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18-26 November 2009**Report of the Court on its salary framework*****A. Introduction**

1. The International Criminal Court (hereinafter “the Court”) presented verbally to the Committee on Budget and Finance (hereinafter “the Committee”) at its twelfth session, the budget assumptions for 2010 and the main challenges regarding its preparation.¹ The Committee was informed by the Court that, in 2008, the United Nations salary scale had increased the salaries of General Service staff by 4.9 per cent and increased the post adjustment amount by 6.25 per cent for Professional staff. Moreover, the Court informed the Committee that this increase was automatically processed into the Court’s salaries and would represent an additional €2.6 million in the 2010 budget. The Court further informed the Committee of the reasons for the salary increases in the 2010 budget.²

2. In light of the current global financial crisis and the current conditions of service within the Court, the Committee recommended that the Court review the framework for providing such salary increases and report to the Committee at its next session. The Committee further reiterated its challenge to the Court to finance new activities from efficiency savings.

3. In the present report, the Court undertakes the requested review and provides an overview of its existing salary framework. This framework applies to all staff appointed by the Court at the Professional and General Service levels.

B. Principles governing the salary and pension framework of the Court

4. The current framework for salary scales and pensions for staff members in the General Service and Professional categories of the Court follows the United Nations common system standards. This structure is based on recommendations made by the Preparatory Commission for the International Criminal Court (hereinafter “the Preparatory Commission”) and decisions adopted by the Assembly of States Parties (hereinafter “the Assembly”) at its first and second sessions. These recommendations and decisions may be summarized as follows:

* Previously issued as ICC-ASP/8/CBF.2/9.

¹ Report of the Committee on Budget and Finance on the work of its twelfth session (ICC-ASP/8/5), paragraphs 24 to 25.

² Ibid., paragraph 29.

Salary structure

5. In the course of establishing the framework for the Court, the Preparatory Commission held an intersessional meeting on administrative matters in The Hague from 11 to 15 March 2002. During this meeting, the Commission discussed inter alia the framework for the staff of the Court. In its report of 21 March 2002,³ the Preparatory Commission indicated that the Staff Regulations of the United Nations did not differ from staff regulations of other international organizations, and that they could therefore be applied to the Court. The recommendation to apply the United Nations common system to the staff of the Court and to join the United Nations Joint Staff Pension Fund (UNJSPF) was later endorsed by the Commission at its session from 1 to 12 July 2002, and a draft decision for consideration by the Assembly was prepared.⁴

6. At its first session, the Assembly established the minimum staffing structure needed in the different organs of the Court, namely the Presidency, the Office of the Prosecutor and the Registry. The staffing requirements mentioned for each of these Major Programmes make specific references to positions and levels used in the United Nations common system, both for Professional and General Service categories.⁵ The United Nations common system represents the application of common standards, methods and arrangements to salaries, allowances and benefits for the staff of the wider United Nations family. This system avoids serious discrepancies in terms and conditions of employment among international organizations and competition in recruitment of personnel, as well as facilitating the interchange of personnel among such organizations. The conditions of service of staff in the United Nations common system is regulated and coordinated by the International Civil Service Commission (ICSC).⁶

7. Article 44, paragraph 3, of the Rome Statute provides that the Registrar, with the agreement of the Presidency and the Prosecutor, shall propose Staff Regulations which include the terms and conditions upon which the staff of the Court shall be appointed, remunerated and dismissed. The Staff Regulations shall be approved by the Assembly. In resolution ICC-ASP/2/Res.2, adopted at the 5th plenary meeting of its second session, the Assembly approved the Staff Regulations for the International Criminal Court, which are contained in the annex to that resolution.⁷

³ Report of the Preparatory Commission for the International Criminal Court, New York, PCNICC/2002/INF/2, paragraph 16.

⁴ Report of the Preparatory Commission for the International Criminal Court, New York, PCNICC/2002/2 annex VIII.

