⁹ *Official Records ... Fourth session ... 2005* (ICC-ASP/4/32), part III, ICC-ASP/4/Res.4, annex II.

127. The Committee considered the request to increase the funds for consultants by 110.5 per cent. The Committee was of the view that the task of professional writer was more appropriately a function of the professional staff of the Secretariat rather than a consultant. Furthermore, the Committee considered that the Secretariat had sufficient field staff to launch activities in relation to the Kenya situation. **Therefore, the Committee recommended that the funds for consultants be maintained at the 2010 level.**

128. The Committee noted that the travel budget would be subject to the same, general 10 per cent reduction as per paragraph 75 above.

6. Major Programme VII: Project Director's Office (permanent premises)

129. The Committee had before it the Second interim report on the activities of the Oversight Committee⁴⁰ and welcomed the presence of the Chairperson of the Oversight Committee, Mr. Martin Strub, and the Project Director, Mr. Hans Heemrod, who responded to different queries, including on the cost and the governance structure of the project, as well as on the recommendations made by the External Auditor.

130. The Committee was not convinced that the amount budgeted for training in this Major Programme was required. Accordingly, **the Committee recommended that the budget for training be reduced by 50 per cent.**

131. The Committee further considered that the request for contractual services included items that should not be placed against the regular budget of the Court.⁴¹ **Accordingly, the Committee recommended that funding for contractual services be maintained at the 2010 level.**

132. With respect to the request for a new GS-OL Communication Assistant to prepare communication actions and documents, the Committee was of the view that such products could be prepared within the office. **Therefore the Committee recommended that this request not be funded.**

7. Major Programme VII-2: Permanent Premises Project – Interest

133. The Court advised the Committee that arrangements had been made to repay the funds that had been drawn on the host State loan. As such, no interest payments would be required in 2011. **Accordingly, the Committee recommended that the amount of €35,600 be removed from the budget.**

E. Premises of the Court

1. Permanent premises

134. The Committee had before it the Second interim report on the activities of the Oversight Committee together with the financial report of the Project Director's office.⁴² It also considered the recommendations of the External Auditor as contained in the External Auditor's report 2009.⁴³ Moreover, the Committee noted that the results of an audit performed by the Office of Internal Audit, focusing on managerial issues, would be available soon.

135. The Committee noted that both the Oversight Committee and the External Auditor had highlighted a number of risks in respect of project governance, project planning and budget control which could lead to delays and unplanned costs over and above those which had already occurred.

⁴⁰ CBF/15/10.

⁴¹ For example, translation for tender documents and printing requirements for permits, as well as consultancy services.

⁴² CBF/15/10.

⁴³ ICC-ASP/9/13, paras. 26 and 34.

136. In particular, there appeared to be a lack of agreement about the roles and responsibilities of the Project Director, the Court and the Oversight Committee. Unanticipated modifications of the project design had resulted in additional costs. There seemed to be uncertain procedures within the Court for determining modifications. Approximately 10 per cent of the project's contingency fund had already been used. Moreover, as the External Auditor had pointed out, a formal and agreed benefits realization plan was lacking. An agreed plan, however, was essential in demonstrating that the project would meet its objectives and to provide assurance to the Assembly that value for money had been achieved.

137. The Committee was provided assurances by the Project Director that, despite the delays, the construction elements of the project were still within the budget. The Committee noted the importance of timely follow up on the External Auditor's recommendations and urged the Project Board to make every effort to complete the project on time and within budget. **In that regard, the Committee urged the Project Director's office to specify the unexpected costs resulting from the delays which had occurred and help identify offsetting savings.** It welcomed the Oversight Committee's intention to address the governance arrangements at its next meeting.

2. Interim premises

138. Recalling the recommendation made by the Committee at its fourteenth session⁴⁴ the Court informed the Committee that formal discussions with the host State about a possible extension of the rent-free period for the interim premises beyond July 2012 would commence on 22 September 2010. The Committee noted that in the absence of such extension, as of 2013 the Assembly would need to make an annual provision of close to €7 million to pay for the rental and maintenance of the interim premises until the Court could move to its permanent premises; approximately €3.470 million would also be required for rental and maintenance of the interim premises during the second semester of 2012.⁴⁵

139. **In light of such circumstances, the Committee recommended that the Court rigorously pursue the extension of the rent-free period.**

140. The Committee recalled its prior expectations that the Court continue to provide office space for the translation teams of the Secretariat of the Assembly of States Parties until they could be accommodated in the permanent premises, and that uniform criteria be applied in the allocation of office space.⁴⁶

F. Other matters

1. Family visits

141. The Committee considered the report of the Registry on the feasibility and on the conditions for the establishment of a voluntary system of funding of family visits.⁴⁷ The Committee was of the view that this report did not provide an objective assessment of the possibilities for establishing such a fund but was rather intended to promote a specific policy position of the Registry. **As the position of the Registry had been made clear in several reports, the Committee recommended that the Assembly consider alternative mechanisms to prepare information on the feasibility and conditions for establishing a voluntary fund.**

2. Future meetings

142. The Committee decided, tentatively, to hold its sixteenth and seventeenth sessions in The Hague, from 11 to 15 April 2011, and from 22 to 30 August 2011, respectively.

