

22. Permanent premises (ICC-ASP/6/Res.1)

The Assembly of States Parties,

Recalling its resolution ICC-ASP/4/Res.2, which emphasized that “the Court is a permanent judicial institution and as such requires functional permanent premises to enable the Court to discharge its duties effectively and to reflect the significance of the Court for the fight against impunity” and recommended, “bearing in mind the recommendation of the Committee contained in paragraph 86 of its report on the work of its fifth session (ICC-ASP/4/27), that the Bureau of the Assembly and the Committee remain seized of the matter and report to the fifth session of the Assembly of States Parties on the issue of permanent premises of the Court”,¹

Further recalling its resolution ICC-ASP/5/Res.1, which requested that “the International Criminal Court should now focus on option 3 only, purpose-built premises on the Alexanderkazerne site, with a view to allowing the Assembly to take an informed decision at its next session”,

Recalling that resolution ICC-ASP/5/Res.1 requested the Court to “finish preparing in the shortest possible time a detailed functional brief that would include its user and security requirements reflecting scalability in terms of staffing levels”; “prepare, in consultation with the host State, cost estimates for the project”; and “prepare, in consultation with the host State, a provisional timetable with key decision points, a summary of planning and permit issues, and a planning strategy for the site showing possible modular approaches to scalability”,

Further recalling that resolution ICC-ASP/5/Res.1 requested the host State, “in order to allow a review by the Committee on Budget and Finance at its eighth session in 2007, to provide further information on the financial and land offers contained in the further host State bid, including the possible options and methods for managing the proposed loan, any legal issues concerning the separation of ownership of the land and the proposed buildings and other issues that would be subject to a contract between the host State and the Court” and, “in consultation with the Bureau and the Court, to propose the framework, criteria, legal parameters and modalities for an international architectural concept design competition, including any pre-selection criteria and process”,

Recalling that resolution ICC-ASP/5/Res.1 requested the Bureau to “review the information” prepared by the Court and the host State and “identify any gaps or other concerns to the Court and the host State so that the information is completed to the required level” and requested the Bureau, “in consultation with the Court and the host State, to prepare options for a governance structure for the project that would specify the respective roles and responsibilities of the Assembly, the Court and the host State” and to “prepare options for effective participation by the Assembly of States Parties in the project governance and oversight structures”,

Noting that the aforementioned documentation has been prepared and reviewed by the Bureau,

¹ *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/4/32), part III.

Recognizing the important role of the Court throughout the process,

Noting that the number of workstations that may be approved by the Assembly for the permanent premises does not imply that the Assembly has agreed to a specific staffing level for the Court, which will be decided annually by the Assembly,

Mindful of the reports of the Committee on Budget and Finance on the work of its eighth and ninth sessions, and particularly paragraph 92 of the report of the ninth session,

Noting that the construction costs of the project comprising the costs of the materials, labour, fixtures, landscaping and parking are estimated to be no more than €115 million at the 2007 price level and that the overall construction costs, which include a contingency reserve, fees for the consultants and contractors, pre-tender and post-tender inflation, any fees for permits and dues and a fund for integrated, specialized representational features,² are currently estimated to be no more than €190 million at the 2014 price level,

Further noting that these estimates are made on the basis of the permanent premises consisting of three courtrooms with a total gross floor area of up to 46,000 square metres and up to 1,200 workstations,

Noting that the preceding estimate is exclusive of the costs related to the Project Director's Office, costs of financing the project and costs that are related to the project but not related directly to construction, such as the costs of relocating the Court from the temporary premises to the permanent premises (which includes moving, storage, and cleaning of the new site to make it ready for use), moveable items such as furniture and ICT hardware, potted greenery and decorations, costs relating to communications and public relations for the project and costs relating to the interim premises,

Affirming that the Assembly will decide on the ultimate cost envelope to be authorized for the project on the basis of more detailed estimates following the architectural design competition,

Having the firm intention to house the Court in its permanent premises no later than 2014 and earlier if possible,

1. *Decides* that the permanent premises of the International Criminal Court should be constructed on the Alexanderkazerne site;
2. *Further decides* that, for the purposes of the architectural design competition, the construction cost³ of the permanent premises should not exceed €103 million at the 2007 price level;⁴
3. *Accepts* those elements of the offer of the host State contained in the letter dated 25 January 2006 from the Minister of Foreign Affairs of the host State to the President of the Assembly of States Parties⁵ relating to the provision of the land of the Alexanderkazerne site free of charge for the construction of purpose-built premises; relating to the covering of the costs of preparing the site for construction; and relating to the bearing of the costs associated with the selection of an architect;

² Such as large sculptures, mosaics or other large pieces integrated into the architecture, facades or landscaping.

³ Comprising the costs of the materials, labour, fixtures, landscaping and parking.

⁴ This figure represents 90 per cent of the estimated construction costs of €115 million. It is standard practice not to provide the total estimated amount when launching the competition.

