

**Part II**  
**External audit, programme budget for 2006 and related documents**

## **A. External audit**

1. The Assembly noted with appreciation the reports of the External Auditor, contained in documents ICC-ASP/4/9 and ICC-ASP/4/10, and the related comments of the Committee on Budget and Finance, contained in paragraphs 12 to 14 of the Report of the Committee on Budget and Finance on the work of its fifth session. The Assembly decided to request the Auditor to follow up, as appropriate, the matters identified in paragraphs 13 and 14 of the Report of the Committee on Budget and Finance (the Committee) on the work of its fifth session.

2. The Assembly noted that the Committee endorsed the External Auditor's recommendations, many of which coincided with the Committee's own findings, in particular in the areas of budgetary planning and control, transfers within programmes, accountability arrangements and the establishment of an audit committee with full independence.

3. The Assembly endorsed the recommendation contained in paragraph 20 of the Report of the Committee on Budget and Finance on the work of its fourth session regarding the inclusion of the Trust Fund for Victims and its Secretariat within the scope of the audit arrangements applicable to the Court.

## **B. Programme budget for 2006**

4. The Assembly noted that the recommendations of the Committee on Budget and Finance fell into two broad categories: those of a general nature, applicable to all major programmes, and those of a specific nature, applicable to particular programmes of work.

### **1. Recommendations of a general nature**

#### **(a) Status of contributions**

5. The Assembly endorsed the recommendations contained in paragraph 9 of the Report of the Committee on Budget and Finance on the work of its fourth session.

#### **(b) Transfer of funds within Major Programmes**

6. The Assembly acted on the recommendations of the External Auditor and of the Committee on Budget and Finance, as contained in paragraph 13 of the report on the work of its fifth session, to consider the issue of restricting the transfer of funds within major programmes and between budgeted staff and non-staff appropriations. The Assembly also took note of the arguments made by the Court for retaining operational flexibility within major programmes and the clarification of the recommendations provided by the Chairperson of the Committee on Budget and Finance. The Assembly concluded that, given the relative youth of the Court, and its growing operational role, retaining existing flexibility with regard to transfers within major programmes was justified, provided that mechanisms guaranteeing transparency and accountability continue to be developed and in particular that any significant level of transfers are, as recommended by the Committee on Budget and Finance and the External Auditor, reported in full to the Committee on Budget and Finance and States Parties. The Assembly also concluded that adherence to internal measures of control and scrutiny should be maintained and that due respect should be paid to the Committee on Budget and Finance recommendations as endorsed by the Assembly.

(c) **Presentation of the budget**

7. The Assembly endorsed the recommendations concerning budget presentation contained in paragraph 27 of the Report of the Committee on Budget and Finance on the work of its fifth session. Those recommendations concern, inter alia, better delineation of expected accomplishments and performance indicators, the indication of redeployment of staff and non-staff costs. The Assembly requested the Court to avail itself of these improvements when preparing its forthcoming budget for 2007.

8. The Assembly endorsed the recommendation contained in paragraph 29 of the Report of the Committee on Budget and Finance on the work of its fifth session and recommended, in particular, that the full year costs of new posts, and any other newly authorized expenditure, be included in future budgets. This will provide greater transparency and better information to States Parties about future liabilities.

9. The Assembly encouraged the Court to consider the possibilities for restructuring the budget with a view to a more accurate allocation of costs among the various organs, as recommended by the Committee on Budget and Finance in paragraph 28 of the report on the work of its fifth session.

10. The Assembly also requested the Committee on Budget and Finance - with appropriate expert advice, as necessary - to examine the organizational nature of the Court in order to assess whether the existing structures, and the division of functions between the various organs, deliver optimal efficiency.

11. The Assembly noted that the proposed budget was not sufficiently clear on the numbers of General Temporary Assistance and interns employed at the Court and requested that future budgets provide more detailed information on the total numbers employed and associated costs.

12. The Assembly endorsed the observations contained in paragraph 16 of the Report of the Committee on Budget and Finance on the work of its fifth session, with respect to the importance of the role and independence of the Internal Auditor and encouraged the Court to reinforce that role.

