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**Assembly of States Parties**

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**Fifth session**

The Hague

23 November to 1 December 2006

**Annotated list of items included in the provisional agenda**

**Note by the Secretariat**

The following annotated list of the items contained in the provisional agenda for the fifth session of the Assembly of States Parties (“the Assembly”) to the Rome Statute of the International Criminal Court (ICC-ASP/5/11) has been prepared to assist the Assembly in its consideration of issues before it at its fifth session, which will be convened in The Hague, on Thursday, 23 November 2006, at 10 a.m. The status of the documentation reflected herein is current as of 23 November 2006.

## **Annotated list of items included in the provisional agenda**

### **1. Opening of the session by the President**

In accordance with article 112, paragraph 6, of the Rome Statute, the Assembly of States Parties (“the Assembly”) meets once a year in regular session. In accordance with rule 5 of the Rules of Procedure of the Assembly of States Parties (“Rules of Procedure”),<sup>1</sup> the Assembly, at the 4<sup>th</sup> meeting of its fourth session, on 3 December 2005, decided to convene its fifth session in The Hague, for eight days in November-December 2006, with a resumption of not less than three days of the Special Working Group on the Crime of Aggression in 2007 in New York. The exact dates in both cases were to be determined by the Bureau of the Assembly.<sup>2</sup> At a meeting on 13 January 2006, the Bureau decided to convene the fifth session from 23 November to 1 December 2006, and the resumed fifth session from 29 to 31 January 2007.

At the 5<sup>th</sup> meeting of its third session, on 9 September 2004, the Assembly elected Mr. Bruno Stagno Ugarte (Costa Rica) President of the Assembly for the fourth to sixth sessions.<sup>3</sup> Rule 30 of the Rules of Procedure provides that the President shall declare the opening of each plenary meeting of the session.

### **2. Silent prayer or meditation**

Pursuant to rule 43 of the Rules of Procedure, immediately after the opening of the first plenary meeting and immediately preceding the closing of the final plenary meeting, the President shall invite the representatives to observe one minute of silence dedicated to prayer or meditation.

### **3. Adoption of the agenda**

Rules 10 to 13 and 18 to 22 of the Rules of Procedure concerning the agenda are applicable to regular sessions.

In accordance with rules 10 and 11 of the Rules of Procedure, the provisional agenda for the fifth session (ICC-ASP/5/11) and for the resumed fifth session (ICC-ASP/5/24) were issued on 4 September 2006 and 6 November 2006, respectively. In accordance with rule 19 of the Rules of Procedure, the agenda has to be submitted to the Assembly for approval.

#### *Documentation*

Provisional agenda (ICC-ASP/5/11)

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<sup>1</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (United Nations publication, Sales No. E.03.V.2 and corrigendum), part II.C.

<sup>2</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part I.B.17, para. 40.

<sup>3</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004* (International Criminal Court publication, ICC-ASP/3/25), part I.B, para. 45. In accordance with rule 29 of the Rules of Procedure, the President is elected for a three-year term.

#### **4. States in arrears**

According to article 112, paragraph 8, of the Rome Statute, "A State Party which is in arrears in the payment of its financial contributions towards the costs of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years."

At its fourth session, the Assembly took note of the report of the Bureau on the arrears of States Parties<sup>4</sup> and the recommendations therein and invited the Bureau to report back to the fifth session of the Assembly on the status of arrears, including on suggestions, if necessary, of measures to promote the timely, full and unconditional payment of assessed contributions and advances towards the costs of the Court. Furthermore, the Assembly decided that requests for exemption under article 112, paragraph 8, of the Rome Statute, should be submitted by States Parties to the Secretariat of the Assembly at least one month before the session of the Committee on Budget and Finance ("the Committee"), so as to facilitate the Committee's review of the requests and that the Committee should advise the Assembly of States Parties before the Assembly decided on any requests for exemption under article 112, paragraph 8, of the Rome Statute.<sup>5</sup>

