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**Report on the Future Permanent Premises of the International
Criminal Court***

Interim Report on the Composition of Estimated Staffing Levels

* Previously issued as ICC-ASP/4/CBF.2/5* and submitted to the Assembly pursuant to paragraph 80 of the report of the Committee on Budget and Finance on the work of its fifth session (ICC-ASP/4/27).

**REPORT ON THE
FUTURE PERMANENT PREMISES
OF THE
INTERNATIONAL CRIMINAL COURT**

The seal of the International Criminal Court is a large, light gray watermark in the background. It features a central scale of justice, flanked by two olive branches, all enclosed within a circular border.

**INTERIM REPORT ON THE
COMPOSITION OF
ESTIMATED STAFFING
LEVELS**

Elaborated by the International Criminal Court. This interim report is submitted further to paragraph 34 of the report of 15 April 2005 of the Committee on Budget and Finance on the work of its fourth session, held in The Hague from 4 to 6 April 2005 (ICC-ASP/4/2).

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This report was prepared by the Inter-Organ Committee on the Permanent Premises (IOCPP) of the International Criminal Court under the chairmanship of Judge Hans-Peter Kaul.

Foreword

This interim report entitled “Composition of estimated staffing levels” is the fourth of five reports submitted by the International Criminal Court in 2005 on the future permanent premises of the Court:

1. “Report on the future permanent premises of the International Criminal Court – Project Presentation” (ICC-ASP/4/CBF.1/3), submitted further to paragraph 4 of the report of the Committee on Budget and Finance (CBF) to the Assembly of States Parties (the Assembly) regarding discussions on the permanent premises of the Court, dated 17 August 2004 (ICC-ASP/3/17);
2. “Report on the future permanent premises of the International Criminal Court – Housing options” (ICC-ASP/4/1) requested by the Assembly of States Parties at its third session held in The Hague from 6 to 10 September 2004;
3. “Report on the future permanent premises of the International Criminal Court – Financial comparison of housing options” (ICC-ASP/4/CBF.2/4) requested by the CBF at its fourth session held in The Hague from 4 to 6 April 2005;
4. The present “Report on the future permanent premises of the International Criminal Court – Interim report on the composition of estimated staffing levels” (ICC-ASP/4/CBF.2/5) requested by the CBF at its fourth session held in The Hague from 4 to 6 April 2005;
5. “Report on the future permanent premises of the International Criminal Court – Financing methods used for the premises of other international organizations” (ICC-ASP/4/CBF.2/6) requested by the CBF at its fourth session held in The Hague from 4 to 6 April 2005.

The Court believes that this set of five reports shows that significant progress has been made during the past year and that many important issues regarding the future permanent premises project have been clarified. This pace of progress will continue to be necessary if the objective of completing the permanent premises before the end of the rent-free period in 2012 is to be attained.

The Court hopes that this series of reports will provide the CBF and the Assembly with a solid basis for further in-depth consideration of key issues pertaining to the future permanent premises of the Court, including the question of appropriate financing modalities for its construction.

Lastly, the Court is of the view that efforts to achieve agreement on financing modalities that States Parties find satisfactory will be the main priority of this project in 2005/2006.

Introduction

1. The Committee on Budget and Finance (CBF), after its fourth meeting held in The Hague from 4 to 6 April 2005, asked the Court to provide more detailed information on the composition of its staffing estimates as outlined in the Project Presentation (ICC – ASP/4/CBF.1/3), in which the Court had envisaged that its future permanent premises should be planned to accommodate a flexible number of workplaces ranging between:

- Standing Capacity (950), and
- Full Capacity (1300).

2. The Court requests the Committee's understanding for its intention in this interim report:

- To explain the main planning assumptions for these overall staffing estimates of Standing Capacity (950) and Full Capacity (1,300);
- But to refrain from submitting detailed staffing estimates for the various organizational units of the Court.

(NB: Detailed staffing estimates will be submitted to the CBF in early 2006.)

3. The fundamental reason for this approach is that the current staffing estimates, elaborated by the Court in January 2005, are currently under active and ongoing review through:

the Court Capacity Model (CCM) – a new approach and methodology for calculating and reviewing appropriate staffing levels.

4. Since the elaboration of the Project Presentation in early 2005, the Court's approach and methodology for medium- and long-term planning and for the development of related planning assumptions have undergone considerable development.

5. It will be recalled that during the meeting of the Committee on Budget and Finance held in The Hague from 4 to 6 April 2005, the Court made a first presentation¹ on the ongoing work of its Strategic Planning Project Group. This Group has also been working, inter alia, on the development of the so-called Court Capacity Model as a new methodology for calculating and reviewing appropriate staffing levels (a detailed description of the CCM is provided below).