13. The Assembly reviewed the recommendations of the External Auditor and the Committee on Budget and Finance, contained in paragraph 24 of the report on the work of its fifth session, in respect of linking the budget to the Court's strategic goals. The Assembly agreed with these recommendations and requested the Court to use the forthcoming Strategic Plan as the starting point for future budget planning. The Assembly welcomed the Court's decision to develop a Court Capacity Model and looked forward to future consideration of it by States Parties. The Assembly also encouraged the Court to prepare multi-year projections for or within Major Programmes where possible with a view to preparing multi-annual budgets as soon as possible.

**2. Specific recommendations on each of the major programmes**

**Major programme I**

**The Judiciary — the Presidency and Chambers**

14. The Assembly endorsed the recommendations contained in paragraph 35 of the Report of the Committee on Budget and Finance on the work of its fifth session.

**Major programme II  
Office of the Prosecutor**

15. As regards Programmes 2200, 2300 and 2400, the Assembly endorsed the recommendations contained in paragraphs 43, 44 and 45 of the Report of the Committee on Budget and Finance on the work of its fifth session.

16. As regards basic resources travel, the Assembly endorsed the recommendations contained in paragraph 46 of the Report of the Committee on Budget and Finance on the work of its fifth session.

**Major programme III  
Registry**

17. In paragraph 50 of the Report of the Committee on Budget and Finance on the work of its fifth session, the Committee recommended that the total travel budget of the Registry falling under basic resources (i.e. €363,200) be reduced by 30 per cent and requested the Registrar to redistribute the funds according to priorities. The Assembly approved this recommendation.

18. As regards Programme 3100, the Assembly noted the proposal to establish a new post of Deputy Registrar, to assist the Registrar in the management of the Registry. The Assembly agreed to the creation of such a post, and endorsed the view expressed by the Committee on Budget and Finance that the person appointed should be highly skilled in managerial functions. The Assembly also agreed with the proposal, contained in paragraph 51 of the Report of the Committee on Budget and Finance on the work of its fifth session, that the Deputy Registrar should not have a separate office structure, but should be fully integrated into the Immediate Office of the Registrar.

19. Furthermore, the Assembly endorsed the recommendations regarding Programme 3100, as contained in paragraphs 52, 53, 54, 55 and 57 of the Report of the Committee on Budget and Finance on the work of its fifth session.

20. As regards Programme 3200, the Assembly endorsed the recommendations contained in paragraphs 58, 61, 62 and 63 of the Report of the Committee on Budget and Finance on the work of its fifth session.

21. The Assembly took note of the recommendations of the Committee on Budget and Finance, contained in paragraph 59 of the Report on the work of its fifth session, in relation to cuts in the Common Administrative Services Division and the views of the Court in this regard. The Assembly acknowledged the importance of providing adequate support to personnel engaged in field operations, but believed the proposed reductions could be borne by the Registry without negatively impacting on field activities, provided the Registrar was permitted to determine where the reductions should be applied, within the limits of the approved appropriations.

22. Furthermore, the Assembly reviewed the proposed budget for the Information and Communications Technologies Section and took careful account of the comments and recommendations made by the Committee on Budget and Finance in paragraph 62 of the report on the work of its fifth session. The Assembly also took note of the further views expressed by the Court regarding this issue.

23. The Assembly noted the particular importance of communications in respect of field operations, and their often high cost, but concluded that costs in the ICT Section had grown rapidly and should be reduced in line with the recommendations of the Committee on Budget and Finance. The Assembly further endorsed the recommendation of the External Auditor and the Committee on Budget and Finance that the Court develop an ICT strategy closely aligned to its core business objectives. The Assembly proposed that the Committee on Budget and Finance should examine this strategy in order to allow further consideration of ICT requirements at the fifth session of the Assembly.

24. In relation to Programme 3300, the Assembly endorsed the recommendations contained in paragraphs 64 and 65 of the Report of the Committee on Budget and Finance on the work of its fifth session.

25. The Assembly considered the budget proposed for detention. The Assembly noted the disparity between the figures charged for detention by the host State to the International Criminal Tribunal for the former Yugoslavia (ICTY) and the Court, and the recommendations of the Committee on Budget and Finance in this regard, as contained in paragraph 66 of the report on the work of its fifth session.

26. Having heard from the host State and the Court on this issue, the Assembly requested the Court and the host State to continue and intensify their dialogue and further requested the Court to pursue consultations with the ICTY, with a view to agreeing on the most cost-efficient method of providing the detention facilities sought by the Court. The Assembly noted the need for all information on this issue to be made available to States Parties in a transparent manner.