At its sixth session, the Committee agreed that the Chair should ask three of its members to meet for one or two days immediately in advance of its seventh session to consider applications for exemption in accordance with the Assembly's decision. The three Committee members would meet informally and present their conclusions to the Committee as a whole. In turn, the Committee would adopt recommendations to the Assembly. This arrangement would be applied initially in 2006 and then be reviewed by the Committee.<sup>6</sup>

##### *Documentation*

Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1)

Report of the Committee on Budget and Finance on the work of its seventh session (ICC-ASP/5/23 and Corr.1 and Add.1 and Corr.1 (English only))

Report of the Bureau on the arrears of States Parties (ICC-ASP/5/27)

#### **5. Credentials of representatives of States at the fifth session**

##### **(a) Appointment of the Credentials Committee**

##### **(b) Report of the Credentials Committee**

Representation and credentials are regulated by rules 23 to 28 of the Rules of Procedure. In accordance with rule 24, the credentials of representatives of States Parties and the names of alternates and advisers shall be submitted to the Secretariat if possible not later than 24 hours after the opening of the session. The credentials shall be issued by the Head of State or Government or by the Minister for Foreign Affairs or by a person authorized by either of them.

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<sup>4</sup> ICC-ASP/4/14.

<sup>5</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part III, ICC-ASP/4/Res.4, oper. paras. 40, 43 and 44.

<sup>6</sup> ICC-ASP/5/1, paras. 15-16.

Under rule 25, a Credentials Committee, consisting of representatives of nine States Parties to be appointed at the beginning of each session by the Assembly on the proposal of the President, shall examine the credentials of representatives of States Parties and report to the Assembly without delay.

## **6. Organization of work**

The Assembly will consider and adopt a programme of work at the beginning of the session on the basis of a proposal by the Bureau.

## **7. General debate**

*No documentation*

## **8. Election of the members of the Board of Directors of the Trust Fund for Victims**

By its resolution ICC-ASP/1/Res.6, the Assembly established a Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, as well as a Board of Directors of the Trust Fund for the benefit of victims.

The relevant resolutions for the nomination and election of the members of the Board are ICC-ASP/1/Res.6 and ICC-ASP/1/Res.7, both of 9 September 2002. Pursuant to the latter resolution, States Parties shall nominate candidates during the nomination period, which shall be fixed by the Bureau of the Assembly of States Parties. Furthermore, nominations submitted before or after the nomination period shall not be considered. In this connection, the Bureau decided to fix a nomination period which ran for 12 weeks from 5 June 2006 to 27 August 2006. In accordance with paragraph 4 of resolution ICC-ASP/1/Res.5, the President of the Assembly extended the nomination period four times. The fourth extension will end on 19 November 2006.

For its part, the annex to resolution ICC-ASP/1/Res.6 provides that the Board shall have five members who shall be elected for a term of three years and may be re-elected once. They shall serve in an individual capacity on a pro bono basis. It also provides that the Assembly shall elect the members of the Board, all of whom shall be of a different nationality, on the basis of equitable geographical distribution and taking into account the need to ensure equitable gender distribution and equitable representation of the principal legal systems of the world. The members of the Board shall be of high moral character, impartiality and integrity and shall have competence in the assistance to victims of serious crimes.

Furthermore, resolution ICC-ASP/1/Res.7 provides that the distribution of seats in the Board shall be as follows:

- African States, one seat;
- Asian States, one seat;
- Eastern European States, one seat;
- Group of Latin American and Caribbean States, one seat;
- Western European and Other States, one seat.

*Documentation*

Note by the Secretariat on the second election of members of the Board of Directors of the Trust Fund for Victims (ICC-ASP/5/28)

**9. Report on the activities of the Bureau**

In accordance with article 112, paragraph 2(c), of the Rome Statute, the Assembly shall consider the reports and activities of the Bureau and take appropriate action in regard thereto.