⁵ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, resumed fourth session, New York, 26-27 January 2006* (International Criminal Court publication, ICC-ASP/4/37), annex IV.

4. *Authorizes* the host State to launch immediately an architectural design competition in accordance with annex I to this resolution;
5. *Decides* to establish an Oversight Committee of States Parties as a subsidiary body of the Assembly to provide strategic oversight for the project in accordance with annex II to this resolution;
6. *Requests* the Oversight Committee to:
 - (a) Continue consideration of options for financing the construction of the permanent premises and related costs, including the compatibility of these options with the Financial Regulations and Rules of the Court, with a particular focus on the offer contained in the letter dated 25 January 2006 from the Minister of Foreign Affairs of the host State to the President of the Assembly of States Parties in order to provide recommendations to the Assembly at its next session;
 - (b) Continue identifying and clarifying the estimated overall construction costs of the project with a view to providing recommendations on the cost envelope to the Assembly at its next session;
 - (c) Continue identifying and quantifying the other costs related to the project; and
 - (d) Continuously monitor the functioning and operations of the governance structure for the project and, if necessary, provide recommendations to the Assembly on any adjustments that may be required;
7. *Decides* to establish a Project Board to provide a consultative and cooperative tripartite structure with the Project Director having final responsibility for the overall management of the project in accordance with annex III to this resolution;
8. *Requests* the Registrar of the International Criminal Court to establish a Project Director's Office in accordance with annex IV to this resolution;
9. *Authorizes* the Oversight Committee to identify and hire a Project Director in accordance with annex II to this resolution;
10. *Decides*, as an extraordinary measure, to establish major programme VII (Project Director's Office) with a budget of €208,500 in order to establish the Project Director's Office, hire a Project Director and staff and cover other costs associated with the premises project, identified in annex V to this resolution;
11. *Requests* the Registrar to establish a permanent premises construction trust fund for the permanent premises construction project in accordance with annex VI to this resolution;
12. *Requests* the Bureau to remain seized of this issue and report back to the Assembly at its next session.
13. *Adopts* the current resolution and annexes thereto.

Annex I

Architectural design competition

[omitted]

Annex II

Oversight Committee

Establishment

1. An Oversight Committee of States Parties is hereby established as a subsidiary body of the Assembly of States Parties pursuant to article 112, paragraph 4, of the Rome Statute.

Mandate

2. The mandate of the Oversight Committee shall be to provide a standing body to act on behalf of the Assembly in the construction of the permanent premises of the International Criminal Court. The role of the Oversight Committee will be strategic oversight, with routine management of the project resting with the Project Director.

3. Specifically, the Oversight Committee shall:

(a) Provide overall monitoring and oversight of the project to ensure that project objectives are achieved within budget, and that risks and issues are identified and managed;

(b) Prepare information, recommendations and draft resolutions for decision by the Assembly, including issues relating to operationalization of the governance structure;

(c) Within the authority delegated by the Assembly, make key strategic decisions including the authorization of changes to the project scope and objectives that are beyond the authority of the Project Director; and

(d) Resolve any issue referred by the Project Director, Court or host State.

Membership

4. The Oversight Committee shall be a body consisting of 10 States Parties, with at least one member from each regional group.

Selection

5. Members of the Oversight Committee shall be elected by the Assembly upon recommendation of the Bureau. The duration of each term shall be two years and is renewable. If a State Party withdraws from the Oversight Committee, the Bureau may designate another State Party to fill the position until the next session of the Assembly of States Parties.

Consistency

6. States Parties members should strive to ensure consistency with respect to their representation and attendance at meetings. If an Oversight Committee member fails to attend two consecutive meetings, the Chairperson of the Oversight Committee shall initiate consultations with that member to determine if the member is able to continue its participation on the Oversight Committee.

Voting

7. The Oversight Committee should strive for consensus. In the absence of consensus, decisions shall be taken on the basis of a simple majority of members present and voting. In the case of a tie, the Chairperson's vote shall be decisive. The phrase "members present and voting" means members present and casting an affirmative or negative vote. Members who abstain shall be considered as not voting.

Quorum

8. A quorum shall consist of at least six members.

Chairperson and Vice-Chairperson

9. The Oversight Committee shall elect a Chairperson and Vice-Chairperson for a two-year period. This term is renewable. The Chairperson and Vice-Chairperson shall each have a vote.

Frequency of meetings

10. The Oversight Committee shall meet four times a year or as required by the Chairperson. The Registrar of the Court, the host State or the Project Director can request a meeting of the Oversight Committee to address any urgent matter.

In camera deliberations

11. The Oversight Committee shall receive information from the Project Director, the Court and host State and may invite other experts and participants to provide information or input in open sessions. Deliberations by the Oversight Committee shall be in camera, unless the Chairperson decides otherwise.