27. The Assembly requested the Court to report to the Committee on Budget and Finance at its sixth session in April 2006 on developments on this matter. The Assembly approved the cut recommended by the Committee on Budget and Finance for 2006.

28. The Assembly noted the interest of a number of delegations in receiving from the Court and the host State detailed information regarding the costs and conditions of detention in the host State, as such information might prove useful in relation to possible detention situations elsewhere.

29. In relation to Programme 3400, the Assembly discussed the issue of outreach and agreed that such activity, particularly in the field, was of primary importance in building support for the Court among States, civil society and the general public, while also contributing to deterrence.

30. Recognizing the need to contain costs, the Assembly accepted the recommendations of the Committee on Budget and Finance, contained in paragraphs 67 and 68 of the report on the work of its fifth session, in this area for 2006, but requested the Registrar to give priority within Major Programme III to ensuring that the outreach activities foreseen for 2006 are accomplished. The Assembly further requested the Court to prepare a detailed strategic plan, including performance indicators, in relation to its outreach activities for consideration by the Committee on Budget and Finance and States Parties, in advance of the fifth session of the Assembly, to enable it to consider this important issue in detail.

31. As regards Programme 3500, the Assembly noted the cuts recommended by the Committee on Budget and Finance to the budget for the Division of Victims and Counsel, contained in paragraph 69 of the report on the work of its fifth session. The Assembly agreed with the Committee on Budget and Finance that the amount budgeted by the Court was possibly based on overly ambitious targets for 2006, and therefore a cut of 10 per cent

was justified. The Assembly emphasized the importance of providing sufficient funds to enable a high level of support and protection to victims as trials commence and noted that the Court might need to avail itself of the Contingency Fund should court proceedings progress more quickly than projected.

32. As regards Programme 3600, the Assembly endorsed the recommendations contained in paragraph 70 of the Report of the Committee on Budget and Finance on the work of its fifth session.

#### **Major programme IV Secretariat of the Assembly of States Parties**

33. The Assembly endorsed the recommendation contained in paragraph 75 of the Report of the Committee on Budget and Finance on the work of its fifth session. Furthermore, the Assembly was informed that the programme budget implications of the resolution entitled “Strengthening the International Criminal Court and the Assembly of States Parties” (Resolution ICC-ASP/4/Res.4; see part III of this report) amount to €250,000. These budgetary implications were incorporated into the respective resolution under Major Programme IV (Resolution ICC-ASP/4/Res.8; see part III of this report).

#### **Major programme V Investment in the Court’s Premises**

34. The Assembly endorsed the recommendation contained in paragraph 79 of the Report of the Committee on Budget and Finance on the work of its fifth session regarding the proposed programme budget for 2006.<sup>1</sup>

35. The Assembly discussed the issue of the Court’s interim premises, and noted that there was no capacity at the Court’s current premises to accommodate the expected growth in staff numbers. The Assembly noted that the intended move to the ‘B’ wing of the Arc building was not now possible, and that the host State was urgently seeking to find alternative suitable secure premises for the additional staff.

36. The Assembly heard from the Court that no provision in the budget had been made for the extra costs likely to arise from the envisaged bi-location. The Assembly also heard that, to date, only one potential premises had been identified by the host State and presented to the Court, and that no assessment of likely additional costs in respect of that building are yet available. Additional costs are expected to arise in the areas of staffing for general services, information technology and security.

37. The Assembly requested the host State and the Court to continue to work urgently towards a solution to this issue; to quantify the additional costs involved; to quantify what if any element of these could require to be met from the Court’s budget; and to report as soon as possible in this regard to the Committee on Budget and Finance for its assessment. States Parties will await the report of the Committee on Budget and Finance in this regard as a matter of urgency.

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<sup>1</sup> In relation to the request for authorization to transfer funds from Major Programme III to Major Programme V during 2005, a point on which the Committee expressed itself favourably in paragraph 79 of its report, see paragraph 48 and resolution ICC-ASP/4/Res.11 in part III of this report.