*Documentation*

Report of the Bureau on ratification and implementation of the Rome Statute and on participation in the Assembly of States Parties (ICC-ASP/5/26)

**10. Report on the activities of the Court**

Under article 112, paragraph 2(b) of the Rome Statute, the Assembly shall provide management oversight to the Presidency, the Prosecutor and the Registrar regarding the administration of the Court. In accordance with article 112, paragraph 5, of the Rome Statute, the President of the Court, the Prosecutor and the Registrar or their representatives may participate in meetings of the Assembly. As provided in rule 34 of the Rules of Procedure, they may make oral or written statements and provide information on any question under consideration. Accordingly, the President of the Court will present a report on the activities of the Court since the previous session of the Assembly.

*Documentation*

Report on the activities of the Court (ICC-ASP/5/15)

**11. Consideration and adoption of the budget for the fifth financial year**

In accordance with article 112, paragraph 2(d), of the Rome Statute, the Assembly shall consider and decide on the budget of the Court.

Regulation 3 of the Financial Regulations and Rules of the Court provides that the Registrar shall prepare the proposed programme budget for each financial period and submit it to the States Parties as well as to the Committee on Budget and Finance for consideration. The Committee on Budget and Finance shall make the relevant recommendations to the Assembly.

At its third session, the Assembly endorsed the recommendation of the Committee on Budget and Finance that the Court should include in future performance reports data on financial performance and results achieved rather than outputs. This information should be submitted annually to the Assembly through the Committee either in the draft programme budget or in a separate performance report.<sup>7</sup>

*Documentation*

Report to the Assembly of States Parties on the activities and projects of the Board of Directors of the Trust Fund for Victims for the period 16 August 2005 to 30 June 2006 (ICC-ASP/5/8 and Corr.1 (French only))

Proposed Programme Budget for 2007 of the International Criminal Court (ICC-ASP/5/9 and Corr.1\* (English only) and Corr.2)

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<sup>7</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004* (International Criminal Court publication, ICC-ASP/3/25), part II.A.8(b), para. 50, and part II.A.1, para. 4.

Report on budget performance of the International Criminal Court as at 31 August 2006 (ICC-ASP/5/13)

Report on changing the Court's financial year (ICC-ASP/5/22)

Report of the Committee on Budget and Finance on the work of its seventh session (ICC-ASP/5/23 and Corr.1 and Add.1 and Corr.1 (English only))

Report to the Assembly of States Parties on options for ensuring adequate defence counsel for accused persons (ICC-ASP/3/16) – Update to Annex 2: Payment details of the ICC legal aid scheme (ICC-ASP/5/INF.1)

Proposal by Australia, Canada and New Zealand in relation to the section of the draft resolution on the proposed programme budget for 2007 dealing with the scale of assessments (ICC-ASP/5/WP.1)

## **12. Consideration of the audit reports**

### **(a) External Auditor**

Regulation 12 of the Financial Regulations and Rules provides that the Assembly shall appoint an Auditor to conduct audits in conformity with generally accepted common auditing standards, subject to any special directions of the Assembly and in accordance with the additional terms of reference set out in the annex to the Financial Regulations and Rules. At the 11<sup>th</sup> meeting of its first session, on 22 April 2003, the Assembly was informed that the Bureau, acting under the delegated authority of the Assembly<sup>8</sup>, had appointed the National Audit Office of the United Kingdom of Great Britain and Northern Ireland as Auditor for the Court for a period of four years.<sup>9</sup>

In accordance with regulation 12.7, the Auditor shall issue a report on the audit of the financial statements and relevant schedules relating to the accounts for the financial period. In accordance with regulations 12.8 and 12.9, audit reports, before their submission to the Assembly, are subject to examination by the Registrar and the Committee on Budget and Finance. The Assembly considers and approves the financial statements and audit reports forwarded to it by the Committee on Budget and Finance.

