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**ASSEMBLY OF STATES PARTIES TO
THE ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT**

Third Session
The Hague, 6-10 September 2004

OFFICIAL RECORDS (ICC-ASP/3/25)

Part III
Resolutions adopted by the Assembly of States Parties

Resolution ICC-ASP/3/Res.1

Adopted at the 3rd plenary meeting, on 7 September 2004, by consensus

ICC-ASP/3/Res.1

Negotiated Draft Relationship Agreement between the International Criminal Court and the United Nations

The Assembly of States Parties,

Bearing in mind that, in accordance with the Rome Statute, the International Criminal Court is established as an independent permanent institution in relationship with the United Nations system,

Recalling that, in accordance with article 2 of the Rome Statute, the International Criminal Court shall be brought into relationship with the United Nations through an agreement to be approved by the Assembly of States Parties and thereafter concluded by the President of the Court on its behalf,

Recalling the adoption by the Assembly of States Parties of the Draft Relationship Agreement at its first session on 9 September 2002,

Recalling also resolution ICC-ASP/2/Res.7, of 12 September 2003, in which the Assembly of States Parties expressed the wish for rapid progress in the negotiations on the Draft Relationship Agreement between the Court and the United Nations and requested the Court to keep the Assembly informed thereon,

Noting resolution 58/79 of the General Assembly of the United Nations, which invited the Secretary-General to take steps to conclude a Relationship Agreement between the United Nations and the International Criminal Court,

Noting the initialling of the negotiated Draft Relationship Agreement on 7 June 2004 in The Hague,

Noting with appreciation the decision by the Secretary-General of the United Nations that the Secretariat of the United Nations will be guided by the negotiated Draft Relationship Agreement in the conduct of its activities pending its formal entry into force,

Having considered the negotiated Draft Relationship Agreement,

1. *Welcomes* the conclusion of the negotiations between the International Criminal Court and the United Nations on the Draft Relationship Agreement between the International Criminal Court and the United Nations;

2. *Approves* the negotiated Draft Relationship Agreement, the text of which is annexed hereto;

3. *Decides* to apply provisionally the Agreement pending the formal entry into force;

4. *Calls upon* the General Assembly of the United Nations to adopt the agreement as expeditiously as possible;

5. *Calls upon* the President of the Court to conclude the Agreement as soon as the General Assembly of the United Nations adopts the text.

Annex**Negotiated Draft Relationship Agreement between the
International Criminal Court and the United Nations****Preamble**

The International Criminal Court and the United Nations,

Bearing in mind the Purposes and Principles of the Charter of the United Nations,

Recalling that the Rome Statute of the International Criminal Court reaffirms the Purposes and Principles of the Charter of the United Nations,

Noting the important role assigned to the International Criminal Court in dealing with the most serious crimes of concern to the international community as a whole, as referred to in the Rome Statute, and which threaten the peace, security and well-being of the world,

Bearing in mind that, in accordance with the Rome Statute, the International Criminal Court is established as an independent permanent institution in relationship with the United Nations system,

Recalling also that, in accordance with article 2 of the Rome Statute, the International Criminal Court shall be brought into relationship with the United Nations through an agreement to be approved by the Assembly of the States Parties to the Rome Statute and thereafter concluded by the President of the Court on its behalf,

Recalling further General Assembly resolution 58/79 of 9 December 2003 calling for the conclusion of a relationship agreement between the United Nations and the International Criminal Court,

Noting the responsibilities of the Secretary-General of the United Nations under the provisions of the Rome Statute of the International Criminal Court,

Desiring to make provision for a mutually beneficial relationship whereby the discharge of respective responsibilities of the United Nations and the International Criminal Court may be facilitated,

Taking into account for this purpose the provisions of the Charter of the United Nations and the provisions of the Rome Statute of the International Criminal Court,

Have agreed as follows:

I. General provisions**Article 1****Purpose of the Agreement**

1. The present Agreement, which is entered into by the United Nations and the International Criminal Court (“the Court”), pursuant to the provisions of the Charter of the United Nations (“the Charter”) and the Rome Statute of the International Criminal Court (“the Statute”), respectively, defines the terms on which the United Nations and the Court shall be brought into relationship.

2. For the purposes of this Agreement, “the Court” shall also include the Secretariat of the Assembly of States Parties.

Article 2 Principles

1. The United Nations recognizes the Court as an independent permanent judicial institution which, in accordance with articles 1 and 4 of the Statute, has international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.
2. The Court recognizes the responsibilities of the United Nations under the Charter.
3. The United Nations and the Court respect each other’s status and mandate.

Article 3 Obligation of cooperation and coordination

The United Nations and the Court agree that, with a view to facilitating the effective discharge of their respective responsibilities, they shall cooperate closely, whenever appropriate, with each other and consult each other on matters of mutual interest pursuant to the provisions of the present Agreement and in conformity with the respective provisions of the Charter and the Statute.

II. Institutional relations

Article 4 Reciprocal representation

1. Subject to the applicable provisions of the Rules of Procedure and Evidence of the Court (“the Rules of Procedure and Evidence”), the Secretary-General of the United Nations (“the Secretary-General”) or his/her representative shall have a standing invitation to attend public hearings of the Chambers of the Court that relate to cases of interest to the United Nations and any public meetings of the Court.
2. The Court may attend and participate in the work of the General Assembly of the United Nations in the capacity of observer. The United Nations shall, subject to the rules and practice of the bodies concerned, invite the Court to attend meetings and conferences convened under the auspices of the United Nations where observers are allowed and whenever matters of interest to the Court are under discussion.
3. Whenever the Security Council considers matters related to the activities of the Court, the President of the Court (“the President”) or the Prosecutor of the Court (“the Prosecutor”) may address the Council, at its invitation, in order to give assistance with regard to matters within the jurisdiction of the Court.

Article 5 Exchange of information

1. Without prejudice to other provisions of the present Agreement concerning the submission of documents and information concerning particular cases before the Court, the United Nations and the Court shall, to the fullest extent possible and practicable, arrange for the exchange of information and documents of mutual interest. In particular:

- (a) The Secretary-General shall:
- (i) Transmit to the Court information on developments related to the Statute which are relevant to the work of the Court, including information on communications received by the Secretary-General in the capacity of depositary of the Statute or depositary of any other agreements which relate to the exercise by the Court of its jurisdiction;
 - (ii) Keep the Court informed regarding the implementation of article 123, paragraphs 1 and 2, of the Statute relating to the convening by the Secretary-General of review conferences;
 - (iii) In addition to the requirement provided in article 121, paragraph 7, of the Statute, circulate to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency which are not parties to the Statute the text of any amendment adopted pursuant to article 121 of the Statute;
- (b) The Registrar of the Court (“the Registrar”) shall:
- (i) In accordance with the Statute and the Rules of Procedure and Evidence, provide information and documentation relating to pleadings, oral proceedings, judgements and orders of the Court in cases which may be of interest to the United Nations generally, and particularly in those cases which involve crimes committed against the personnel of the United Nations or that involve the improper use of the flag, insignia or uniform of the United Nations resulting in death or serious personal injury as well as any cases involving the circumstances referred to under article 16, 17, or 18, paragraph 1 or 2, of the present Agreement;
 - (ii) Furnish to the United Nations, with the concurrence of the Court and subject to its Statute and rules, any information relating to the work of the Court requested by the International Court of Justice in accordance with its Statute;

2. The United Nations and the Court shall make every effort to achieve maximum cooperation with a view to avoiding undesirable duplication in the collection, analysis, publication and dissemination of information relating to matters of mutual interest. They shall strive, where appropriate, to combine their efforts to secure the greatest possible usefulness and utilization of such information.

Article 6 **Reports to the United Nations**

The Court may, if it deems it appropriate, submit reports on its activities to the United Nations through the Secretary-General.

Article 7 **Agenda items**

The Court may propose items for consideration by the United Nations. In such cases, the Court shall notify the Secretary-General of its proposal and provide any relevant information. The Secretary-General shall, in accordance with his/her authority, bring such item or items to the attention of the General Assembly or the Security Council, and also to any other United Nations organ concerned, including organs of United Nations programmes and funds.

Article 8
Personnel arrangements

1. The United Nations and the Court agree to consult and cooperate as far as practicable regarding personnel standards, methods and arrangements.
2. The United Nations and the Court agree to:
 - (a) Periodically consult on matters of mutual interest relating to the employment of their officers and staff, including conditions of service, the duration of appointments, classification, salary scale and allowances, retirement and pension rights and staff regulations and rules;
 - (b) Cooperate in the temporary interchange of personnel, where appropriate, making due provision for the retention of seniority and pension rights;
 - (c) Strive for maximum cooperation in order to achieve the most efficient use of specialized personnel, systems and services.