⁵ *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), part III, paragraphs 42, 55-57, 59-68, 75-76, 79-82, 84, 88, 90-91, 93, 95-96, 98, 101-102, 104-106, 108-110, 112-113, 115.

⁶ The ICSC is an independent expert body established by the United Nations General Assembly. Its mandate is to regulate and coordinate the conditions of service of staff in the United Nations common system, while promoting and maintaining high standards in the international civil service.

⁷ *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 IV, ICC-ASP/2/Res.2, annex.

8. The Staff Regulations for the Court embody the fundamental conditions of service and the basic rights and obligations of the staff of the Court. The Staff Regulations for the Court include the following provisions:

- a) Regulation 2.1⁸ establishes that, in conformity with principles laid down by the Assembly, the Registrar, in consultation with the Prosecutor, shall make appropriate provision for the classification of posts according to the nature of the duties and responsibilities required and in conformity with the United Nations common system of salaries, allowances and benefits (the United Nations common system standards).
- b) Regulation 3.1⁹ establishes that salaries and allowances of staff members of the Court shall be fixed by the Registrar, in consultation with the Prosecutor, and shall be in conformity with the United Nations common system standards.

9. The Staff Rules of the International Criminal Court¹⁰ shall apply to staff members of the Court holding a fixed-term appointment. Staff members holding a short-term appointment shall be governed by separate rules drawn up by the Registrar, with the agreement of the Presidency and the Prosecutor. The Staff Rules of the Court include the following provisions:

- a) Rule 103.1¹¹ establishes that each category of staff shall be composed of grades denoting the job level. Each grade shall be divided into steps representing salary increments.
- b) Rule 103.2¹² establishes that the salary scales for staff members in the General Service category at each duty station of the Court shall set out for each grade and step the salary of such staff members, in conformity with the United Nations common system standards.
- c) Rule 103.3¹³ provides that:

“(a) The salary of staff members in the Professional and higher categories shall comprise a base salary and a post adjustment.

Base salary

(b) The salary scales for staff members in the Professional and higher categories shall set out the base salary at the single and dependency rates for each grade and step, in conformity with the United Nations common system standards.

(c) A staff member shall be entitled to the single rate if he or she does not have a dependent spouse or a dependent child as defined in staff rule 103.17 paragraphs (a) (iii) and (a) (iv) respectively. A staff member shall be entitled to the dependency rate if he or she has a dependent spouse or a dependent child, except if both spouses are staff members in the Professional and higher categories within organizations applying the United Nations common system standards, and they have one or more dependent children, the dependency rate shall apply to the spouse having the higher base salary only.

⁸ Ibid., article II.

⁹ Ibid., article III.

¹⁰ ICC/AI/2005/003, annex.

¹¹ Ibid., chapter III.

¹² Ibid.

¹³ Ibid.

Post adjustment

(d) The base salary of staff members in the Professional and higher categories at each duty station of the Court shall be adjusted by the relevant post adjustment multiplier in conformity with the United Nations common system standards.”

d) Rule 103.4¹⁴ establishes that the gross pensionable salary for staff members in the General Service category and in the Professional and higher categories shall be determined in conformity with the United Nations common system standards.

e) Rule 104.1¹⁵ provides as follows:

“(a) Subject to the conditions specified in paragraph (c), the employment contract between the staff member and the Court shall be concluded by an offer of appointment signed by the Registrar or the Prosecutor, as appropriate, or by an official in the name of the Registrar or the Prosecutor, and receipt by the Court of written acceptance.

(b) The offer of appointment shall specify:

(...)

(ii) The duty station, the function, category, grade, step and starting rate of salary in accordance with the applicable salary scales, in conformity with the United Nations common system standards;

(...)

(v) That the appointment shall be governed by the provisions of the Staff Regulations and Rules and any subsequent amendments thereto.”

f) Rule 104.2¹⁶ provides as follows:

“(a) The letter of appointment shall specify:

(...)