#### *Documentation*

Financial statements for the period 1 January to 31 December 2005 (ICC-ASP/5/2)

Trust Fund for Victims: financial statements for the period 1 January to 31 December 2005 (ICC-ASP/5/3)

Report of the Committee on Budget and Finance on the work of its seventh session (ICC-ASP/5/23 and Corr.1 and Add.1 and Corr.1 (English only))

### **(b) Report of the Office of Internal Audit**

At its second session, the Assembly endorsed the recommendation of the Committee on Budget and Finance that the Internal Auditor should be able to decide his or her annual work programme independently, including any issues raised by the Committee, and that the

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<sup>8</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (United Nations publication, Sales No. E.03.V.2 and corrigendum), part I, para. 29.

<sup>9</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session (first and second resumptions), New York, 3-7 February and 21-23 April 2003* (United Nations publication, ICC-ASP/1/3/Add.1), part I, para. 40.

Internal Auditor should submit an annual report on the activities of the Office to the Assembly, through the Committee.<sup>10</sup>

*Documentation*

Report of the Office of Internal Audit (ICC-ASP/5/5)

Report of the Committee on Budget and Finance on the work of its seventh session (ICC-ASP/5/23 and Corr.1 and Add.1 and Corr.1 (English only))

**13. Appointment of the External Auditor**

Regulation 12 of the Financial Regulations and Rules provides that the Assembly shall appoint an Auditor to conduct audits in conformity with generally accepted common auditing standards, subject to any special directions of the Assembly and in accordance with the additional terms of reference set out in the annex to the Financial Regulations and Rules. At the 11<sup>th</sup> meeting of its first session, on 22 April 2003, the Assembly was informed that the Bureau, acting under the delegated authority of the Assembly<sup>11</sup>, had appointed the National Audit Office of the United Kingdom of Great Britain and Northern Ireland as Auditor for the Court for a period of four years.<sup>12</sup>

At its fourth session and pursuant to a request from the Bureau, the Assembly undertook a preliminary consideration of the appointment of the External Auditor for the quadrennium 2007-2010. The Assembly was informed that, in accordance with the current terms of appointment, the External Auditor would audit four financial periods (2002-2003, 2004, 2005 and 2006). Accordingly, the External Auditor for the second quadrennium would cover the financial periods from 2007-2010.

At the same session, the Assembly noted that it could opt to proceed with a request for a bid among States Parties or indicate that it is, in principle, inclined to renew the appointment of the current External Auditor for a second four-year period. The Assembly expressed its preference for the latter option and decided to include in the provisional agenda of its fifth session an agenda item entitled "Appointment of the External Auditor" and requested the Court to submit a report to the Assembly, through the Committee on Budget and Finance, on the terms and conditions for the renewal, prior to that session.<sup>13</sup>

*Documentation*

Report on the reappointment of the External Auditor (ICC-ASP/5/4)

Report of the Committee on Budget and Finance on the work of its seventh session (ICC-ASP/5/23 and Corr.1 and Add.1 and Corr.1 (English only))

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<sup>10</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Second session, New York, 8-12 September 2003* (United Nations publication, Sales No. E.03.V.13), part II.A.1, para. 1 and part II.A.6, para. 29.

<sup>11</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (United Nations publication, Sales No. E.03.V.2 and corrigendum), part I, para. 29.

<sup>12</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session (first and second resumptions), New York, 3-7 February and 21-23 April 2003* (United Nations publication, ICC-ASP/1/3/Add.1), part I, para. 40.

<sup>13</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part II.B.3(g), paras. 44 and 45.

#### **14. Report of the Board of Directors of the Trust Fund for Victims**

By its resolution ICC-ASP/1/Res.6, the Assembly established a Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, as well as a Board of Directors of the Trust Fund for the benefit of victims.