Participation by non-members

12. The Court, the host State and other States Parties have the right to be present during the open sessions of the Oversight Committee.

Role of States Parties' experts

13. The Oversight Committee shall be assisted in its work by an ad hoc committee of experts from States Parties.

Role of the Committee on Budget and Finance

14. 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.

Role of the Bureau

15. The Oversight Committee shall provide regular status reports to the Bureau and shall submit any draft resolutions or information to the Assembly through the Bureau.

Delegated authority

16. The Oversight Committee shall have the authority delegated from the Assembly to:
 - (a) Conduct a recruitment process for the position of Project Director;
 - (b) Decide on the hiring, renewal, non-renewal, suspension and termination of the Project Director (the Registrar of the Court and a representative of the host State have the right to participate and vote in this decision-making process);
 - (c) Where a decision is required in a time frame that would not allow for a decision by the Assembly, authorize any changes to the project scope, objectives, design or expenditures up to the limit of the contingency fund established as part of the project budget;
 - (d) Hear any serious dispute between the Court, the host State and/or Project Director, with a view to finding an efficient and effective resolution; and
 - (e) Authorize signature of major contracts on the recommendation of the Project Board.
17. The Chairperson of the Oversight Committee shall report to the Assembly at its next session on any exercise of this delegated authority.

Support

18. The Oversight Committee shall be assisted by the Secretariat of the Assembly of States Parties.

Annex III

Project Board

1. The Assembly of States Parties hereby establishes a Project Board with the mandate to provide a cooperative and consultative structure for the overall management of the permanent premises construction project.
2. The Board will be chaired by the Project Director and will include:
 - (a) The Court, and
 - (b) The host State
3. The Project Director will share all relevant information on the project with the Court and host State and shall ensure that project information is accessible.
4. The Project Director will consult with the Court and the host State and shall strive for consensus on decisions relating to the project. In the absence of consensus, the Project Director has the authority to make decisions. However, the Project Director is not authorized to make decisions that could affect the overall scope or cost envelope of the project.
5. Any member of the Project Board may ask for a meeting of the Oversight Committee pursuant to paragraphs 10 and 16(d) of annex II.

Annex IV

Project Director's Office

Establishment

1. The Registrar of the International Criminal Court shall establish a Project Director's Office. The Project Director will be the head of the Office.

Independence

2. The Project Director's Office shall operate under the full authority of the Assembly of States Parties and report directly and be accountable to the Assembly through the Oversight Committee.

Relationship to the International Criminal Court

3. Without prejudice to paragraph 2 above, the Project Director's Office shall be an integral part of the International Criminal Court; for administrative and staff purposes, the Project Director's Office and its staff shall be attached to the Registry of the Court.

Privileges and immunities

4. As part of the staff of the Registry and, as such, of the Court, the staff of the Project Director's Office shall enjoy the same rights, duties, privileges, immunities and benefits.

Mandate

5. The mandate of the Project Director's Office is to ensure that the permanent premises of the Court are built on time, within cost and to specifications and quality. The Project Director shall have the final responsibility for the overall management of the project and shall be responsible for meeting the project's goals, timelines and costs and quality requirements.

Functions

6. The functions of the Project Director's Office shall be to manage the entire project, which would include, inter alia:

(a) Provision of day-to-day oversight of the preparations and implementation of the permanent premises project;

(b) Provision of strategic direction to the project management, construction and design teams;

(c) Preparation and implementation of a risk management plan for the project;

(d) Assessment and evaluation of the designs, requests for modifications, cost implications, emerging problems, mitigation solutions or any other issues that may affect the cost, quality and/or timeliness of the project;

(e) Provision of quarterly (or as required) status reports to the Oversight Committee which will be shared with the Court and the host State and shall be made available to the Bureau;

- (f) Leading the negotiations of the terms and conditions to retain the architect and the design team;
- (g) Leading the tendering and selection process for the construction team;
- (h) Making decisions within the authority delegated by the Assembly;
- (i) Provision of assessments and advice to the Oversight Committee on any issues requiring decisions within the delegated authority of the Committee; and
- (j) Provision of assessments and advice to the Oversight Committee on any issues requiring decisions by the Assembly.

Composition of the Office

7. The Project Director's Office will consist of the Project Director and support staff.

Annex V

Programme budget implications for the 2008 budget for permanent premises

[omitted]

Annex VI

Permanent premises construction trust fund

Establishment

1. The Registrar of the International Criminal Court shall establish a trust fund for the purpose of holding funds dedicated to the construction of the permanent premises of the International Criminal Court.

Funds

2. The trust fund shall be funded by voluntary contributions from any governments, international organizations, individuals, corporations or other entities.

Reporting

3. The Project Director shall report to the Oversight Committee on a regular basis on the amount of funds in the trust fund and their provenance as well as on disbursements from the trust fund.

Annex VII

Members of the Oversight Committee

[omitted]