Article 9
Administrative cooperation

The United Nations and the Court shall consult, from time to time, concerning the most efficient use of facilities, staff and services with a view to avoiding the establishment and operation of overlapping facilities and services. They shall also consult to explore the possibility of establishing common facilities or services in specific areas, with due regard for cost savings.

Article 10
Services and facilities

1. The United Nations agrees that, upon the request of the Court, it shall, subject to availability, provide on a reimbursable basis, or as otherwise agreed, for the purposes of the Court such facilities and services as may be required, including for the meetings of the Assembly of States Parties (“the Assembly”), its Bureau or subsidiary bodies, including translation and interpretation services, documentation and conference services. When the United Nations is unable to meet the request of the Court, it shall notify the Court accordingly, giving reasonable notice.
2. The terms and conditions on which any such facilities or services of the United Nations may be provided shall, as appropriate, be the subject of supplementary arrangements.

Article 11
Access to United Nations Headquarters

The United Nations and the Court shall endeavour, subject to their respective rules, to facilitate access by the representatives of all States Parties to the Statute, representatives of the Court and observers in the Assembly, as provided for in article 112, paragraph 1, of the Statute, to United Nations Headquarters when a meeting of the Assembly is to be held. This shall also apply, as appropriate, to meetings of the Bureau or subsidiary bodies.

Article 12
Laissez-passer

The judges, the Prosecutor, the Deputy Prosecutors, the Registrar and the staff/officials of the Office of the Prosecutor and the Registry shall be entitled, in accordance with such special arrangements as may be concluded between the Secretary-General and the Court, to use the laissez-passer of the United Nations as a valid travel document where such use is recognized by States in agreements defining the privileges and immunities of the Court. Staff of “the Registry” includes staff of the Presidency and of the Chambers, pursuant to article 44 of the Statute, and staff of the Secretariat of the Assembly of States Parties, pursuant to paragraph 3 of the Annex of Resolution ICC-ASP/2/Res.3.

Article 13
Financial matters

1. The United Nations and the Court agree that the conditions under which any funds may be provided to the Court by a decision of the General Assembly of the United Nations pursuant to article 115 of the Statute shall be subject to separate arrangements. The Registrar shall inform the Assembly of the making of such arrangements.
2. The United Nations and the Court further agree that the costs and expenses resulting from cooperation or the provision of services pursuant to the present Agreement shall be subject to separate arrangements between the United Nations and the Court. The Registrar shall inform the Assembly of the making of such arrangements.
3. The United Nations may, upon request of the Court and subject to paragraph 2 of this article, provide advice on financial and fiscal questions of interest to the Court.

Article 14
Other agreements concluded by the Court

The United Nations and the Court shall consult, when appropriate, on the registration or filing and recording with the United Nations of agreements concluded by the Court with States or international organizations.

III. Cooperation and judicial assistance

Article 15
**General provisions regarding cooperation between
the United Nations and the Court**

1. With due regard to its responsibilities and competence under the Charter and subject to its rules as defined under the applicable international law, the United Nations undertakes to cooperate with the Court and to provide to the Court such information or documents as the Court may request pursuant to article 87, paragraph 6, of the Statute.
2. The United Nations or its programmes, funds and offices concerned may agree to provide to the Court other forms of cooperation and assistance compatible with the provisions of the Charter and the Statute.

3. In the event that the disclosure of information or documents or the provision of other forms of cooperation would endanger the safety or security of current or former personnel of the United Nations or otherwise prejudice the security or proper conduct of any operation or activity of the United Nations, the Court may order, particularly at the request of the United Nations, appropriate measures of protection. In the absence of such measures, the United Nations shall endeavour to disclose the information or documents or to provide the requested cooperation, while reserving the right to take its own measures of protection, which may include withholding of some information or documents or their submission in an appropriate form, including the introduction of redactions.

Article 16

Testimony of the officials of the United Nations

1. If the Court requests the testimony of an official of the United Nations or one of its programmes, funds or offices, the United Nations undertakes to cooperate with the Court and, if necessary and with due regard to its responsibilities and competence under the Charter and the Convention on the Privileges and Immunities of the United Nations and subject to its rules, shall waive that person's obligation of confidentiality.

2. The Secretary-General shall be authorized by the Court to appoint a representative of the United Nations to assist any official of the United Nations who appears as a witness before the Court.

Article 17

Cooperation between the Security Council of the United Nations and the Court

1. When the Security Council, acting under Chapter VII of the Charter of the United Nations, decides to refer to the Prosecutor pursuant to article 13, paragraph (b), of the Statute, a situation in which one or more of the crimes referred to in article 5 of the Statute appears to have been committed, the Secretary-General shall immediately transmit the written decision of the Security Council to the Prosecutor together with documents and other materials that may be pertinent to the decision of the Council. The Court undertakes to keep the Security Council informed in this regard in accordance with the Statute and the Rules of Procedure and Evidence. Such information shall be transmitted through the Secretary-General.

2. When the Security Council adopts under Chapter VII of the Charter a resolution requesting the Court, pursuant to article 16 of the Statute, not to commence or proceed with an investigation or prosecution, this request shall immediately be transmitted by the Secretary-General to the President of the Court and the Prosecutor. The Court shall inform the Security Council through the Secretary-General of its receipt of the above request and, as appropriate, inform the Security Council through the Secretary-General of actions, if any, taken by the Court in this regard.

3. Where a matter has been referred to the Court by the Security Council and the Court makes a finding, pursuant to article 87, paragraph 5 (b) or paragraph 7, of the Statute, of a failure by a State to cooperate with the Court, the Court shall inform the Security Council or refer the matter to it, as the case may be, and the Registrar shall convey to the Security Council through the Secretary-General the decision of the Court, together with relevant information in the case. The Security Council, through the Secretary-General, shall inform the Court through the Registrar of action, if any, taken by it under the circumstances.

Article 18
Cooperation between the United Nations and the Prosecutor

1. With due regard to its responsibilities and competence under the Charter of the United Nations and subject to its rules, the United Nations undertakes to cooperate with the Prosecutor and to enter with the Prosecutor into such arrangements or, as appropriate, agreements as may be necessary to facilitate such cooperation, in particular when the Prosecutor exercises, under article 54 of the Statute, his or her duties and powers with respect to investigation and seeks the cooperation of the United Nations in accordance with that article.
2. Subject to the rules of the organ concerned, the United Nations undertakes to cooperate in relation to requests from the Prosecutor in providing such additional information as he or she may seek, in accordance with article 15, paragraph 2, of the Statute, from organs of the United Nations in connection with investigations initiated *proprio motu* by the Prosecutor pursuant to that article. The Prosecutor shall address a request for such information to the Secretary-General, who shall convey it to the presiding officer or other appropriate officer of the organ concerned.
3. The United Nations and the Prosecutor may agree that the United Nations provide documents or information to the Prosecutor on condition of confidentiality and solely for the purpose of generating new evidence and that such documents or information shall not be disclosed to other organs of the Court or to third parties, at any stage of the proceedings or thereafter, without the consent of the United Nations.
4. The Prosecutor and the United Nations or its programmes, funds and offices concerned may enter into such arrangements as may be necessary to facilitate their cooperation for the implementation of this article, in particular in order to ensure the confidentiality of information, the protection of any person, including former or current United Nations personnel, and the security or proper conduct of any operation or activity of the United Nations.

Article 19
Rules concerning United Nations privileges and immunities

If the Court seeks to exercise its jurisdiction over a person who is alleged to be criminally responsible for a crime within the jurisdiction of the Court and if, in the circumstances, such person enjoys, according to the Convention on the Privileges and Immunities of the United Nations and the relevant rules of international law, any privileges and immunities as are necessary for the independent exercise of his or her work for the United Nations, the United Nations undertakes to cooperate fully with the Court and to take all necessary measures to allow the Court to exercise its jurisdiction, in particular by waiving any such privileges and immunities in accordance with the Convention on the Privileges and Immunities of the United Nations and the relevant rules of international law.

Article 20
Protection of confidentiality

If the United Nations is requested by the Court to provide information or documentation in its custody, possession or control which was disclosed to it in confidence by a State or an intergovernmental, international or non-governmental organization or an individual, the United Nations shall seek the consent of the originator to disclose that information or documentation or, where appropriate, will inform the Court that it may seek the consent of the originator for the United Nations to disclose that information or documentation. If the originator is a State Party to the Statute and the United Nations fails to obtain its consent to disclosure within a reasonable period of time, the United Nations shall inform the Court accordingly, and the issue of disclosure shall be resolved between the State Party concerned and the Court in accordance with the Statute. If the

originator is not a State Party to the Statute and refuses to consent to disclosure, the United Nations shall inform the Court that it is unable to provide the requested information or documentation because of a pre-existing obligation of confidentiality to the originator.