At the 5<sup>th</sup> meeting of its second session, on 12 September 2003, the Assembly elected the five members of the Board of Directors, whose terms of office commenced on the same date. In accordance with paragraph 11 of the resolution establishing the Trust Fund, the Board should submit an annual report to the Assembly on the activities and projects of the Fund.

##### *Documentation*

Report to the Assembly of States Parties on the activities and projects of the Board of Directors of the Trust Fund for Victims for the period 16 August 2005 to 30 June 2006 (ICC-ASP/5/8 and Corr.1 (French only))

Report of the Committee on Budget and Finance on the work of its seventh session (ICC-ASP/5/23 and Corr.1 and Add.1 and Corr.1 (English only))

#### **15. Report of the Special Working Group on the Crime of Aggression**

By its resolution ICC-ASP/1/Res.1, the Assembly decided to establish a Special Working Group on the Crime of Aggression, open on an equal footing to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of elaborating proposals for a provision on aggression to be submitted to the Assembly for its consideration at a review conference, with a view to arriving at an acceptable provision on the crime of aggression for inclusion in the Statute in accordance with its relevant provisions. The Assembly decided further that the Special Working Group should meet during the regular sessions of the Assembly or at any other time that the Assembly deemed appropriate and feasible.

At the 8<sup>th</sup> meeting of its resumed first session, on 7 February 2003, the Assembly decided, inter alia, on the basis of a proposal of the Bureau, that the Special Working Group should meet during annual sessions of the Assembly, starting from its second session in 2003. It also decided that two to three meetings of the Assembly should be allocated to the Special Working Group and that that pattern should be repeated, as necessary, each year.

At its fourth session, in 2005, the Assembly decided, inter alia, that the Special Working Group in the years 2006 to 2008 should be allocated at least 10 exclusive days of meetings in New York during resumed sessions and should hold inter-sessional meetings, as appropriate.<sup>14</sup> It also decided to hold a resumed fifth session of not less than three days of the Special Working Group on the Crime of Aggression in 2007 in New York. For its part, the Bureau at a meeting of 13 January 2006 decided on the specific dates and to convene the resumed fifth session at United Nations Headquarters in New York, from 29 to 31 January 2007.<sup>15</sup>

An informal inter-sessional meeting of the Working Group was held in Princeton, New Jersey, United States of America, from 8 to 11 June 2006.

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<sup>14</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part III, resolution ICC-ASP/4/Res.4, para. 37.

<sup>15</sup> *Ibid.*, para. 53.



*Documentation*

Note by the Secretariat (ICC-ASP/5/SWGCA/INF.1)

**16. Long-term budgetary consequences of the pension scheme regulations for judges**

At its third session and by resolution ICC-ASP/3/Res.3 (appendix 2 to annex), the Assembly adopted the pension scheme regulations for judges on the basis, inter alia, that the scheme should be non-contributory and should be a direct charge to the budget of the Court. At the same session, the Assembly also requested the Committee on Budget and Finance to consider the long-term budgetary consequences of the pension scheme regulations for judges and to report thereon before the fourth session of the Assembly with a view to ensuring that appropriate budgetary provisions were made.<sup>16</sup>

At its fourth session, the Assembly, based on paragraphs 90 to 99 of the report of the Committee on the work of its fifth session<sup>17</sup>, agreed with the Committee's recommendations that the pension scheme should be funded on an accruals basis and that the pension fund should be managed externally. The Assembly also requested the Court to report to the Committee on the most cost-effective option for management of the fund, including the option of managing the fund via the United Nations Joint Staff Pension Fund. The Assembly also considered that the terms applicable to currently serving judges should apply provisionally to the judges elected in 2006 and further decided to refer the issue of the pension terms applicable to judges to the Committee for consideration and report – having regard, inter alia, to pension regimes applicable to judges in other international courts – in order to provide the Assembly with the tools to make an informed decision on the pension terms to be applied to judges of the International Criminal Court. The Assembly also requested the Committee on Budget and Finance to consider further the issue of whether existing pensions payable to individual judges who have served at other international tribunals and organizations should be taken into account in determining the pensions payable by the Court – while also examining the practice of such tribunals and organizations themselves in relation to this issue – and to report its findings to States Parties in advance of the fifth session of the Assembly. Finally, at the same session, the Assembly decided that unspent monies, up to a total of €8 million, from the 2005 budget should be applied to meet the estimated costs of the accrual of pension liabilities from 2003 to 31 December 2006.<sup>18</sup>

