

## **Resolution ICC-ASP/8/Res.5**

*Adopted at the 8<sup>th</sup> plenary meeting, on 26 November 2009, by consensus*

### **ICC-ASP/8/Res.5 Permanent premises**

*The Assembly of States Parties,*

*Recalling* 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 *reiterating* the importance of permanent premises to the future of the Court,

*Recalling* resolution ICC-ASP/6/Res.1, adopted on 14 December 2007 at the 7<sup>th</sup> plenary meeting of the sixth session of the Assembly, and resolution ICC-ASP/7/Res.1, adopted on 21 November 2008 at the 7<sup>th</sup> plenary meeting of the seventh session of the Assembly,

*Noting* the report of the Oversight Committee on the permanent premises, including the annexed explanatory note on the modalities for one-time payments,

*Expressing* its firm intention that the permanent premises should be delivered within the €190 million budget (at 2014 price levels) as per resolution ICC-ASP/6/Res.1, and *recognizing* the importance of effective and efficient decision-making, clear lines of authority, stringent risk identification and management, and strict control of design changes for ensuring that the project is delivered to cost,

*Mindful* of the reports of the Committee on Budget and Finance on the work of its twelfth and thirteenth sessions,<sup>1</sup>

*Reiterating* the important role of the Court throughout the process, and noting the Court’s wish for a good quality building that meets the security requirements and is within budget,

*Welcoming* the fact that 10 States Parties have committed to making a one-time payment in accordance with the principles contained in resolution ICC-ASP/7/Res.1, annex III,

*Reiterating* the important role of the Assembly’s Project Director in providing leadership and overall management of the project, and recalling his responsibility for meeting the project’s goals, timelines and costs, and quality requirements, as provided in resolution ICC-ASP/6/Res.1,

*Recalling* the relevant provisions of the Rome Statute, and *noting* that the Financial Regulations and Rules and internal and external audit arrangements of the Court are applicable to the project,

1. *Takes note* of the decision of the Oversight Committee, outlined in the oral report by the Chairperson of the Committee, to request the Project Board to finalize the negotiations, including on the terms and conditions of the contract, with Schmidt Hammer Lassen Architects, and *notes* that in accordance with the procedures for awarding a contract as elaborated in ICC-ASP/7/Res.1 the final agreement of the Oversight Committee is required prior to the signing of the contract between the Court and the design team;
2. *Expresses* its appreciation to Ingenhoven Architects and Wiel Arets Architects, the other prize-winners of the architectural design competition for their hard work and cooperation during the selection process;

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<sup>1</sup> *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* (International Criminal Court publication, ICC-ASP/8/20), vol. II, part B.1. and B.2.