IV. Final provisions

Article 21 Supplementary arrangements for the implementation of the present Agreement

The Secretary-General and the Court may, for the purpose of implementing the present Agreement, make such supplementary arrangements as may be found appropriate.

Article 22 Amendments

The present Agreement may be amended by agreement between the United Nations and the Court. Any such amendment shall be approved by the General Assembly of the United Nations and by the Assembly in accordance with article 2 of the Statute. The United Nations and the Court shall notify each other in writing of the date of such approval, and the Agreement shall enter into force on the date of the later of the said approvals.

Article 23 Entry into force

The present Agreement shall be approved by the General Assembly of the United Nations and by the Assembly in accordance with article 2 of the Statute. The United Nations and the Court shall notify each other in writing of the date of such approval. The Agreement shall thereafter enter into force upon signature.

In witness thereof, the undersigned have signed the present Agreement.

Signed this _____ day of _____ at United Nations Headquarters in New York in two copies in all the official languages of the United Nations and the Court, of which the English and French texts shall be authentic.

Resolution ICC-ASP/3/Res.2

Adopted at the 5th plenary meeting, on 9 September 2004, by consensus

ICC-ASP/3/Res.2**Amendment to rule 29 of the Rules of Procedure of the Assembly of States Parties**

The Assembly of States Parties,

Decides to replace rule 29 of its Rules of Procedure with the following text:

“The Assembly shall have a Bureau consisting of the President, who shall preside, two Vice-Presidents and eighteen members elected by the Assembly from among the representatives of the States Parties for three-year terms. Should the regular session of the Assembly marking the end of the Bureau’s term of office be held later in the calendar year than the previous regular session, the Bureau shall continue to serve until the beginning of that session. Unless the Assembly decides otherwise, the Assembly shall elect a President at the last regular session prior to the end of the term of office of the President. The President so elected shall assume his or her functions only at the beginning of the session for which he or she is elected and shall hold office until the end of his or her term. The Bureau shall assist the Assembly in the discharge of its responsibilities.”

Resolution ICC-ASP/3/Res.3

Adopted at the 6th plenary meeting, on 10 September 2004, by consensus

ICC-ASP/3/Res.3

Strengthening the International Criminal Court and the Assembly of States Parties

The Assembly of States Parties,

Mindful that the conscience of humanity continues to be deeply shocked by unimaginable atrocities in various parts of the world and that the need to prevent the most serious crimes of concern to the international community, and to put an end to the impunity of the perpetrators of such crimes, is now widely acknowledged,

Convinced that the International Criminal Court is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law as well as to the prevention of armed conflicts, the preservation of peace and the strengthening of international security, in accordance with the purposes and principles of the Charter of the United Nations,

Convinced also that justice and the fight against impunity are, and must remain, indivisible, and that in this regard universal adherence to the Rome Statute of the International Criminal Court is essential,

Welcoming the progress that has been achieved thus far, owing, not least, to the dedication of the Court staff in making the Court fully operational and *taking note* of important milestones such as the adoption of the Regulations of the Court, the entry into force of the Agreement on the Privileges and Immunities of the Court, the opening of the first investigations by the Prosecutor, the constitution of the Pre-Trial Chambers of the Court and the adoption of the Relationship Agreement between the Court and the United Nations by the Assembly of States Parties,

Recognizing that the Court continues to rely on sustained and undiminished support by States, international organizations and civil society,

Taking note of the statements presented to the Assembly of States Parties by the senior representatives of the Court, including the President, the Prosecutor and the Registrar, as well as by the Chair of the Board of Directors of the Trust Fund for Victims and the Chairperson of the Committee on Budget and Finance,

Taking note of the External Auditor's report on the financial statements of the Court,

Desirous of assisting the Court and its organs, notably through management oversight and other appropriate action, in performing the duties assigned to them,

A. Rome Statute of the International Criminal Court and other agreements

1. *Welcomes* the fact that the number of States Parties to the Rome Statute of the International Criminal Court has continued to rise, the number having now reached ninety-four;

2. *Invites* States that are not yet parties to the Rome Statute to become so as soon as possible;

3. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, notably through implementing legislation, in particular in the areas of penal law and judicial cooperation with the Court, and in this regard *encourages* States Parties to the Rome Statute that have not yet done so to adopt such implementing legislation as a priority;

4. *Decides*, without prejudice to the functions of the Secretary-General of the United Nations in his capacity as depositary of the Rome Statute, to keep the status of ratifications under review, and to monitor developments in the field of implementing legislation, inter alia with a view to facilitating the provision of technical assistance that States Parties to the Rome Statute, or States wishing to become parties thereto, may wish to request from other States Parties or institutions in relevant areas;

5. *Stresses* that the integrity of the Rome Statute must be preserved and that treaty obligations emanating therefrom must be fully adhered to, and *encourages* States Parties to the Rome Statute to exchange information and to support and assist each other to that end, particularly in situations where its integrity is being challenged;

6. *Welcomes* the entry into force of the Agreement on the Privileges and Immunities of the International Criminal Court on 22 July 2004 and *calls upon* those States that have not yet done so to become parties to the Agreement as a matter of priority and to incorporate it in their national legislation;

7. *Recalls* that the Agreement on the Privileges and Immunities of the International Criminal Court and international practice exempt salaries, emoluments and allowances paid by the Court to its officials and staff from national taxation and *calls upon* States that have not yet become parties to this Agreement to take the necessary legislative or other action, pending their ratification or accession, to exempt their nationals employed by the Court from national income taxation with respect to salaries, emoluments and allowances paid to them by the Court, or to grant relief in any other manner from income taxation in respect of such payments to their nationals;

8. *Requests* the Registrar, in consultation with the Prosecutor, to take steps to conclude bilateral tax reimbursement agreements with States, where this is appropriate and in the operational interests of the Court;¹

B. Institution-building

1. General

9. *Takes note* of the report on the activities of the Court to the Assembly of States Parties, 2004;²

10. *Welcomes* the extensive consultation process undertaken by the Registrar with regard to questions pertaining to the defence and the legal participation of victims, and *takes note* of the report of the Registrar on this issue;³

11. *Takes note* of the proposal for a draft Code of Professional Conduct for counsel before the International Criminal Court,⁴ *decides* that the provisions of the draft Code shall be applied provisionally until the end of the fourth session of the Assembly of States Parties, *requests*, in view of the urgency of the matter, the Bureau of the Assembly of States Parties to prepare an amended draft Code for adoption by the Assembly of States Parties at its fourth session, and *invites* States Parties to submit their comments on the current draft Code to the Bureau by 31 December 2004;

¹ See staff regulation 3.5 (ICC-ASP/2/10, p. 211).

² See document ICC-ASP/3/10.

³ See document ICC-ASP/3/7.

⁴ See document ICC-ASP/3/11/Rev.1.

12. *Emphasizes* the importance of endowing the Court with the necessary financial resources, *urges* all States Parties to the Rome Statute to transfer as soon as possible and in full their assessed contributions in accordance with relevant decisions taken by the Assembly of States Parties, and *recalls* that pursuant to article 112, paragraph 8, of the Statute, a State Party which is in arrears in the payment of its financial contributions towards the costs of the Court may lose its 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;

13. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily to the Court and *expresses its appreciation* to those that have done so this year;

14. *Welcomes* the establishment of the Secretariat of the Assembly of States Parties and the commencement of its functioning;

15. *Reiterates* that the relations between the Secretariat and other sections of the Court shall be governed by principles of cooperation and of sharing and pooling of resources and services, as set out in the annex to resolution ICC-ASP/2/Res.3;

16. *Welcomes* the steps undertaken by the President, the Prosecutor and the Registrar to coordinate activities at all appropriate levels on management and budgetary issues, *encourages* those involved to continue and improve this practice and *recommends* that the Director of the Secretariat of the Assembly of States Parties be invited to the meetings of the Coordination Council, when matters of mutual concern are considered;

17. *Recommends* that the International Criminal Court continue to seek equitable geographical representation, gender balance and the highest standards of efficiency, competency and integrity in the recruitment of staff members;

2. Protection of the official name and abbreviation of the Court

18. *Invites* the Court and the States Parties to take such measures as may be necessary to prevent or to enable the Court to prevent the use, by private persons or by societies other than those upon which the Assembly or the Court confers the right thereto, of the name “International Criminal Court” and of the abbreviation of that name through the use of its initial letters (“ICC-CPI”) for commercial purposes by means of trade marks, labels, domain names or any other such means;

19. *Recommends* that such measures be similarly undertaken in respect of any emblem, logo, seal, flag or insignia adopted by the Assembly or the Court;

3. Administration

20. *Takes note* of the important work done by the Committee on Budget and Finance and *reaffirms* the independence of the members of the Committee;

21. *Takes note* of the report of the Registrar on the establishment of a staff representative body, disciplinary measures, appeals, and amendments and implementation of the staff rules;⁵

4. Conditions of service and compensation

22. *Adopts* the draft conditions of service and compensation of judges contained in the annex to the present resolution, including the draft travel and subsistence regulations for judges (appendix 1) and the draft pension scheme regulations for judges (appendix 2);

⁵ See document ICC-ASP/3/13.