*Documentation*

Proposal regarding conditions of service and compensation of judges and elected officials (ICC-ASP/3/12, annex I, appendix 2)

*Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004, (International Criminal Court publication ICC-ASP/3/25), part III, resolution ICC-ASP/3/Res.3, annex*

*Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005 (International Criminal Court publication, ICC-ASP/4/32), part II.B.3(a), para. 38 and part III, resolution ICC-ASP/4/Res.9*

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<sup>16</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004 (International Criminal Court publication, ICC-ASP/3/25), part III, resolution ICC-ASP/3/Res.3, paras. 22 and 25.*

<sup>17</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005 (International Criminal Court publication, ICC-ASP/4/32), part II.B.6(b), paras. 90-99.*

<sup>18</sup> *Ibid*, part II.B.3(a), para. 38 and part III, resolution ICC-ASP/4/Res. 9, para. 7.

Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1)

Report on a procurement tender for the pension scheme for judges (ICC-ASP/5/18)

Report of the Registrar on pension schemes applicable to judges in other international tribunals (ICC-ASP/5/19)

Report of the Committee on Budget and Finance on the work of its seventh session (ICC-ASP/5/23 and Corr.1 and Add.1 and Corr.1 (English only))

## **17. Conditions of service and compensation of the Prosecutor and Deputy Prosecutors**

Article 49 of the Rome Statute stipulates that the judges, the Prosecutor, the Deputy Prosecutors, the Registrar and the Deputy Registrar shall receive such salaries, allowance and expenses as may be decided upon by the Assembly of States Parties.

At its third session, the Assembly took note of the proposal regarding conditions of service and compensation of the Prosecutor and Deputy Prosecutors contained in document ICC-ASP/3/12, annex II and, while reaffirming the provisions of ICC-ASP/1/Decision 3 on participation of the International Criminal Court in the United Nations Joint Staff Pension Fund, requested 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.<sup>19</sup>

At its fourth session, the Assembly again took note of the report of the Office of the Prosecutor regarding this item, contained in the above-mentioned document, as well as the request of the Committee on Budget and Finance to the Court to report on the matter, including some costed options, at its next session and requested the Committee to report thereon before the fifth session of the Assembly.<sup>20</sup>

### *Documentation*

Proposal regarding the conditions of service and compensation of judges and elected officials (ICC-ASP/3/12, annex II)

*Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004* (International Criminal Court publication, ICC-ASP/3/25), part III, resolution ICC-ASP/3/Res.3

*Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part II.B.6(b)

Report on the conditions of service and compensation of the Prosecutor and Deputy Prosecutors pursuant to paragraph 26 of resolution ICC-ASP/3/Res.3 (ICC-ASP/4/11)

Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1)

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<sup>19</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004* (International Criminal Court publication, ICC-ASP/3/25), part III, resolution ICC-ASP/3/Res.3, operative para. 26.

<sup>20</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part III, resolution ICC-ASP/4/Res.4, para. 34, and part II, para. 39.