⁴⁴ ICC-ASP/9/5, para. 88.

⁴⁵ ICC-ASP/9/19, paras. 16 to 19.

⁴⁶ ICC-ASP/9/5, paras. 89 and 90.

⁴⁷ CBF/15/9.

Annex I

List of documents

Committee on Budget and Finance

ICC-ASP/9/2	Report to the Assembly of States Parties on the activities and projects of the Board of Directors of the Trust Fund for Victims for the period 1 July 2009 to 30 June 2010
ICC-ASP/9/5	Report of the Committee on Budget and Finance on the work of its fourteenth session
ICC-ASP/9/10	Proposed Programme Budget for 2011 of the International Criminal Court
ICC-ASP/9/10/Corr.1	Proposed Programme Budget for 2011 of the International Criminal Court – Corrigendum
ICC-ASP/9/13	Financial statements for the period 1 January to 31 December 2009
ICC-ASP/9/14	Trust Fund for Victims financial statements for the period 1 January to 31 December 2009
ICC-ASP/9/15	Report of the Committee on Budget and Finance on the work of its fifteenth session
ICC-ASP/9/16	Report on budget performance of the International Criminal Court as at 30 June 2010
CBF/15/1	Provisional agenda
CBF/15/1/Add.1	Annotated list of items included in the provisional agenda
CBF/15/2	Report on the job evaluation study of posts at Professional level
CBF/15/3	Report of the Court on its proposed schedule and budget for the implementation of the International Public Sector Accounting Standards (IPSAS)
CBF/15/4	Updated Report of the Court on capital investment replacements
CBF/15/5	Report of the Court on the need for a psychologist/psychological trauma expert position within the Victims and Witnesses Unit
CBF/15/6	Report of the Court on negotiations for the agreement between the ICC and the Host State on detention services and facilities (the “Product Price Agreement”)
CBF/15/7	Report on the opening of an AU Liaison Office
CBF/15/8	Annual Report of the Office of Internal Audit
CBF/15/9	Report of the Registry on the feasibility and on the conditions for the establishment of a voluntary system of funding of family visits
CBF/15/10	Second interim report on the activities of the Oversight Committee
CBF/15/11	Report of the Office of Internal Audit on the status of audit recommendations
CBF/15/12	Report on analytic accountability
CBF/15/13	Report on efficiency measures
CBF/15/14	Report of the Audit Committee