23. *Decides* that the first judges of the Court elected for a three- or six-year term shall be entitled to the same disability pension as the judges elected for a full nine-year term, in accordance with article II of appendix 2 to the conditions of service and compensation of judges of the International Criminal Court;

24. *Further decides* that the first judges of the Court elected for a three-year term who have not served on a full-time basis during their entire term and who are not re-elected shall be entitled to receive a retirement pension at the end of their term of office, prorated to the length of time that they have served on a full-time basis, in accordance with article I of appendix 2 to the conditions of service and compensation of judges of the International Criminal Court;

25. *Requests* the Committee on Budget and Finance to consider the long-term budgetary consequences of the pension scheme regulations for judges as adopted by the Assembly at its first session,⁶ as revised at its second session,⁷ and as clarified and amended in the annex (appendix 2) to the present resolution, and to report thereon before the fourth session of the Assembly of States Parties with a view to ensuring that appropriate budgetary provisions may be made;

26. *Takes note* of the proposal regarding conditions of service and compensation of the Prosecutor and Deputy Prosecutors⁸ and, while reaffirming the provisions of ICC-ASP/1/Decision 3, *requests* the Committee on Budget and Finance to consider that proposal as well as any other appropriate alternative options and to report thereon before the fourth session of the Assembly of States Parties;

27. *Reaffirms* that the conditions of service and compensation of the Registrar shall be the same as those of an Assistant Secretary-General in the United Nations common system;

5. Staff pension committee

28. *Takes note* of the background paper prepared by the Registrar on the establishment of an ICC staff pension committee⁹ and *decides* to establish a staff pension committee of the International Criminal Court;

29. *Decides also* that the Staff Pension Committee of the International Criminal Court shall be composed of two members and two alternate members to be appointed by the Bureau of the Assembly of States Parties for a term of two years; two members and two alternate members to be appointed by the Registrar for a term of two years; and two members and two alternate members who shall themselves be staff members of the International Criminal Court and participants in the United Nations Joint Staff Pension Fund to be elected by secret ballot by the staff who are participants in the United Nations Joint Staff Pension Fund;

6. Judges

30. *Notes* that the judges adopted the Regulations of the Court on 26 May 2004¹⁰ and that the Regulations have been circulated to States Parties for comment in accordance with article 52, paragraph 3, of the Rome Statute;

7. Office of the Prosecutor

31. *Notes* that the Office of the Prosecutor has begun investigations in two situations and *calls upon* States to cooperate with and render all necessary assistance to the Office of the Prosecutor;

⁶ See document ICC-ASP/1/3, annex VI.

⁷ See document ICC-ASP/2/10.

⁸ See document ICC-ASP/3/12, annex II.

⁹ See document ICC-ASP/3/3.

¹⁰ See document ICC-BD/01-01-04.

8. Host country

32. *Takes note with appreciation* of the welcome given by the Minister for Foreign Affairs of the Netherlands on 6 September 2004 and of the statement made by another representative of the host country on that day on arrangements for the interim and permanent premises of the Court, and *appreciates* the progress in the negotiations on the headquarters agreement between the Court and the host country;

33. *Takes note* of the report regarding discussions on the permanent premises of the Court;¹¹

C. Assembly of States Parties

34. *Takes note* of the report of the Special Working Group on the Crime of Aggression, *expresses its appreciation* to the Liechtenstein Institute on Self-Determination at Princeton University for hosting an informal intersessional meeting of the Special Working Group, and *reaffirms* that the Special Working Group shall continue to hold two to three meetings during regular sessions of the Assembly of States Parties, as necessary, as well as intersessional meetings, as appropriate;

35. *Welcomes* the establishment of the Trust Fund for the participation of the least developed countries in the activities of the Assembly of States Parties, *calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily to the Fund, and *expresses its appreciation* to those that have done so this year;

36. *Decides* that the Committee on Budget and Finance will hold its sessions in The Hague, from 4 to 6 April 2005 and for a further five-day session to be determined by the Committee;

37. *Decides also*, whilst recalling article 112, paragraph 6, of the Rome Statute, that it will hold its next regular session for six days, of which at least one full day is reserved for the Special Working Group on the Crime of Aggression, in November 2005 in The Hague, with the exception that the election of judges and the elections to the Committee on Budget and Finance will be held in New York during a separate two-day meeting, with both exact dates to be determined by the Bureau of the Assembly.

¹¹ See document ICC-ASP/3/17.

Annex

Conditions of service and compensation of judges of the International Criminal Court

The present draft conditions of service and compensation of judges embody the fundamental conditions of service of judges of the International Criminal Court (hereinafter: the “Court”), in accordance with articles 35 and 49 of the Rome Statute, annex VI of the budget for the first financial period of the Court (ICC-ASP/1/3, Part III, annex VI) adopted by the Assembly of States Parties (hereinafter: the “Assembly”) during its first session in September 2002 and revised and reissued in Part III.A of document ICC-ASP/2/10 adopted by the Assembly during its second session in September 2003.

I. Use of terms

1. “A judge” shall mean a judge of the Court within the meaning of article 35 of the Rome Statute who serves on a full-time basis.
2. “Annual salary” shall mean, for the purpose of calculating the pension entitlement, the annual remuneration, exclusive of any allowances, fixed by the Assembly and received by a judge at the time he or she ceases to hold office.
3. “Spouse” shall be a partner by marriage recognized as valid under the law of the country of nationality of a judge or by legally recognized domestic partnership contracted by a judge under the law of the country of his or her nationality.

II. Residence of judges

1. Judges shall take up residence in the Netherlands within sufficient proximity to the seat of the Court to be available to attend the Court at short notice in order to discharge their duties under the Rome Statute and the Rules of Procedure and Evidence.
2. Residence status is defined as the establishment, through acquisition or long-term lease, of a permanent residence, coupled with the declaration by the judge concerned of resident status.

III. Emoluments

1. The annual remuneration of a judge shall be €180,000 net.
2. The President shall receive a special allowance paid at the rate of ten (10) per cent of the President’s annual remuneration. Based on the remuneration above of €180,000 net, the special annual allowance shall be €18,000 net.
3. The First or Second Vice-President, or, in exceptional circumstances, any other judge assigned to act as President, shall be entitled to a special allowance of €100 net per day for each working day acting as President, up to a maximum of €10,000 per year.

IV. Travel costs and subsistence benefits

A judge shall be entitled to payment of travel expenses and subsistence benefits as set forth in the travel and subsistence regulations for judges of the International Criminal Court, attached as appendix 1 hereto.

V. Pension scheme

1. A judge shall, upon retirement, be entitled to receive a pension as set forth in the pension scheme regulations for judges of the International Criminal Court, attached as appendix 2 hereto.
2. Pensions in payment shall be automatically revised by the same percentage and at the same date as remuneration adjustments.

VI. Surviving spouse's pension

Upon the death of a judge or a former judge, the surviving spouse shall be entitled to a surviving spouse's pension as set forth in the pension scheme regulations for judges of the International Criminal Court, attached as appendix 2 hereto.

VII. Child benefit

Upon the death of a judge or a former judge, his or her natural or legally adopted child shall be entitled to a child benefit as set forth in the pension scheme regulations for judges of the International Criminal Court, attached as appendix 2 hereto.

VIII. Survivor's benefit

1. In the event of the death of a judge, eligible survivor(s), as defined in paragraph 2 below, shall be compensated in the form of a lump-sum payment equivalent to one month of base remuneration for each year of service, subject to a minimum payment equivalent to one month of base remuneration and a maximum of nine months of base remuneration.
2. For the purposes of paragraph 1 above, eligible survivor shall include the surviving spouse of the judge, provided that the spouse was married to the judge at the date of the judge's death, and natural or legally adopted children of a deceased judge who are unmarried and who have not reached the age of twenty-one (21) years as of the date of the judge's death.

IX. Education allowance

Judges shall be entitled to an education grant for the benefit of their children equivalent to that applicable to United Nations officials.

X. Health insurance

Judges shall be responsible for their own health insurance arrangements.