Report on the conditions of service and compensation of the Prosecutor and Deputy Prosecutors (ICC-ASP/5/20)

Report on the conditions of service and compensation of the Prosecutor and Deputy Prosecutors: financial costings for pensions (ICC-ASP/5/21)

Report of the Committee on Budget and Finance on the work of its seventh session (ICC-ASP/5/23 and Corr.1 and Add.1 and Corr.1 (English only))

## **18. Premises of the Court**

### **(a) Permanent premises**

At its fourth session, the Assembly, inter alia, emphasized that the Court, being a permanent judicial institution, required functional permanent premises to discharge its duties effectively; recognized that, according to the information so far available, a purpose-built building on the premises of the Alexanderkazerne would probably offer the most flexible solution in matching the requirements of a permanent court in terms of size, functionality and security; welcomed the additional financial bid made by the representative of the host State<sup>21</sup>; invited the Court to complete its staffing estimation and strategy planning well before the next session of the Assembly and to continue further preparatory and planning work on the detailed requirements of the permanent premises; and recommended that the Bureau of the Assembly and the Committee on Budget and Finance remain seized of the matter and report to the fifth session of the Assembly of States Parties on the issue of permanent premises of the Court.<sup>22</sup>

#### *Documentation*

*Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), annex II.

Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1)

Report on the Court Capacity Model (ICC-ASP/5/10\*)

Strategic Plan of the International Criminal Court (ICC-ASP/5/6)

Report on the future permanent premises of the International Criminal Court: Comprehensive progress report (ICC-ASP/5/16)

Report on the governance arrangements for the permanent premises of the International Criminal Court (ICC-ASP/5/17)

Report of the Committee on Budget and Finance on the work of its seventh session (ICC-ASP/5/23 and Corr.1 and Add.1 and Corr.1 (English only))

Report of the Bureau on the permanent premises of the Court (ICC-ASP/5/29)

<sup>21</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), annex III.B, Statement of the representative of the host State at the 3<sup>rd</sup> meeting of the Assembly, on 2 December 2005.

<sup>22</sup> *Ibid.*, part III, resolution ICC-ASP/4/Res.2, paras. 1 to 5.

**(b) Interim premises**

At its resumed fourth session, the Assembly decided that the relevant Bureau mechanism in The Hague should discuss in an open-ended format all issues related to interim premises of the Court, with the immediate aim of submitting a report to the Bureau for its prompt consideration, in consultation with States Parties, and subsequent referral to the Committee on Budget and Finance. The Assembly further decided that the Committee should, at its earliest convenience but not later than its sixth session, advise the Assembly of States Parties as to the feasibility and appropriateness of any solutions regarding interim premises of the Court.<sup>23</sup> At its sixth session, the Committee considered an informal report of the Bureau dealing with three interim housing options, namely:

Option A: Binckhorstlaan

Option B: Prefabricated premises  
Sub-option i) Saturnusstraat  
Sub-option ii) Wegastraat

Option C: Leidschendam

In its informal report, the Bureau recommended the endorsement of option B (the prefabricated option), a recommendation which was endorsed by the Committee on Budget and Finance at its sixth session.<sup>24</sup>

*Documentation*

Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1)

Report of the Committee on Budget and Finance on the work of its seventh session (ICC-ASP/5/23 and Corr.1 and Add.1 and Corr.1 (English only))

**19. Staffing estimation and Strategic Plan of the Court**

At its fourth session the Assembly, inter alia, invited the Court to complete its staffing estimation and strategy planning well before the next session of the Assembly.<sup>25</sup>

Also at its fourth session, the Assembly, recognizing the importance for the Court to engage communities in situations under investigation in a process of constructive interaction with the Court, requested the Court to present a detailed strategic plan, including performance indicators, in relation to its outreach activities for consideration by the Committee on Budget and Finance and by the Assembly of States Parties, to enable it to consider this important issue in detail.<sup>26</sup>

At the same session, the Assembly also noted the particular importance of communications in respect of field operations and their often high cost, but concluded that costs in the Information and Communication Technologies Section had grown rapidly and should be reduced in line with the recommendations of the Committee on Budget and

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<sup>23</sup> *Official Records Assembly of States Parties to the Rome Statute of the International Criminal Court, Resumed fourth session, New York, 26-27 January 2006* (International Criminal Court publication, ICC-ASP/4/37), part II, resolution ICC-ASP/4/Res.12, paras. 2 and 3.