(ii) The duty station, the function, category, grade, step and starting rate of salary in accordance with the applicable salary scales, in conformity with the United Nations common system standards;

(...)

(vi) That the appointment shall be governed by the provisions of the Staff Regulations and Rules and any subsequent amendments thereto.”

10. All offers of appointment made by the Court to Professional staff indicate that the salary shown in the offer is based on the salary scale established by the ICSC. Furthermore, all offers of appointment, as well as the letters of appointment, make a direct reference to the Staff Regulations and Rules, which, as mentioned above, clearly state that the United Nations common system of salaries, allowances and benefits is applied by the Court, making staff entitled to the salaries promulgated by the ICSC.

¹⁴ Ibid.

¹⁵ Ibid., chapter IV.

¹⁶ Ibid.

Pension fund

11. In its decision ICC-ASP/1/Decision 3,¹⁷ adopted at the 3rd plenary meeting of its first session, the Assembly recommended that the Court should participate in the UNJSPF in accordance with the latter's Regulations. In that same decision the Assembly further requested that the necessary steps be taken in order for the Court to apply for membership in the UNJSPF. This decision was adopted as a way of enabling the Court to recruit and retain the best qualified personnel.

12. In its report PCNICC/2002/INF/2,¹⁸ of 24 July 2002, the Preparatory Commission pointed out the advantages of joining the UNJSPF. The Regulations, Rules and Pension Adjustment System of the UNJSPF (article 3, paragraph b) provide that membership in the Fund shall be open to any international, intergovernmental organization which participates in the common system of salaries, allowances and other conditions of service of the United Nations and the specialized agencies.

13. Rule 106.1¹⁹ of the Staff Rules for the Court provides that all staff members shall participate in the UNJSPF according to their eligibility under the Regulations of the Fund, unless their participation is exceptionally excluded by the terms of their appointment.

14. Regulation 3.2²⁰ of the Staff Regulations for the Court provides that the Registrar, in consultation with the Prosecutor, shall establish the applicable gross pensionable salary scales for the General Service category of staff of the Court as well as the scale of pensionable remuneration for staff of the Court in the Professional and higher categories, in conformity with United Nations common system standards.

15. Regulation 6.1 (a)²¹ establishes that provision shall be made for the participation of staff members in the UNJSPF in accordance with the regulations of that Fund.

C. Conclusions

16. The current framework for the salary and pension structure for staff in the General Service and Professional categories of the Court is in conformity with the United Nations common system standards. This framework was adopted in accordance with the recommendations of the Preparatory Commission and the decisions adopted by the Assembly at its first and second sessions.

17. The conditions of service of the staff are contained in the Staff Regulations and Rules. The Staff Regulations state that salaries and allowances of staff members of the Court shall be in conformity with the United Nations common system standards. These Staff Regulations for the Court were approved by the Assembly at its second session, in resolution ICC-ASP/2/Res.2.

¹⁷ *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), part IV, Decisions, ICC-ASP/1/Decision 3.

¹⁸ Report of the Preparatory Commission for the International Criminal Court, New York, 1-12 July 2002, PCNICC/2002/INF/2, para. 39.

¹⁹ ICC/AI/2005/003, annex, chapter VI.

²⁰ *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 IV, ICC-ASP/2/Res.2, annex, article III.

²¹ *Ibid.*, article VI.

18. All terms and conditions of employment for staff in the General Service and Professional categories of the Court are subject to the aforesaid Regulations and Rules. As such, within the existing framework, salaries and allowances of staff members of the Court must be in conformity with the United Nations common system standards.

19. As provided by article 3, paragraph b, of the Regulations, Rules and Pension Adjustment System of the UNJSPF, membership in the Fund shall be open to any international, intergovernmental organization which participates in the common system of salaries, allowances and other conditions of service of the United Nations and the specialized agencies. Therefore, as a member organization of the UNJSPF, the Court is bound to participate in the United Nations common system of salaries, allowances and other conditions of service of the United Nations.