Annex II

Status of contributions as at 27 August 2010

<i>States Parties</i>	<i>Prior Years Assessed Contributions</i>	<i>Prior Years Receipts</i>	<i>Prior Years Outstanding Contributions</i>	<i>2010 Assessed Contributions</i>	<i>2010 Contributions Received</i>	<i>2010 Outstanding Contributions</i>	<i>Total Outstanding Contributions</i>
1 Afghanistan	12,842	10,421	2,421	6,155	-	6,155	8,576
2 Albania	47,698	47,698	-	15,388	15,379	9	9
3 Andorra	57,892	57,892	-	10,771	2,393	8,378	8,378
4 Antigua and Barbuda	22,230	22,230	-	3,078	572	2,506	2,506
5 Argentina	5,951,594	5,951,594	-	441,625	441,625	-	-
6 Australia	15,324,869	15,324,869	-	2,974,427	2,974,427	-	-
7 Austria	7,973,552	7,973,552	-	1,309,486	1,309,486	-	-
8 Bangladesh	-	-	-	8,975	-	8,975	8,975
9 Barbados	83,640	83,640	-	12,310	2,677	9,633	9,633
10 Belgium	9,884,226	9,884,226	-	1,654,169	1,654,169	-	-
11 Belize	9,075	9,075	-	1,539	1,539	-	-
12 Benin	13,772	13,772	-	4,616	4,616	-	-
13 Bolivia	67,925	67,925	-	10,771	1,109	9,662	9,662
14 Bosnia & Herzegovina	40,977	40,977	-	21,543	21,543	-	-
15 Botswana	116,422	116,422	-	27,698	3,555	24,143	24,143
16 Brazil	11,477,597	11,477,597	-	2,478,945	101,004	2,377,941	2,377,941
17 Bulgaria	164,937	164,937	-	58,473	58,473	-	-
18 Burkina Faso	15,816	15,816	-	4,616	718	3,898	3,898
19 Burundi	7,451	2,038	5,413	1,539	-	1,539	6,952
20 Cambodia	13,772	13,772	-	4,616	4,616	-	-
21 Canada	26,091,929	26,091,929	-	4,934,808	4,934,808	-	-
22 Central African Republic	9,075	2,874	6,201	1,539	-	1,539	7,740
23 Chad	4,378	1,606	2,772	3,078	-	3,078	5,850
24 Chile	76,698	76,698	-	363,147	363,147	-	-
25 Colombia	1,197,872	1,197,872	-	221,582	221,582	-	-
26 Comoros	4,644	516	4,128	1,539	-	1,539	5,667
27 Congo	7,817	6,055	1,762	4,616	-	4,616	6,378
28 Cook Islands	1,766	-	1,766	1,539	-	1,539	3,305
29 Costa Rica	274,829	274,829	-	52,318	40,844	11,474	11,474
30 Croatia	393,923	393,923	-	149,260	149,260	-	-
31 Cyprus	375,198	375,198	-	70,783	70,783	-	-
32 Czech Republic	100,398	100,398	-	537,028	537,028	-	-
33 Democratic Republic of the Congo	27,844	27,844	-	4,616	609	4,007	4,007
34 Denmark	6,627,946	6,627,946	-	1,132,529	1,132,529	-	-
35 Djibouti	8,879	5,158	3,721	1,539	-	1,539	5,260
36 Dominica	9,075	9,075	-	1,539	203	1,336	1,336
37 Dominican Republic	181,203	143,614	37,589	64,628	-	64,628	102,217
38 Ecuador	184,889	184,889	-	61,550	61,550	-	-
39 Estonia	125,177	125,177	-	61,550	40,306	21,244	21,244
40 Fiji	31,923	31,923	-	6,155	6,155	-	-
41 Finland	4,966,565	4,966,565	-	870,939	870,939	-	-
42 France	56,186,417	56,186,417	-	9,421,839	5,817,825	3,604,014	3,604,014
43 Gabon	80,386	50,610	29,776	21,543	-	21,543	51,319
44 Gambia	9,075	9,075	-	1,539	207	1,332	1,332
45 Georgia	25,563	25,563	-	9,233	9,233	-	-
46 Germany	78,932,275	78,932,275	-	12,337,792	12,337,792	-	-
47 Ghana	36,918	36,918	-	9,233	3,403	5,830	5,830
48 Greece	5,104,917	5,104,917	-	1,063,284	159,661	903,623	903,623
49 Guinea	17,764	4,309	13,455	3,078	-	3,078	16,533
50 Guyana	7,451	7,451	-	1,539	1,539	-	-
51 Honduras	45,218	31,962	13,256	12,310	-	12,310	25,566
52 Hungary	1,656,481	1,656,481	-	447,780	246,115	201,665	201,665
53 Iceland	321,068	321,068	-	64,628	64,628	-	-
54 Ireland	3,558,035	3,558,035	-	766,303	766,303	-	-
55 Italy	45,298,335	45,298,335	-	7,692,270	5,426,282	2,265,988	2,265,988