6. After the CBF meeting in April 2005, it became increasingly clear that the advancing work of the Strategic Planning Project Group on the Court Capacity Model would provide a new and promising methodology for reviewing the appropriateness of the estimated staffing levels and corresponding accommodation requirements elaborated by the Inter-Organ Committee on the Permanent Premises (IOCPP) in 2004/2005.

7. In the light of this situation, it should be noted that the staffing estimates and accommodation requirements produced by the Court Capacity Model may well be quite similar to those elaborated by the IOCPP and set forth in the Project Presentation. The Court has reason to believe, however, that the detailed staffing estimates of the various organizational units of the Court produced by the Court Capacity Model may be even more reliable, more consolidated and more realistic.

¹ See the report of the Committee on Budget and Finance on the work of its fourth session (ICC-ASP/4/2), paras. 40-42.

8. When elaborating this report, the Court was thus faced with the following dilemma:
- Should the detailed estimated staffing levels underlying “Standing Capacity” (950) and “Full Capacity” (1,300) elaborated in 2004/2005 continue to be explained in this report although those levels are currently under ongoing and active review through the new CCM methodology, which may lead to different but more reliable and more realistic staffing estimates for the various organizational units of the Court?
 - Or should the Court postpone the presentation of detailed estimated staffing levels until the ongoing and active CCM review has been concluded and has produced more reliable and more realistic staffing estimates for the various organizational units of the Court?
9. Under these circumstances, the Court, on the basis of an agreement reached in the Coordination Council on 12 July 2005, decided to adopt the Court Capacity Model as the future method for calculating and reviewing estimated staffing levels. As a result of this decision, the IOCPP was asked to align its work with the Court Capacity Model and to refrain from providing detailed estimated staffing levels until the results of the ongoing and active CCM review are known.
10. The Court is confident that the Court Capacity Model planning work will be completed by the end of 2005. The results in respect of reviewed estimated staffing levels will be made available to the CBF in time for its 2006 spring session.
11. In the meantime, the Court can provide the CBF in this interim report with important information about:
- The general approach and main planning assumptions used to determine appropriate staffing levels (Part I);
 - The Court Capacity Model as a new methodology for calculating and reviewing appropriate staffing levels (Part II).

It is hoped that this will help the CBF to develop a better understanding of the process and enable it to provide input where necessary.

I. General approach and main planning assumptions used to determine appropriate staffing levels

12. The planning work to determine appropriate staffing levels is based largely on the considerations summarized in this section.

I.1 General approach: Resource-driven planning of staffing levels

13. The size of the permanent premises depends to a very large extent on the level of working capacity (=output) that will be required in The Hague. The level of working capacity depends on two factors:

1. Demand for the Court to exercise its jurisdiction, i.e. the number of situations before the Court at any given time;
2. Available financial resources.

14. Difficulties in determining the scale of the demand to be met by the Court and the related question of appropriate staffing levels relate, inter alia, to the following:

- The fact that the Court is a new and unique organization, for which no prototype and very limited practical experience exist;
- The practical impossibility of predicting whether and where crimes falling within the jurisdiction of the Court may occur in the future;
- Uncertainty as to whether States will assume primary responsibility for exercising criminal jurisdiction over those responsible for international crimes;
- Uncertainty as to the type and complexity of situations referred to the Court (see below);
- Uncertainty as to whether and to what extent States will cooperate with the Court, particularly in the arrest and transfer to the Court of those responsible for international crimes.

15. It should be stressed that the Court can never be a purely demand-driven organization. It will never be possible to respond immediately to all situations that come before the Court at any given time since this would require an unreasonable amount of reserve capacity.

I.2 Main planning assumptions used to determine appropriate staffing levels

16. The permanent premises of the Court are planned in a medium- and long-term perspective. It is therefore necessary for the Court to endeavour as best it can, on the basis of all data, information and expertise currently available, to formulate planning assumptions in respect of the Court's future work and workload, and to draw up, as carefully as possible, related staffing estimates.

17. The main planning assumptions that were used to determine appropriate staffing levels are described below.

I.2.1 Flexibility – Standing Capacity and Full Capacity

18. The Court continues to pursue the short- and long-term objective of administering international criminal justice with an organization and a staff that are as small and efficient as possible. To meet these fundamental policy objectives, the organization, its staff, and the structures and premises of the Court must remain highly flexible.

19. The Court wishes to recall its current planning assumptions for the permanent premises, as outlined in the Project Presentation, which will be continuously reviewed² up to the last possible point in time before the actual construction works begin.