3. *Stresses* the importance of effective coordination between the members of the Project Board during the next stage of the project;
4. *Welcomes* the fact that legal and/or contractual agreements have been concluded between the Court and the host State on the loan agreement, the mortgage and the land lease, including the separation of ownership of the land from that of the building, thus allowing the building process to proceed and *further expresses* its appreciation to the host State for its ongoing cooperation;
5. *Expresses* its appreciation to the Project Board and the Oversight Committee for the progress made on the permanent premises project since the seventh session of the Assembly;
6. *Notes* that the completion date for the permanent premises has been delayed until 2015, *recognizes* the efforts of the Project Board and the Oversight Committee to mitigate this delay and associated consequences, and *encourages* the Project Board, in consultation with the Oversight Committee, to continue to identify ways to mitigate the delay and its consequences;
7. *Takes note* of the revised cash-flow scheme contained in annex I and requests the Project Director, in consultation with the Oversight Committee in accordance with ICC-ASP/6/Res.1, to continue to submit annually, for consideration by the Assembly at its regular session, more detailed estimates of the final cost estimate for the project on the basis of the most recent information, and incorporating the schedule for the use of funds deriving from one-time payments;
8. *Requests* the Court to determine, in consultation with those States who commit to making a one-time payment, the schedule for receiving one-time payments and to submit this to the Committee for consideration as a matter of priority;
9. *Requests* the Project Director to continue to report annually to the Assembly, through the Oversight Committee, on the realization of the previous years' estimates and the level of expenditure;
10. *Requests* the Court, in consultation with the Project Director, to identify and quantify the other costs related to the project but not directly related to the construction, such as the costs of relocating the Court from the temporary premises to the permanent premises, movable 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, and to report on these annually to the Assembly, through the Oversight Committee;
11. *Endorses* the recommendation of the Bureau, in accordance with ICC-ASP/6/Res.1, annex II, that the membership of the Oversight Committee, for the next term, be comprised of those States referred to in annex II to this resolution;
12. *Requests* the Project Board to develop the project manual, which takes into account the provisions of resolution ICC-ASP/6/Res.1, annexes II, III and IV, including the risk management and governance arrangements for the project, in light of the selected architectural design and to submit it to the Oversight Committee for approval, and to inform the Oversight Committee of any subsequent relevant developments;
13. *Notes* that a trust fund for voluntary contributions dedicated to the construction of the permanent premises has been established, and *invites* members of civil society with a proven track record of commitment to the mandate of the Court to raise funds for the permanent premises project;
14. *Requests* the Oversight Committee to remain seized of this issue, and to continue to provide regular progress reports to the Bureau and to report back to the Assembly at its next session.

## Annex I

### Cash-flow scheme

Totals (M€)		2008	2009	2010	2011	2012	2013	2014	2015
		Competition		Design & tendering		Execution			Maint.
		year	Year	year	year	year	year	year	year
<b>BOX 1; Construction costs</b>	100% €114.9	0% 0.0	0% 0.0	0% 0.0	0% 0.0	18% 20.7	34% 39.1	34% 39.1	14% 16.1
<b>BOX 3; Other construction costs</b>	€75.1	0.0	1.1	5.1	13.0	11.5	17.8	18.1	8.4
<u>Divided in:</u>									
15% Contingency	€17.2	0% 0.0	0% 0.0	0% 0.0	0% 0.0	18% 3.1	34% 5.8	34% 5.8	14% 2.4
1% Integrated, specialized representational features	€1.1	0% 0.0	0% 0.0	0% 0.0	0% 0.0	10% 0.1	20% 0.2	50% 0.6	20% 0.2
4% Fees project management	€5.3	0% 0.0	10% 0.5	25% 1.3	17% 0.9	15% 0.8	14% 0.7	13% 0.7	6% 0.3
14% Fees designers, engineers, and consultants etc	€18.5	0% 0.0	3% 0.6	18% 3.3	50% 9.3	13% 2.4	9% 1.7	4% 0.7	3% 0.6
4% Permits and dues	€3.5	0% 0.0	0% 0.0	0% 0.0	43% 1.5	29% 1.0	19% 0.7	7% 0.2	3% 0.1
Sum Consultancy user permits	€0.1	0% 0.0	0% 0.0	0% 0.0	0% 0.0	0% 0.0	0% 0.0	90% 0.1	10% 0.0
Total	€45.7	0.0	1.1	4.7	11.7	7.4	9.1	8.2	3.6
1.03 Escalation, estimated 3%	€29	2.8% 0.0	5.6% 0.1	8.6% 0.4	11.6% 1.4	14.7% 4.1	17.9% 8.6	21.1% 10.0	24.5% 4.8
<b>Total</b>	<b>190</b>	0 0	1 1	5 6	13 19	32 51	57 108	57 165	25 190

## Annex II

### Members of the Oversight Committee\*

#### *African States*

1. Kenya

#### *Asian States*

2. Japan
3. Republic of Korea

#### *Eastern European States*

4. Romania

#### *Group of Latin American and Caribbean States*

5. Argentina
6. Mexico

#### *Western European and Other States*

7. Germany
  8. Italy
  9. Switzerland
  10. United Kingdom
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\* As of 14 December 2009.