<i>States Parties</i>	<i>Prior Years Assessed Contributions</i>	<i>Prior Years Receipts</i>	<i>Prior Years Outstanding Contributions</i>	<i>2010 Assessed Contributions</i>	<i>2010 Contributions Received</i>	<i>2010 Outstanding Contributions</i>	<i>Total Outstanding Contributions</i>
56 Japan	45,942,588	45,942,588	-	19,280,686	4,318,318	14,962,368	14,962,368
57 Jordan	102,350	102,350	-	21,543	21,543	-	-
58 Kenya	65,429	65,429	-	18,465	18,465	-	-
59 Latvia	146,171	146,171	-	58,473	24,274	34,199	34,199
60 Lesotho	9,075	7,579	1,496	1,539	-	1,539	3,035
61 Liberia	7,451	5,689	1,762	1,539	-	1,539	3,301
62 Liechtenstein	67,882	67,882	-	13,849	13,663	186	186
63 Lithuania	236,871	236,871	-	100,020	5,114	94,906	94,906
64 Luxembourg	735,657	735,657	-	138,489	138,489	-	-
65 Madagascar	4,428	1,766	2,662	4,616	-	4,616	7,278
66 Malawi	9,456	9,359	97	1,539	-	1,539	1,636
67 Mali	13,772	13,772	-	4,616	4,616	-	-
68 Malta	137,851	137,851	-	26,159	26,159	-	-
69 Marshall Islands	9,075	5,306	3,769	1,539	-	1,539	5,308
70 Mauritius	99,826	99,826	-	16,926	16,069	857	857
71 Mexico	12,891,808	12,891,808	-	3,625,323	447,631	3,177,692	3,177,692
72 Mongolia	9,075	9,075	-	3,078	3,078	-	-
73 Montenegro	5,311	5,311	-	6,155	6,155	-	-
74 Namibia	55,068	55,068	-	12,310	1,494	10,816	10,816
75 Nauru	9,075	5,267	3,808	1,539	-	1,539	5,347
76 Netherlands	16,169,726	16,169,726	-	2,854,403	2,854,403	-	-
77 New Zealand	2,171,487	2,171,487	-	420,082	420,082	-	-
78 Niger	9,075	7,902	1,173	3,078	-	3,078	4,251
79 Nigeria	421,582	370,914	50,668	120,023	-	120,023	170,691
80 Norway	6,593,446	6,593,446	-	1,340,262	1,340,262	-	-
81 Panama	189,320	189,320	-	33,853	8,614	25,239	25,239
82 Paraguay	80,728	80,728	-	10,771	10,765	6	6
83 Peru	789,843	604,518	185,325	138,489	-	138,489	323,814
84 Poland	4,298,091	4,298,091	-	1,274,094	850,270	423,824	423,824
85 Portugal	4,510,509	4,510,509	-	786,307	786,307	-	-
86 Republic of Korea	17,619,055	17,619,055	-	3,477,602	444,351	3,033,251	3,033,251
87 Romania	587,205	587,205	-	272,361	8,227	264,134	264,134
88 Saint Kitts and Nevis	4,644	4,644	-	1,539	285	1,254	1,254
89 Saint Vincent and the Grenadines	8,879	8,879	-	1,539	189	1,350	1,350
90 Samoa	8,957	8,957	-	1,539	1,539	-	-
91 San Marino	26,607	26,607	-	4,616	4,616	-	-
92 Senegal	40,998	39,661	1,337	9,233	-	9,233	10,570
93 Serbia	181,800	181,800	-	56,934	15,840	41,094	41,094
94 Sierra Leone	9,075	9,075	-	1,539	202	1,337	1,337
95 Slovakia	510,418	510,418	-	218,504	218,504	-	-
96 Slovenia	804,827	804,827	-	158,492	158,492	-	-
97 South Africa	2,713,316	2,713,316	-	592,423	592,423	-	-
98 Spain	24,832,857	24,832,857	-	4,888,645	4,888,645	-	-
99 Suriname	1,766	1,766	-	4,616	4,616	-	-
100 Sweden	9,395,575	9,395,575	-	1,637,243	1,637,243	-	-
101 Switzerland	10,993,626	10,993,626	-	1,738,801	1,738,801	-	-
102 Tajikistan	9,075	9,075	-	3,078	1,624	1,454	1,454
103 The former Yugoslav Rep. of Macedonia	50,072	50,072	-	10,771	1,208	9,563	9,563
104 Timor-Leste	8,957	8,957	-	1,539	61	1,478	1,478
105 Trinidad and Tobago	217,833	217,833	-	67,706	67,706	-	-
106 Uganda	40,699	40,699	-	9,233	6,839	2,394	2,394
107 United Kingdom	57,499,218	57,499,218	-	10,161,982	10,161,982	-	-
108 United Republic of Tanzania	52,898	52,898	-	12,310	12,232	78	78
109 Uruguay	363,602	363,602	-	41,547	41,547	-	-
110 Venezuela	1,701,970	1,537,857	164,113	483,170	-	483,170	647,283
111 Zambia	13,378	13,378	-	6,155	-	6,155	6,155
Total	506,757,546	506,219,078	538,468	103,632,275	71,183,574	32,448,701	32,987,169

Annex III

Draft resolution: Amendment to the Financial Regulations and Rules

The Assembly of States Parties,

Having regard to the Financial Regulations and Rules¹ adopted at its first session on 9 September 2002,

Endorsing the views of the Committee on Budget and Finance at its fifteenth session in respect of the scrutiny and approval process for access to the Contingency Fund, as well as the desirable level of detail and justification required for such access,²

Decides to amend regulation 6.7 of the Financial Regulations and Rules by substituting the word “detailed” in the second sentence for the word “short”.