20. The buildings should be flexible enough to accommodate both the Standing Capacity (950 staff members), i.e. the initial occupancy, and the Full Capacity (1,300 staff members) without expansion of the existing buildings.

21. The current assumption is that at Standing Capacity the Court will be able to handle a maximum of:

- Two complex investigations (or more investigations of a less complex nature depending on location, language, time zone, etc.); and
- Up to three hearings per day.

22. The current assumption is that at Full Capacity the Court will be able to handle a maximum of:

- Three complex investigations (or more investigations of a less complex nature, depending on location, language, time zone, etc.); and
- Up to six hearings per day.

23. As Standing Capacity and Full Capacity are defined by the notion of a “complex investigation”, it seems appropriate to analyse related planning assumptions further.

I.2.2 Complexity of the investigation

24. The complexity envisaged relates not only to the gravity of the crimes involved, although the scale of the crimes to be investigated is obviously a major factor. Other major factors that influence the number of workplaces needed are:

- The number and scale of incidents under investigation;
- The level of cooperation from the State where the investigation is taking place. When the State cooperates fully:
 - Most of the investigation on the ground can be carried out by local law enforcement agents;
 - Court staff receive logistical support and protection;
 - Witnesses are located, transported and protected by the State in question;
 - Victims receive local support and protection;
- Number and kind of languages involved:
 - The number of non-working languages has a direct bearing on the number of interpreters and translators needed at the seat of the Court for the purpose of both investigation and prosecution;

² Currently through the Court Capacity Model.

- If rare dialects are involved, special problems arise that may affect proceedings;
- The local security situation:
 - If the Court is operating in a conflict zone, security concerns for victims and witnesses, with possible dislocation, will increase;
 - If the security situation on the ground is such that the Court cannot operate at an acceptable risk level, some functions that would normally take place entirely in the field will have to be performed at the seat of the Court;
- Location: distance and relationship between situations:
 - If situations are located far apart, it is not possible to create combined support networks;
 - If situations are located in different and distant time zones, 24-hour support structures must be put in place.

25. As it is impossible to predict what future situations will look like, the Court has to take into consideration some worst-case scenarios and this has a major impact on the required staffing level. As it is also impossible to cover all possible complexities in the current estimated staffing levels, a best effort must be made to determine a reasonable average.

I.2.3. Ratio investigations/cases

26. To calculate the workload, the following further assumptions³ with implications for staffing levels were used:

- It is assumed that for every four situations under analysis by the Office of the Prosecutor⁴ there will be one investigation. It is assumed there will be a maximum of four cases per situation, with up to four defendants in each case (i.e. those who bear the greatest responsibility).
- It is assumed that one Court session or hearing will last four hours. This means that it will be possible to have two hearings per courtroom per day. Accordingly, at Full Capacity, when three courtrooms are used all the time, it should be possible to hold up to 1,200 hearings per year.
- The following assumptions are made for each case:
 - 200 court days per year;
 - 10 witnesses per case during the investigation and pre-trial stages;
 - 145 witnesses per case per year for the trial stage;
 - 15 expert witnesses per case;
 - 30 witness support persons per case per year;
 - 4 accused per case;
 - 4 defence teams per case;
 - 2 victims' representatives per case.

³ The figures used in these examples are taken from the 2006 budget proposal. They are based on the particulars of the cases actually under investigation by the Office of the Prosecutor. These figures may vary in each new case and will therefore be reviewed on a case-by-case basis. The reviewed figures will serve as the basis for a recalculation using the Court Capacity Model as the fundamental tool.

⁴ This does not include the preliminary analysis/screening of complaints (with regard to the prima facie founded or unfounded nature of the complaint and/or jurisdiction/admissibility) but refers to the advanced analysis of situations in order to determine whether or not to initiate an investigation.

27. To the extent possible, staffing levels are calculated in terms of standard teams for one or more performance levels (e.g. one investigation team per situation). The total required staffing level is determined by adding as many teams as necessary to attain the assumed performance level.

28. The overall staffing level is thus determined by two main factors:

- The number of standard teams;
- The composition of the standard teams.

The former depends on the performance level required from the Court and the latter depends on the required work capacity of each unit. With regard to the composition of standard teams, it should be borne in mind that the volume of work a team can handle will determine the length of the proceedings. Thus, the larger the teams, the greater the turnover of investigations/cases. In light of the Court's legal obligation to hold trials without unreasonable delays, this is a particularly sensitive factor.

29. For organizational units whose tasks are not directly related to the operations of the Court (e.g. those handling IT, finances, etc.) the Court endeavours to rely on benchmarks.