XI. Leave

1. Annual leave shall accrue to judges at the rate of eight (8) weeks a year. Leave may be taken in accordance with a procedure to be agreed upon by the judges and in accordance with a yearly decision taken by the plenary meeting of the judges concerning the days the Court will be in recess.
2. Annual leave may be accumulated, provided that not more than eighteen (18) weeks of such leave shall be carried forward to the following year.

XII. Entry into force

1. The conditions of service and compensation of judges of the International Criminal Court embodying the fundamental conditions of service of judges as set forth in this document, including its appendices, shall enter into force upon the adoption of this document by the Assembly.
2. Upon adoption by the Assembly, this document shall supersede the conditions of service and compensation of full-time judges set forth in Part III.A of document ICC-ASP/2/10.

XIII. Revisions

The conditions of service and compensation of judges of the International Criminal Court shall be reviewed by the Assembly as soon as practicable following the review of the conditions of service of the judges of the International Court of Justice by the General Assembly of the United Nations.

Appendix 1

Travel and subsistence regulations for judges of the International Criminal Court

Article I Travel expenses

1. The Court shall pay, subject to the conditions of these regulations, the travel expenses of judges necessarily incurred on duly authorized journeys. The following shall be deemed to be duly authorized journeys by judges:

- (a) A trip from his or her declared home, at the time of appointment, to the seat of the Court, in connection with the transfer of his or her residence;
- (b) A round trip every second calendar year after the year of appointment from the seat of the Court to his or her declared home at the time of appointment;
- (c) Upon termination of his or her appointment, a trip from the seat of the Court to his or her declared home at the time of appointment, or to any other place provided that the cost of the journey is not greater than the cost of the trip to his or her declared home at the time of appointment;

Where the spouse and/or dependent children of a judge reside with him or her at the seat of the Court, the Court shall reimburse the travel expenses for trips undertaken in conjunction with (a), (b) and (c) of this paragraph;

- (d) Other journeys on official business undertaken under the authority of the President of the Court.
2. In all cases, payment by the Court of travel expenses shall comprise the cost of trips actually undertaken, subject to the following maximum entitlements:
- (a) The cost of business-class travel, including the expenses normally associated with travel. The cost of transportation of baggage in excess of the weight or size carried free by transportation companies will not be allowable as an expense unless the excess is necessarily carried for official business reasons;

- (b) Travel shall be by the most cost-effective and time-efficient means and route. Other arrangements may be authorized by the President of the Court for special reasons.

Article II

Subsistence allowances

1. A daily subsistence allowance shall be paid to a judge while on official travel under article I, paragraph 1, subparagraphs (a), (c) and (d) of this appendix. The allowance will be regarded as covering all charges for meals, lodging, local transportation costs and gratuities, and other personal expenses.
2. The daily subsistence allowance will be payable under the conditions and at rates equivalent to the standard travel subsistence allowance rates for United Nations officials, plus forty (40) per cent resulting in one hundred and forty (140) per cent, as set forth in the Administrative Instruction regarding official travel for the Court. This rate will be reduced in the event that board and/or lodging are provided for. The allowance shall normally be payable in euros.
3. After an extended period of time in any one location, the daily subsistence allowance will be reduced in accordance with the United Nations common system.
4. Where a judge, undertaking an official journey under article I, paragraph 1, subparagraph (a), (b) or (c) of this appendix, is accompanied by a spouse and/or dependent children, a subsistence allowance of one half of the appropriate rate payable to judges concerned in respect of that journey will be payable for each dependant; where these dependants are travelling unaccompanied on an authorized journey, the full rate of subsistence allowance will be payable in respect of one adult and one half of that rate in respect of each other dependant.

Article III

Removal and assignment

Judges residing in the Netherlands in accordance with article II of the conditions of service and compensation of judges of the International Criminal Court shall be entitled to the following:

- (a) Removal costs of household goods and personal effects to the seat of the Court from his or her home equivalent to those applicable to United Nations officials at the Under-Secretary-General (USG) level;
- (b) An assignment grant to cover relocation expenses, in accordance with terms and conditions equivalent to those applicable to United Nations officials at the USG level;
- (c) Upon termination of appointment, removal costs of household goods and personal effects from the seat of the Court to his or her declared home at the time of appointment (or any other country where he or she may choose to have his or her residence if less expenditure is entailed).

Article IV

Relocation upon completion of service

A judge who has taken up and maintained residence at the seat of the Court for at least five (5) continuous years during service with the Court shall receive a lump sum equivalent to eighteen (18) weeks of annual net base remuneration upon completion of appointment and relocation outside the Netherlands. A judge who has taken up and maintained residence at the seat of the Court for nine (9) continuous years or more during service with the Court shall receive the equivalent of

twenty-four (24) weeks of annual net base remuneration upon completion of appointment and relocation outside the Netherlands.

Article V
Submission and payment of accounts

A detailed expense account must be rendered in support of each claim for reimbursement of travel expenses or subsistence allowance as soon as possible after completion of the travel or removal. The claims should show every item of expense, except where such expenses are covered by a subsistence allowance, and every advance drawn from any source of the Court, and must, as far as possible, be supported by receipts showing the service to which the payment is related. All expenses must be shown in the actual currency in which they were made and must be certified as having been necessarily and solely incurred in the discharge of the official business of the Court. Reimbursement shall be made following certification by the President.

Appendix 2
Pension scheme regulations for judges of the International Criminal Court

Article I
Retirement pension

1. A judge who has ceased to hold office and who has reached the age of sixty (60) shall be entitled during the remainder of his or her life, subject to paragraph 6 below, to a retirement pension payable monthly provided that he or she:
 - (a) Has completed at least three (3) years of service;
 - (b) Has not been required to relinquish his or her appointment for reasons other than the state of his or her health.
2. A judge who has completed a full nine-year term shall be entitled to a retirement pension equal to half the annual salary.
3. A proportional reduction shall be applied if a judge has not completed a full nine-year term, provided that the judge has served for at least three (3) years.
4. No additional pension shall be paid if the judge has completed more than a full nine-year term.
5. A judge who ceased to hold office before attaining the age of sixty (60) and who would be entitled to a retirement pension when he or she reached that age may elect to receive a pension from any date after the date on which he or she ceases to hold office. Should he or she so elect, the amount of such pension shall be that amount which has the same actuarial value as the retirement pension that would have been paid to him or her at the age of sixty (60).
6. No retirement pension shall be payable to a former judge who has been re-elected to office until he or she again ceases to hold office. At that time, the amount of his or her pension shall be calculated on the basis of his or her total period of service and shall be subject to a reduction equal in actuarial value to the amount of any retirement pension paid to him or her before he or she reached the age of sixty (60).

Article II
Disability pension

1. A judge found by the Court to be unable to perform his or her duties because of permanent ill-health or disability shall be entitled upon leaving office to a disability pension payable monthly.
2. The Court's decision whether a judge is unable to perform his or her duties because of permanent ill-health or disability shall be based on two medical opinions, one issued by a medical doctor designated by the Court and the other issued by a medical doctor of the judge's choice. In the event that the two opinions differ, a third medical opinion shall be obtained through a medical doctor mutually agreed upon by the Court and the judge.
3. The amount of the disability pension shall be equal to the amount of the retirement pension that would have been payable to the judge concerned had he or she, at the time of leaving office, completed the term for which he or she had been elected.

Article III
Surviving spouse's pension

1. Upon the death of a married judge who was entitled to a retirement pension, the surviving spouse, provided he or she was the spouse at the date that the former judge's service ended, shall be entitled to a surviving spouse's pension calculated as follows:
 - (a) If the judge had not begun, at the date of his or her death, to receive his or her retirement pension, the surviving spouse's pension shall amount to one half of the pension that would have been payable to the judge under article I, paragraph 5, above, had the judge commenced receiving such pension on the date of his or her death, provided that the surviving spouse's pension shall not be less than one twelfth of the annual salary;
 - (b) If the judge had begun to receive his or her retirement pension under article I, paragraph 5, above, before he or she reached the age of sixty (60), the surviving spouse's pension shall amount to one half of the amount of such pension, but shall not be less than one twelfth of the annual salary;
 - (c) If the judge had reached the age of sixty (60) when he or she began to receive his or her retirement pension, the surviving spouse's pension shall amount to one half of the judge's pension, but shall not be less than one sixth of the annual salary.
2. Upon the death of a married judge, his or her surviving spouse shall be entitled to a surviving spouse's pension amounting to one half of the pension which the judge would have received had the judge become entitled to a disability pension at the time of his or her death, provided that the surviving spouse's pension shall not be less than one sixth of the annual salary.
3. Upon the death of a married former judge who was in receipt of a disability pension, the surviving spouse, provided that he or she was the spouse at the date that the former judge's service ended, shall be entitled to a surviving spouse's pension amounting to one half of the pension which the former judge was receiving, provided that the surviving spouse's pension shall not be less than one sixth of the annual salary.
4. Upon remarriage, the surviving spouse's pension shall cease and the surviving spouse shall be granted a lump sum equal to twice the amount of his or her current annual benefit as final settlement.