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

² ICC/ASP/9/15, para. 40.

Annex IV

List of mistakes and inconsistencies in the proposed programme budget for 2011¹

1. Number of court days. In annex III of the proposed programme budget, the number of court days is assumed to be 200 in 12 months. The Court clarified that 200 is the number of days that a courtroom and a courtroom team would be available for hearings. However, with the request in the budget for an additional courtroom team for six months, there would be 300 sitting days available for trials.
2. Number of field offices. In annex III, the number of field offices was assumed to be seven in 2011. However, the Registrar confirmed that, while the office in Abéché would be closed in 2011, no final decision had been made to open an office in Kenya. Hence it was misleading to assume that there would be seven field offices in 2011 when there may in fact be only five (paras. 208 and 257).
3. Number of site visits by judges. In annex III, the assumptions stated that there will be zero site visits by judges in 2011, while the budget proposal for Major Programme I (para. 108) includes an increase in the travel budget for a site visit.²
4. Travel to the session of the Assembly at United Nations Headquarters. The proposed budget envisaged trips to a session of the Assembly of States Parties in 2011, while in 2009 the Assembly had already scheduled the session to take place in The Hague (ICC-ASP/8/Res.3, para. 58).
5. Duration of trials. The assumptions regarding the length of the *Lubanga* trial were inconsistent throughout the budget document (paras. 17, 50 (table 2), 96, 102 and 358). Similar inconsistencies were also made regarding the *Katanga/Ngudjolo* trial (paras. 21 and 197). After para. 50 Table 2 foresees €3.9 million for Trial 1 (*Lubanga*), whereas this seemed to refer to the appeals and reparation phase of the case.
6. Rounding of figures. In the proposed budget document, some figures had been rounded up, while the same figures were rounded down elsewhere. For example, para. 180 (€16,500) and table 31 (€16,400); para. 188 (€5,600) and table 33 (€5,700).
7. Tables with erroneous entries. In numerous tables of the original budget document in English and French the “Distributed maintenance” line, under the columns “Resource Growth Amount” and “Resource Growth %”, the negative increases had been entered in error as positive increases and the positive increases as negative increases.³
8. Capital investment replacements: rental costs of interim premises, IPSAS and the extension of judges’ terms should not have included as capital investments.⁴
9. Programme 1100: the Presidency. Para. 82 sought to justify the request for the conversion on the basis of the need for the staff member to carry out activities related to the Enforcement Unit, whereas the oral explanations given by the Court had indicated that the staff member would actually be entrusted, in addition to the Enforcement Unit assignments, with a series of other tasks.
10. Programme 1100: the Presidency. Para. 84 incorrectly referred to trips of the Presidency’s judges (in plural) to attend sessions of the Assembly in New York.
11. Programme 1200: Chambers: Travel of judges: Para. 108 was inconsistent with table 9. According to the Court, the correct figure for in situ trips for judges was the one in para.108 (i.e., €10, 827) and not €125,900 as stated in table 9.

¹ ICC-ASP/9/10 and Corr.1 (English and French).

² ICC-ASP/9/10, para. 108 and annex III.

³ A corrigendum to the English and French versions was issued on 18 August 2010 as ICC-ASP/9/10/Corr.1.

⁴ ICC-ASP/9/19.

12. Sub-programme 2120: Services Section: Para. 157 referred to a “reduction in travel costs” of €5,200 while the corresponding table 25 referred to an increase of the same amount.
13. Sub-programme 3180: Field Operations Section: Reclassifications: The Court had indicated that the cost of reclassifications of four P-3 Field Office Managers to P-4 would be €15,000 (para. 262) when it was, in fact, over €80,000.
14. Sub-programme 3330: Detention Section: In accordance with the respective Assembly resolution on the issue of family visits for indigent detainees, the €81,500 proposed for family visits should not have been included in this section but in an annex to the proposed programme budget.
15. Sub-programme 3350: Victims and Witnesses Unit: The Committee noted that the Court had budgeted GTA positions in the Victims and Witnesses Unit for 12 months (one P-2 Associate Operations Officer, one P-2 Associate Protection Officer, two GS-OL Support Assistants, and three GS-OL Field Support Assistants, paras. 388 - 391) while indicating a real need for the positions for six months.
16. Major Programme VII-2: There should be no provision in the budget for the payment of interest to the host State (€35,000) since there was no need to draw from the loan due to one-time payments.

Annex V

Budgetary implications of the implementation of the recommendations of the Committee on Budget and Finance

[To be inserted]