II. The Court Capacity Model (CCM) - a new methodology for calculating and reviewing appropriate staffing levels

30. The Court Capacity Model applies a production line model. It divides the Court's core activities into different "phases", all of which largely correspond to a function resulting in a certain "product". The maximum output per phase is calculated on the basis of this division. By carrying out different simulations (e.g. "increase number of standard teams", "different composition of standard team"), it is possible to determine an optimal balance between the different phases and to improve the alignment of the core activities with each other and with the support activities.

31. The Model has been designed to serve the following purposes in respect of the management of the Court:

- First, as an internal planning instrument it will permit coordination of the capacity and outputs of each of the Court's organs, divisions and sections;
- Second, it can be a useful tool for explaining budgetary choices;
- Third, it will assist in decision-making concerning the Court's future evolution.

32. In the course of the exercise and in the context of efforts to coordinate with the Inter-Organ Committee on the Permanent Premises, it became apparent that the Model offered a suitable methodology for defining the Court's needs in respect of its permanent premises.

33. In this context the Model will make it possible to determine different output capacities (e.g. number of investigations) and their corresponding staffing levels. In addition, it will assist in identifying the optimal proportions between the organizational units in terms of staff. The Model will thereby provide indications as to the size and required functions of future premises.

34. It should be stressed that the Model adopts an approach that is broadly resource-driven rather than entirely demand-driven. This means that the starting point is "what can we achieve with x resources" and not "what resources do we need to deal with y situations". The reason is that it is impossible to forecast the occurrence and scale of situations warranting intervention by the Court. However, the model can also be used to calculate the required staffing levels for any chosen output.

35. Although it is clear that the Model is based, where possible, on the Court's experience to date and depends to a large extent on consolidated assumptions, it has to be continuously assessed in light of new experiences and operational and strategic decisions. Nevertheless, it will already provide a solid basis for informed decision-making. The Court is endeavouring to have the Capacity Model ready for presentation by the end of 2005.

36. Based on the calculations and methods of the Court Capacity Model, it will be possible to determine the optimal composition of the staffing levels for each organizational unit for the permanent premises.

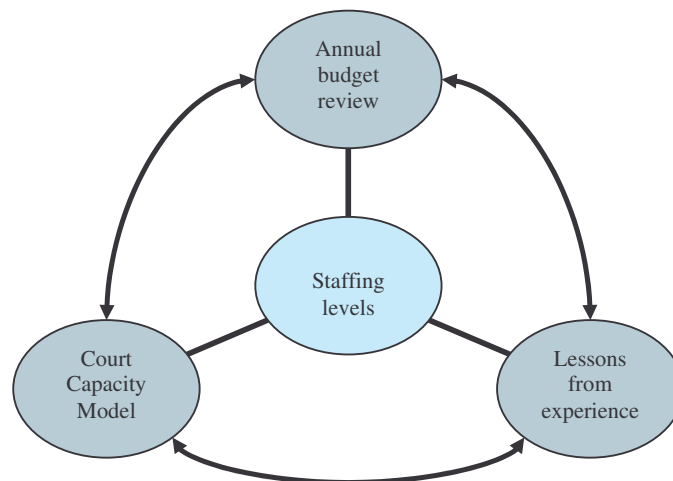
37. The results of this exercise will be presented to the CBF in time for its spring session in 2006. It should be stressed that the exercise will probably have only a minor impact on the overall estimated staffing levels. However, the Court Capacity Model will allow the Court to determine the optimal composition of staffing for the performance levels at Standing and Full Capacity that are finally adopted.

Conclusion: Further planning efforts and ongoing review of estimated staffing levels

38. The Court wishes to reiterate its commitment to a process of continuously reviewing the appropriateness of both the numbers of staffing levels and the assumptions on which they are based. This is a commitment that will continue during the design phase and until the actual construction work commences, hopefully in 2009.

39. In essence, three methods will be used to review the appropriateness of the current estimated staffing levels as explained in this report:

1. Ongoing work of the Strategy Planning Project Group regarding the Court Capacity Model (CCM). It is expected that the results of the CCM in the form of reviewed staffing levels will be available at the beginning of 2006;
2. Ongoing review of staffing necessities in light of the Court's growing experience concerning appropriate staffing levels for the Presidency, Chambers, the Office of the Prosecutor, the Registry and the Secretariat of the Assembly of States Parties;
3. The Annual budget review process and related opportunity for and final authority of the CBF and the Assembly to determine and provide final authority for appropriate staffing levels for the Presidency, Chambers, the Office of the Prosecutor, the Registry and the Secretariat of the Assembly of States Parties.



40. It is submitted that these three methods for the necessary review of estimated staffing levels will prove mutually reinforcing each other and that they may also be regarded as safeguards for the appropriateness of estimated staffing levels for the future permanent premises of the ICC Court.

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