Article IV
Child benefit

1. Upon the death of a judge or a former judge, his or her natural or legally adopted child shall be entitled, while unmarried and under the age of twenty-one (21), to a benefit calculated as follows:

- (a) Where there is a surviving spouse entitled to a pension under article III above, the annual amount of the child benefit shall be:
 - (i) The equivalent of ten (10) per cent of the retirement pension that the judge was receiving; or,
 - (ii) If the judge had not begun, at the date of his or her death, to receive his or her retirement pension, ten (10) per cent of the pension that would have been payable to him or her under article I, paragraph 5, had he or she commenced to receive such pension at the date of his or her death; or,
 - (iii) In the case of the death of a judge in office, ten (10) per cent of the pension that the judge would have received had he or she qualified for a disability pension at the date of his or her death;

Provided, in all cases, that the amount of the child's benefit shall not exceed one thirty-sixth of the annual base salary;

- (b) Where there is no surviving spouse entitled to a pension under article III, or upon the death of the surviving spouse, the total amount of the child benefit payable under subparagraph (a) above shall be increased by the following amount:
 - (i) If there is only one eligible child, by one half of the amount of the pension that was being paid or would have been paid to the surviving spouse;
 - (ii) If there are two or more eligible children, by the amount of the pension that was being paid or would have been paid to the surviving spouse.
- (c) The total child benefit payable under subparagraph (b) above shall be divided equally among all of the eligible children to determine the amount of any one child's benefit; as and when a child ceases to be eligible, the total benefit payable to the remainder shall be recalculated in accordance with subparagraph (b).

2. The total amount of child benefit, when added to the amount of any surviving spouse's benefit in payment, shall not exceed the pension that the judge or former judge received or would have received had he or she survived.

3. The age-limit noted in paragraph 1 above shall be waived if the child is incapacitated by illness or injury, and the benefit shall continue to be paid for as long as the child remains incapacitated.

Article V
Miscellaneous provisions

1. Pensions provided for by the present regulations shall be calculated in terms of the currency in which the Assembly has fixed the remuneration of the judge concerned, namely euros.
2. The pension scheme provided for by these regulations shall be non-contributory and shall be a direct charge to the budget of the Court.

Resolution ICC-ASP/3/Res.4

Adopted at the 6th plenary meeting, on 10 September 2004, by consensus

ICC-ASP/3/Res. 4

Programme budget for 2005, Contingency Fund, Working Capital Fund for 2005, scale of assessments for the apportionment of expenses of the International Criminal Court and financing of appropriations for the year 2005

A. Programme budget for 2005

The Assembly of States Parties,

Having considered the draft programme budget of the International Criminal Court for 2005 and the related conclusions and recommendations of the Committee on Budget and Finance contained in its report,

1. *Approves* appropriations totalling € 66,784,200. for the following purposes:

<i>Major Programme</i>			<i>Euros</i>
Major Judiciary	Programme	I	7,304,400
Major Office of the Prosecutor	Programme	II	17,022,200
Major Registry	Programme	III	37,312,300
Major Secretariat of the Assembly of States Parties	Programme	IV	3,080,300
Major Investment in the Court's premises	Programme	V	2,065,000
Total			66,784,200

2. *Further approves* the following staffing tables for each of the above major programmes:

	<i>Judiciary</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Secretariat of the Assembly of States Parties</i>	<i>Investment in the Court's premises</i>	<i>Total</i>
USG		1				1
ASG		2	1			3
D-2						0
D-1		1	2	1		4
P-5	2	10	10			22
P-4	2	23	30	2		57
P-3	3	23	45			71
P-2/P-1	20	40	40			100
<i>Subtotal</i>	<i>27</i>	<i>100</i>	<i>128</i>	<i>3</i>	<i>0</i>	<i>258</i>

	Judiciary	Office of the Prosecutor	Registry	Secretariat of the Assembly of States Parties	Investment in the Court's premises	Total
GS-PL	1	7	13	3		24
GS-OL	13	40	153	1		207
<i>Subtotal</i>	<i>14</i>	<i>47</i>	<i>166</i>	<i>4</i>		<i>231</i>
Total number of posts	41	147	294	7	0	489

B. Contingency Fund

The Assembly of States Parties,

Having considered the report of the Working Group on the Draft Programme Budget and the report of the Committee on Budget and Finance on the proposed establishment of a contingency fund,

1. *Approves* the establishment of a Contingency Fund in the amount of €10,000,000 to ensure that the Court can meet:

- (a) Costs associated with an unforeseen situation following a decision by the Prosecutor to open an investigation; or
- (b) Unavoidable expenses for developments in existing situations that could not be foreseen or could not be accurately estimated at the time of adoption of the budget; or
- (c) Costs associated with an unforeseen meeting of the Assembly of States Parties.

2. *Decides* further that the Contingency Fund shall be financed initially by applying to it the surplus of the 2002/2003 budget in the amount of a maximum of €10,000,000;

3. *Requests* the Registrar to submit, every six months, to the Assembly of States Parties through the Committee on Budget and Finance a report on the implementation of activities financed by the Contingency Fund;

4. *Approves* provisionally the amendments to financial regulations 4.7 and 5.8 and the insertion of new financial regulations 6.6 to 6.10 as set forth in the annex to this resolution;

5. *Further requests* the Court to submit, through the Committee on Budget and Finance, a report on changes to the Financial Regulations and Rules which might be necessitated by the establishment of the Contingency Fund; and

6. *Decides* that the Fund shall be limited to a period of 4 years and that the Assembly of States Parties shall decide at its session in 2008 on the extension or possible discontinuation of the Fund and on any other question related to the Fund that it deems necessary in the light of experience.

C. Working Capital Fund for 2005

The Assembly of States Parties,

Resolves that the Working Capital Fund for 2005 shall be established in the amount of €5,565,400, and *authorizes* the Registrar to make advances from the Fund in accordance with the relevant provisions of the Financial Regulations and Rules of the Court.

D. Scale of assessments for the apportionment of expenses of the International Criminal Court

The Assembly of States Parties,

Decides that, for the year 2005, the International Criminal Court shall adopt the scale of assessments of the United Nations applicable for the year 2005, with adjustments to take into account the difference in membership between the United Nations and the Assembly of States Parties to the Rome Statute, in accordance with the principles upon which the scale of the United Nations is based.

E. Financing of appropriations for the year 2005

The Assembly of States Parties,

Resolves that, for the year 2005, budget appropriations amounting to €66,784,200, the amount for the Working Capital Fund of €5,565,400, and €10,000,000, for the Contingency Fund approved by the Assembly under part A, paragraph 1, and part C and part B, respectively, of the present resolution, shall be financed in accordance with regulations 5.1, 5.2 and 6.6 of the Financial Regulations and Rules of the Court.

Annex**Amendments to the Financial Regulations and Rules necessary to establish a contingency fund
Amendment to regulation 4.7**

At the beginning of regulation 4.7, insert the phrase “Subject to financial regulation 6.6, last paragraph, . . .”

Amendments to regulation 6 – Funds**After regulation 6.5 insert the following:**

- 6.6 There shall be established a contingency fund to ensure that the Court can meet:
- (a) Costs associated with an unforeseen situation following a decision by the Prosecutor to open an investigation; or
 - (b) Unavoidable expenses for developments in existing situations that could not be foreseen or could not be accurately estimated at the time of adoption of the budget; or
 - (c) Costs associated with an unforeseen meeting of the Assembly of States Parties.

The level of the Fund and the means by which it shall be financed (i.e. by assessed contributions and/or cash surpluses in the budget) shall be determined by the Assembly of States Parties.

- 6.7 If a need to meet unforeseen or unavoidable expenses arises, the Registrar, by his or her own decision or at the request of the Prosecutor, the President or the Assembly of States Parties, is authorized to enter into commitments not exceeding the total level of the Contingency Fund. Before entering into such commitments, the Registrar shall submit a short, supplementary budget notification to the Committee on Budget and Finance through its Chairperson. Two weeks after having notified the Chairperson of the Committee on Budget and Finance, and taking into consideration any financial comments on the funding requirements made by the Committee through its Chairperson, the Registrar may enter into the corresponding commitments. All funding obtained in this way shall relate only to the financial period(s) for which a programme budget has already been approved.
- 6.8 The Registrar shall report together with the new draft programme budget to the Assembly of States Parties, through the Committee on Budget and Finance, on any exercise of the commitment authority given under regulation 6.7.
- 6.9 Income derived from contingency fund investments shall be classed as miscellaneous income for credit to the General Fund.