<sup>24</sup> Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1), paras. 46 to 53.

<sup>25</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part III, resolution ICC-ASP/4/Res.2, para. 4.

<sup>26</sup> *Ibid.*, part III, resolution ICC-ASP/4/Res.4, para. 22 and part II, B.2., para. 30.

Finance. The Assembly further endorsed the recommendation of the External Auditor and the Committee on Budget and Finance that the Court should develop an Information and Communication Technologies (ICT) strategy closely aligned to its core business objectives. The Assembly proposed that the Committee should examine this strategy in order to allow further consideration of ICT requirements at the fifth session of the Assembly.<sup>27</sup>

Finally, at the same session, the Assembly, reviewing the recommendations of the External Auditor and of the Committee on Budget and Finance contained in paragraph 24 of the report on the work of the Committee's fifth session<sup>28</sup> with respect to linking the budget to the Court's strategic goals, agreed with the recommendations, requested the Court to use the forthcoming Strategic Plan as the starting point for future budget planning, welcomed the Court's decision to develop a Court Capacity Model and looked forward to future consideration of the Model by States Parties.<sup>29</sup>

#### *Documentation*

Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1)

Strategic Plan of the International Criminal Court (ICC-ASP/5/6)

Report on the strategy of the Court on Information and Communication Technologies (ICC-ASP/5/7)

Report on the Court Capacity Model (ICC-ASP/5/10\*)

Strategic Plan for Outreach of the International Criminal Court (ICC-ASP/5/12)

Report of the Committee on Budget and Finance on the work of its seventh session (ICC-ASP/5/23 and Corr.1 and Add.1 and Corr.1 (English only))

Report of the Bureau on the strategic planning process of the International Criminal Court (ICC-ASP/5/30 and Corr.1 (English only))

#### **20. Decisions concerning the dates and venue of the next session of the Assembly of States Parties**

In accordance with rule 5 of the Rules of Procedure, the date of commencement and the duration of each session of the Assembly shall be decided by the Assembly at its previous session.

#### **21. Decisions concerning dates and venue of the next session of the Committee on Budget and Finance**

In accordance with paragraph 4 of the annex to resolution ICC-ASP/1/Res.4, the Committee shall meet when required and at least once per year. At its seventh session, the Committee decided to recommend to the Assembly that its eighth session be held in The Hague from 23 to 26 April 2007 and that its ninth session be held, tentatively, from 8 to 12 October 2007, the latter dates to be confirmed at the Committee's April session.

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<sup>27</sup> Ibid, part II.B.2., para. 23.

<sup>28</sup> Ibid, part II.B.6(b), para. 24.

<sup>29</sup> Ibid, part II.B.1(c), para. 13.

**22. Other matters**

**(a) Draft headquarters agreement between the International Criminal Court and the host State**

In accordance with article 3, paragraph 2, of the Rome Statute, the Court shall enter into a headquarters agreement with the host State, to be approved by the Assembly of States Parties and thereafter concluded by the President of the Court on its behalf.

At its first session, the Assembly adopted the basic principles governing a headquarters agreement to be negotiated between the Court and the host country.<sup>30</sup>

*Documentation*

Report on the draft headquarters agreement between the International Criminal Court and the host State (ICC-ASP/5/25)

**(b) Conditions of service and compensation for judges - Relocation upon completion of service**

*Documentation*

Amendments to the conditions of service and compensation for judges of the International Criminal Court - Relocation upon completion of service (ICC-ASP/5/14)

**(c) Review Conference**

*Documentation*

Review Conference: scenarios and options – Preliminary paper by Mr. Rolf Einar Fife (ICC-ASP/5/INF.2)

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<sup>30</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (United Nations publication, Sales No. E.03.V.2 and corrigendum), part II.F.