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**Report on the conditions of service and compensation of the
Prosecutor and Deputy Prosecutors: financial costings for pensions***

Introduction

1. In paragraph 60 of its report on the work of its sixth session, dated 4 May 2006 (ICC-ASP/5/1), the Committee on Budget and Finance considered the issue of the conditions of service and compensation of the Prosecutor and Deputy Prosecutors and recommended that the Assembly ensure that appropriate action is taken to determine the conditions of service for the Prosecutor and Deputy Prosecutors under article 49 of the Rome Statute. The Committee noted that there appeared to be at least three appropriate options available to the Assembly. First, the Assembly could decide that the Prosecutor and Deputy Prosecutors should be confirmed at the USG and ASG levels, respectively. Second, the Assembly could apply arrangements comparable to the ad hoc tribunals. And third, the Assembly could adopt the conditions of service proposed by the Court in annex II to the proposal from the Presidency of the International Criminal Court (ICC-ASP/3/12). Should the Assembly adopt the latter option, it would also have to consider the level of remuneration for the Prosecutor and Deputy Prosecutors.

2. In paragraph 63 of the same report, the Committee requested the Registrar to provide it with financial costings for remunerating the Prosecutor and Deputy Prosecutors according to each of the options identified in paragraph 60 in order to assist the Assembly's consideration of the matter.

Costing

3. Tables 1 and 2 show the financial costings of the various options identified by the Committee. The annual salaries shown in options 1 and 2 in table 1 are based on the United Nations salary scale at the dependency rate. The only difference between options 1 and 2 is that in the ad hoc tribunals (option 2) the Deputy Prosecutors are at the D-2 and not the ASG level. The estimated figures depend on whether the United Nations Joint Staff Pension Fund (UNJSPF) will accept retroactive participation in the Fund by the Prosecutor and Deputy Prosecutors.

* Previously issued as ICC-ASP/5/CBF.2/4.

4. Upon being contacted on the matter, the Fund stated its position as follows:
 - “a. The International Criminal Court (ICC) became a UNJSPF member organization effective 1 January 2004. Therefore its staff members with contracts for at least six months have become UNJSPF participants as of 1 January 2004 or the date their ICC employment commenced, whichever was later. There was a special arrangement for retroactive UNJSPF participation for the handful of ICC staff that had ICC employment contracts, without secondment from a UNJSPF member organization, prior to 1 January 2004. The current serving Prosecutors and Deputy Prosecutors, regardless of their precise levels, would have become Fund participants unless they were expressly excluded from such participation under the specific terms of their ICC employment (article 21(a) in the UNJSPF Regulations). Any period where Fund participation was excluded cannot be restored or validated if and when the individual concerned later becomes a UNJSPF participant.
 - b. There is no reason why the employment contracts of the serving Prosecutor and Deputy Prosecutors could not be changed by the ICC administration, with immediate effect, so that they would now become Fund participants with respect to their future ICC service. However, their prior service could not be validated. The only avenue is that ICC might request to the UNJSPF Board, bearing in mind the uncertainties when the organization was being established, that the Pension Fund should correct ICC's administrative decision in having excluded these officials from UNJSPF participation, with the ICC assuming all the additional actuarial costs for the Fund (including the fees of the Fund's Consulting Actuary for performing the required calculations on a case by case basis).”
5. In accordance with paragraph 4.b. and notwithstanding other considerations outside the costings (such as art. 49 of the Rome Statute) or a comparison of the benefits, the Court made a preliminary calculation of the possible costs for the Court if the Prosecutor and Deputy Prosecutors were to join the Fund retroactively. These calculations are only an estimate and do not take into consideration any of the actuarial computations mentioned by the Fund and shown in table 2 below. The table also includes estimates of the costs to the Court for the retroactive accrual of pension benefits for each of the options demonstrated in table 1.

Table 1: Costing for different options for the conditions of service and compensation for the Prosecutor and Deputy Prosecutors (in euros)

	Annual salary	Annual contribution by participant for pension, death and disability coverage	Estimated annual cost to ICC for pension, death and disability coverage
Option 1: Confirmation at USG and ASG levels			
Prosecutor (USG)	146,852 ¹	15,755	31,510
Deputy Prosecutors (ASG)	134,691 ¹	14,562	29,124
Option 2: Parity with ad hoc Tribunals			
Prosecutor (USG)	146,852 ¹	15,755	31,510
Deputy Prosecutors (D2)	119,315 ²	12,934	25,868
Option 3(a): Applying annex II to ICC-ASP/3/12			
	150,000	-	140,000 ³
Prosecutor	135,000	-	110,000 ⁴
Deputy Prosecutors			
Option 3(b): Parity with judges			
Prosecutor	180,000	-	155,560 ⁴
Deputy Prosecutors	135,000	-	110,000 ⁴

¹ Based on the United Nations salary scale at the dependency rate and at United Nations post adjustment and exchange rates for June 2006.

² Based on United Nations salary scale at the D-2 (IV) (mid-point) dependency rate and at the United Nations post adjustment and exchange rates for June 2006.

³ Based on estimated actuarial values from Ernst & Young.

Table 2: Calculation for retroactive participation for the current Prosecutor and Deputy Prosecutors from their date of entry on duty until 31 December 2006 (in euros)

	Total estimated cost for the participant	Total estimated cost for the Court	Total estimated payments to the Fund (for Prosecutor and two Deputy Prosecutors)
Option 1: Confirmation at USG and ASG levels			
Prosecutor (USG)	56,265	112,530	168,795
Deputy Prosecutor I(ASG)	32,075	64,150	96,225
Deputy Prosecutor II (ASG)	46,500	93,000	139,500
Option 2: Parity with ad hoc Tribunals			
Prosecutor (USG)	56,265	112,530	168,795
Deputy Prosecutor I (D-2)	29,700	59,400	89,100
Deputy Prosecutor II (D-2)	39,820	79,640	119,460
Option 3(a): Applying annex II to ICC-ASP/3/12			
Prosecutor	-	470,000	470,000
Deputy Prosecutor I	-	280,000	280,000
Deputy Prosecutor II	-	360,000	360,000
Option 3(b): Parity with judges			
Prosecutor	-	600,000	600,000
Deputy Prosecutor I	-	280,000	280,000
Deputy Prosecutor II	-	360,000	360,000