### 3. Other matters

#### (a) Long-term budgetary consequences of the pension scheme regulations for judges<sup>2</sup>

38. The Assembly considered the issue of the pension scheme for judges, based on paragraphs 90 to 99 of the report of the Committee on Budget and Finance on the work of its fifth session. Following constructive discussion, the following issues in relation to pensions were agreed:

- (i) The Assembly concurred with the Committee on Budget and Finance recommendation that the pension scheme for judges be funded on an accruals basis.
- (ii) The Assembly also agreed with the Committee on Budget and Finance recommendation that the pension fund be managed externally. The Assembly requested the Court to report to the Committee on Budget and Finance 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.
- (iii) The Assembly considered that the terms applicable to currently serving judges should apply provisionally to the judges elected in 2006. The Assembly, in light of the observation made by the Committee on Budget and Finance in paragraph 98 of the report on the work of its fifth session, also decided to refer the issue of the pension terms applicable to judges to the Committee on Budget and Finance for consideration and report – having regard to the aforesaid paragraph and 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 the judges.
- (iv) The Assembly 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.
- (v) The Assembly decided that unspent monies, up to a total amount of €8 million, from the 2005 budget be applied to meet the estimated costs of the accrual of pension liabilities from 2003 to 31 December 2006.

#### (b) Consideration of the proposal regarding the conditions of service and compensation of the Prosecutor and Deputy Prosecutors

39. The Assembly endorsed the request contained in paragraph 100 of the Report of the Committee on Budget and Finance on the work of its fifth session, for the Court to prepare costed options for the pension provision (and other conditions of service) for the Prosecutor and Deputy Prosecutors at its next session.

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<sup>2</sup> Resolution ICC-ASP/4/Res.9 in part III of this report.

**(c) Establishment of a New York Liaison Office**

40. The Assembly noted that the establishment of a New York Liaison Office would have ensuing programme budget implications amounting to €339,500. These budgetary implications were incorporated into the respective resolution, under Major Programme I (Resolution ICC-ASP/4/Res.8; see part III of this report).

**(d) Code of Professional Conduct for counsel**

41. Furthermore, the Assembly noted that the adoption of the draft Code of Professional Conduct for counsel could have ensuing programme budget implications amounting to €60,300. These budgetary implications were incorporated into the respective resolution, under Major Programme III (Resolution ICC-ASP/4/Res.8; see part III of this report).

**(e) Amendments to the Financial Regulations and Rules**

42. The Assembly adopted the amendments proposed by the Court in the document entitled “Report on changes to the Financial Regulations and Rules as a result of the establishment of the Contingency Fund pursuant to paragraph 2 of resolution ICC-ASP/3/Res.4” (ICC-ASP/4/7; see part III of this report), as recommended by the Committee in paragraph 109 of the report on the work of its fifth session (Resolution ICC-ASP/4/Res.10; see part III of this report).

**(f) Transfer of funds from Major Programme III to Major Programme V under the 2005 programme budget**

43. The Assembly noted the Court’s decision to proceed with construction of the second court room during 2005, despite the lack of available funds in Major Programme V. The Assembly concluded that the Court had been correct to proceed with the necessary work, as cost savings were made as a result. The Assembly approved the recommendation, contained in paragraph 79 of the Report of the Committee on Budget and Finance on the work of its fifth session, regarding the transfer of unspent Registry funds totalling €800,000 from Major Programme III to Major Programme V, under the 2005 programme budget, to account for this work (Resolution ICC-ASP/4/Res.11; see part III of this report).

**(g) Appointment of the External Auditor for the quadrennium 2007-2010**

44. 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.

45. 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.



#### 4. Resolutions

46. At its 4<sup>th</sup> meeting, on 3 December 2005, the Assembly adopted by consensus the following resolutions related to budgetary matters (For the text of these resolutions, see part III of the present report):

- resolution ICC-ASP/4/Res.8, entitled “Programme budget for 2006, the Working Capital Fund for 2006, scale of assessments for the apportionment of expenses of the International Criminal Court and financing appropriations for the year 2006”;
- resolution ICC-ASP/4/Res.9, entitled “Pension scheme for judges”;
- resolution ICC-ASP/4/Res.10, entitled “Amendments to the Financial Regulations and Rules”; and
- resolution ICC-ASP/4/Res.11, entitled “Transfer of funds from Major Programme III to Major Programme V under the 2005 programme budget”.