Amendment to regulation 5 – Provision of funds:

Amend regulation 5.8 as follows:

- 5.8 Payments made by a State Party shall be credited first to the Working Capital Fund, then to the contributions due to the General Fund, and then to the contingency fund, in the order in which the State Party was assessed.

Resolution ICC-ASP/3/Res.5

Adopted at the 6th plenary meeting, on 10 September 2004, by consensus

ICC-ASP/3/Res. 5

Travel of members of the Committee on Budget and Finance

The Assembly of States Parties,

Bearing in mind paragraph 8 of the report of the Committee on Budget and Finance on its 2nd session,¹²

1. *Decides* that the travel of members of the Committee shall be in business class if the duration of travel is over nine hours, and in economy class in all other cases;

2. *Requests* the Travel Unit of the International Criminal Court to establish the ensuing standard operating procedures.

¹² ICC-ASP/3/22.

Resolution ICC-ASP/3/Res.6

Adopted at the 6th plenary meeting, on 10 September 2004, by consensus

ICC-ASP/3/Res.6

Procedure for the nomination and election of judges of the International Criminal Court

The Assembly of States Parties,

Bearing in mind the provisions of the Rome Statute of the International Criminal Court,

Mindful of the Rules of Procedure of the Assembly of States Parties,

Convinced of the need to fully implement the provisions of article 36 of the Rome Statute,

Noting that in its resolution ICC-ASP/1/Res.3 the Assembly of States Parties agreed that it would review the procedure for the election of judges on the occasion of future elections with a view to making any improvements as may be necessary,

Approves the following procedure for the nomination and election of judges of the International Criminal Court, replacing resolution ICC-ASP/1/Res.3 and parts A, B and C of resolution ICC-ASP/1/Res.2:

A. Nomination of candidates for judges

1. The Secretariat of the Assembly of States Parties shall circulate through the diplomatic channel the invitations for nominations of judges of the International Criminal Court.

2. The invitations for nominations of judges will include the text of article 36, paragraphs 3, 4 and 8, of the Statute, the present resolution as well as specific information regarding the application of all minimum voting requirements in the elections.

3. The nomination period shall open 26 weeks before the elections and shall last 12 weeks.

4. Nominations submitted before or after the nomination period shall not be considered.

5. States Parties to the Statute shall communicate nominations for the election of judges of the International Criminal Court through the diplomatic channel to the Secretariat of the Assembly of States Parties.

6. Every nomination should be accompanied by a statement:

- (a) Specifying in the necessary detail how the candidate fulfils each of the requirements in article 36, paragraph 3(a), (b) and (c), of the Statute, in accordance with article 36, paragraph 4(a), of the Statute;
- (b) Indicating whether the candidate is being nominated for inclusion in list A or list B for the purposes of article 36, paragraph 5, of the Statute;
- (c) Containing information relating to article 36, paragraph 8(a)(i) to (iii), of the Statute;

- (d) Indicating whether the candidate has any expertise under article 36, paragraph 8(b), of the Statute;
- (e) Indicating under which nationality the candidate is being nominated for the purposes of article 36, paragraph 7, of the Statute, where a candidate is a national of two or more States.

7. States that have started the process of ratification, acceptance or approval of or accession to the Statute may nominate candidates for the elections of judges of the International Criminal Court. Such nominations shall remain provisional and shall not be included in the list of candidates unless the State concerned has deposited its instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations before the end of the nomination period and provided that that State is a party to the Statute in accordance with article 126, paragraph 2, of the Statute on the date of the election.

8. The Secretariat of the Assembly of States Parties shall place the nominations of candidates for judges, the accompanying statements referred to in article 36 of the Statute and other supporting documentation on the Internet web site of the International Criminal Court, in any of the official languages of the Court, as soon as possible after receiving them.

9. The Secretariat of the Assembly of States Parties shall prepare a list in English alphabetical order of all persons thus nominated, with accompanying documents, and shall circulate it through the diplomatic channel.

10. Six weeks after the opening of the nomination period, the President of the Assembly of States Parties shall inform all States Parties through diplomatic channels and through specific information on the web site of the International Criminal Court on the number of candidates nominated with respect to each minimum voting requirement.

11. The President of the Assembly of States Parties shall extend the nomination period for two weeks, but no more than three times, if at the end of the nomination period any regional or gender minimum voting requirement¹³ is not matched with at least twice the number of candidates fulfilling that requirement.

12. The President of the Assembly of States Parties shall extend the nomination period for two weeks at a time, if at the end of the nomination period the number of candidates remains less than the number of seats, or the number of candidates from list A or B remains less than the respective minimum voting requirement.

B. Election of judges

13. The Bureau of the Assembly of States Parties shall fix the date of the election.

14. The Secretariat of the Assembly of States Parties shall prepare, in accordance with article 36, paragraph 5, of the Statute, two lists of candidates in English alphabetical order.

15. The election of judges shall be a matter of substance, and subject to the requirements of article 112, paragraph 7(a), of the Statute.

16. The persons elected to the Court shall be the 6 candidates who obtain the highest number of votes and a two-thirds majority of States Parties present and voting, provided that an absolute majority of the States Parties constitutes the quorum for voting.

¹³ To be calculated in accordance with paragraph 20(b), second sentence, and paragraph 20(c), second sentence, only.

17. When two or more candidates of the same nationality obtain the required majority, the candidate who receives the higher number of votes shall be considered elected.

18. No more than 13 candidates from list A and no more than 9 candidates from list B shall be considered elected, taking into account the number of judges remaining in office.

19. States Parties shall, in the election of judges, take into account the need for the representation of the principal legal systems of the world, equitable geographical representation and a fair representation of female and male judges. They shall take into account the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women and children.

20. During any given ballot, each State Party shall vote for no more candidates than seats to be filled, whereby it shall observe the minimum voting requirements regarding lists A and B, regional groups and gender. At the outset of each ballot, each minimum voting requirement shall be determined or discontinued in accordance with paragraphs 21 and 22.

- (a) Each State Party shall vote for a minimum number of candidates from lists A and B. For list A, this number shall be 9 minus the number of judges from list A remaining in office or elected in previous ballots. For list B, this number shall be 5 minus the number of judges from list B remaining in office or elected in previous ballots.
- (b) Each Party shall vote for a minimum number of candidates from each regional group. This number shall be 2 minus the number of judges from that regional group remaining in office or elected in previous ballots.

If the number of States Parties of any given regional group is higher than 16 at that moment, the minimum voting requirement for that group shall be adjusted by adding 1.

If the number of candidates from a regional group is not at least double the respective minimum voting requirement, the minimum voting requirement shall be half the number of candidates from that regional group (rounded up to the nearest whole number where applicable). If there is only one candidate from a regional group, there shall be no minimum voting requirement for that group.

- (c) Each State Party shall vote for a minimum number of candidates of each gender. This number shall be 6 minus the number of judges of that gender remaining in office or elected in previous ballots. However, if the number of candidates of one gender is 10 or less, the minimum voting requirement for that gender shall be adjusted in accordance with the following formula:

<i>Number of candidates</i>	<i>Minimum voting requirement <u>shall not exceed:</u></i>
10	6
9	6
8	5
7	5
6	4
5	3
4	2
3	1
2	1
1	0

21. Each minimum voting requirement shall be adjusted until that requirement can no longer be met, whereupon the use of that requirement shall be discontinued. If an adjusted voting requirement can be met individually, but not jointly, the use of all regional and gender voting requirements shall be discontinued. If, following four ballots, there still remain seats to be filled, these minimum voting requirements shall be discontinued. The minimum voting requirements regarding lists A and B shall be applied until they are fulfilled.

22. Only ballot papers observing the minimum voting requirements shall be valid. If a State Party fulfils the minimum requirements using less than the maximum number of votes allowed for that ballot, it may abstain from voting for the remaining candidates.

23. Once regional and gender voting requirements are discontinued and the minimum voting requirements regarding lists A and B are fulfilled, each further ballot shall be restricted to the most successful candidates of the previous ballot. Before each ballot, the candidate (or, in the event of a tie, the candidates) having obtained the lowest number of votes in the previous ballot shall thus be excluded, provided that the number of candidates remains at least twice the number of seats to be filled.

24. The President of the Assembly of States Parties shall be responsible for the election procedure, including the determination, adjustment or discontinuation of the minimum voting requirements.

25. Ballot papers shall be organized in a manner facilitating such an election process. The minimum voting requirements, the adjusted requirements and the discontinuation of any requirements shall be clearly indicated on the ballot papers. Before the day of the election, the President shall distribute to all States Parties copies of the instructions and samples of the ballot papers. On the day of the election, clear instructions and sufficient time shall be given for each ballot. In each ballot, before the voting process is concluded, the President shall repeat the instructions and the minimum requirements to allow each delegation to verify that its vote meets those requirements.

26. The Assembly of States Parties shall review the procedure for the election of judges on the occasion of future elections with a view to making such improvements as may be necessary.

C. Judicial vacancies

27. In the event of a judicial vacancy in accordance with article 37 of the Rome Statute, the procedures for the nomination and election of judges shall apply *mutatis mutandis*, subject to the following provisions:

- (a) Within one month of the occurrence of the judicial vacancy, the Bureau of the Assembly of States Parties shall fix the venue and date of the election, which should not be later than 20 weeks after the occurrence of the vacancy.
- (b) The nomination period shall open 12 weeks before the elections and shall last 6 weeks.
- (c) If the judicial vacancy reduces the number of judges from list A to below 9 or the number of judges from list B to below 5, only candidates from the underrepresented list can be nominated.
- (d) If at the time of the election a regional or gender minimum voting requirement is not fulfilled, only candidates that can satisfy any of the underrepresented regional minimum voting requirements as well as the underrepresented gender minimum voting requirement can be nominated.
- (e) A judge elected to fill a vacancy shall serve for the remainder of the predecessor's term and, if that period is three years or less, shall be eligible for re-election for a full term under article 36 of the Statute.

Annex I

Illustrative tables of minimum voting requirements

The following tables are included for illustration purposes only.

Table 1: Minimum voting requirements for list A

<i>If the number of judges from list A remaining in office or elected in previous ballots is:</i>	<i>... then the minimum voting requirement for list A is:</i>
9 or more	Fulfilled
8	1
7	2
6	3
5	4
4	5
3	6
2	7
1	8
0	9

Table 2: Minimum voting requirements for list B

<i>If the number of judges from list B remaining in office or elected in previous ballots is:</i>	<i>... then the minimum voting requirement for list B:</i>
5 or more	Fulfilled
4	1
3	2
2	3
1	4
0	5

Table 3: Regional minimum voting requirements

<i>If the number of judges from a given region remaining in office or elected in previous ballots is:</i>	<i>... then the minimum voting requirement for that region is:</i>
3 or more	fulfilled
2	1
1	2
0	3

(Further adjustments might be necessary in accordance with para. 21 (b) of the resolution.)

Table 4: Gender minimum voting requirements

<i>If the number of judges from one gender remaining in office or elected in previous ballots is:</i>	<i>... then the minimum voting requirement for that gender is:</i>
6 or more	fulfilled
5	1
4	2
3	3
2	4
1	5
0	6

(Further adjustments may be necessary in accordance with para. 21(c) of the resolution.)

Annex II - SAMPLE BALLOT PAPER: ELECTION OF 6 JUDGES OF THE ICC

This sample ballot paper is included for illustration purposes only.

VOTE FOR A MAXIMUM OF 6 CANDIDATES				
REGIONAL GROUPS	LIST A VOTE FOR AT LEAST X FROM LIST A	LIST VOTE FOR AT LEAST X FROM LIST B		
GENDER DISTRIBUTION: VOTE FOR AT LEAST X MALES AND X FEMALES				
	MALE	FEMALE	MALE	FEMALE
AFRICA VOTE FOR AT LEAST X CANDIDATES FROM THIS REGION	<input type="checkbox"/> Name (Country) <input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country) <input type="checkbox"/> Name (Country)
ASIA VOTE FOR AT LEAST X CANDIDATES FROM THIS REGION	<input type="checkbox"/> Name (Country) <input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country)	
EASTERN EUROPE VOTE FOR AT LEAST X CANDIDATES FROM THIS REGION	<input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country) <input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country)
LATIN AMERICA/ CARIBBEAN VOTE FOR AT LEAST X CANDIDATES FROM THIS REGION	<input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country) <input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country) <input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country)
WESTERN EUROPE AND OTHER VOTE FOR AT LEAST X CANDIDATES FROM THIS REGION	<input type="checkbox"/> Name (Country) <input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country) <input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country) <input type="checkbox"/> Name (Country)	<input type="checkbox"/> Name (Country)

Resolution ICC-ASP/3/Res.7

Adopted at the 6th plenary meeting, on 10 September 2004, by consensus

ICC-ASP/3/Res.7

Establishment of the Secretariat of the Trust Fund for Victims

The Assembly of States Parties,

Welcoming the first meeting of the members of the Board of Directors of the Trust Fund for Victims, held at the seat of the Court from 20 to 22 April 2004,

Expressing its appreciation to the members of the Board for their commitment to ensuring the welfare of victims of crimes within the jurisdiction of the Court, and for carrying out their efforts on a pro bono basis,

Taking note with appreciation of the report to the Assembly of States Parties on the activities and projects of the Board of Directors of the Trust Fund for Victims, 2003-2004, contained in document ICC-ASP/3/14/Rev.1, the draft Regulations of the Trust Fund contained in annex A thereto, and the proposal for the establishment of a Secretariat for the Trust Fund for Victims contained in annex B thereto,

1. *Decides* to establish a Secretariat of the Board of Directors of the Trust Fund for Victims to provide such assistance as is necessary for the proper functioning of the Board of Directors in carrying out its tasks;
2. *Decides further* that, pending further consideration in accordance with paragraph 6 of resolution ICC-ASP/1/Res. 6, the Secretariat shall operate under the full authority of the Board of Directors in matters concerning its activities; that, for administrative purposes, the Secretariat and its staff shall be attached to the Registry of the Court and that, as part of the staff of the Registry and, as such, of the Court, the staff of the Secretariat shall enjoy the same rights, duties, privileges, immunities and benefits;
3. *Decides* that, mindful of the independence of the Board and the Secretariat, the Registrar of the Court may provide such assistance as is necessary for the proper functioning of the Board and the Secretariat;
4. *Decides* that, pending further evaluation by the Assembly of States Parties in accordance with paragraph 6 of resolution ICC-ASP/1/Res. 6, the Secretariat shall be funded by the regular budget;
5. *Decides that*, subject to this resolution, Parts I and II of the draft Regulations of the Trust Fund for Victims, contained in annex A to the report to the Assembly of States Parties on the activities and projects of the Board of Directors of the Trust Fund for Victims, 2003-2004, shall be applied provisionally, and *recognizes* that Part III of the draft Regulations will be a reference point for further work;

6. *Requests* the Bureau, in view of the urgency of the matter, to consider further the draft Regulations prepared by the Board of Directors, through an appropriate mechanism and in consultation with the States Parties and the Board of Directors, and to determine criteria for the management of the Trust Fund pursuant to article 79, paragraph 3, of the Rome Statute for adoption by the Assembly of States Parties at its fourth session, and *invites* States Parties to submit their comments thereon;

7. *Requests* the Board of Directors to pursue its invaluable efforts in fundraising in accordance with paragraphs 8, 9, 10 and 11 of the annex to resolution ICC-ASP/1/Res. 6;

8. *Requests* the Committee on Budget and Finance to review the draft Regulations and to report thereon to the Bureau;

9. *Calls upon* governments, international organizations, individuals, corporations and other entities to contribute voluntarily to the Fund, and *expresses its appreciation* to those that have done so this year.

Resolution ICC-ASP/3/Res.8

Adopted at the 6th plenary meeting, on 10 September 2004, by consensus

ICC-ASP/3/Res.8

Intensifying dialogue between the Assembly of States Parties and the International Criminal Court

The Assembly of States Parties,

Recognizing the excellent work already undertaken by the Bureau,

Bearing in mind the need for an intensified dialogue with the Court as it moves into the next phase of its establishment and operations,

Requests the Bureau, pursuant to article 112, paragraph 3(c), of the Rome Statute, and while respecting prosecutorial and judicial independence and the special role of the Committee on Budget and Finance under resolution ICC-ASP/1/Res.4, between this date and the fourth session of the Assembly of States Parties:

- (a) In relation to the subject of intensification of dialogue between the Assembly of States Parties and the Court, to focus upon those priority issues which the Bureau considers most appropriate, including in particular the premises of the Court and the draft Regulations of the Trust Fund for Victims;
- (b) To consider the issues referred to in subparagraph (a) above, including at meetings, and *authorizes*, where necessary, the Bureau to create such mechanisms as it considers appropriate in whichever location it views as most appropriate;
- (c) To report back informally to the Assembly of States Parties in advance of its fourth session in relation to each priority issue;
- (d) To report informally to the fourth session of the Assembly of States Parties on the possible establishment of subsidiary bodies under article 112, paragraph 4, of the Rome Statute.