

**Part II**  
**External audit, internal audit, programme budget for 2008 and related documents**

## **A. External audit**

1. The Assembly noted with appreciation the reports of the External Auditor<sup>1</sup> and the related comments of the Committee on Budget and Finance contained in paragraphs 16 to 18 of the report of the Committee on the work of its ninth session. The Assembly endorsed the Committee's recommendation that it should approve the recommendations contained in the external audit reports and that the Court should ensure their full implementation.

The Assembly endorsed the recommendations contained in paragraph 17 of the report of the Committee on the work of its ninth session regarding the provision to field offices with an increase in the delegated procurement authority and petty cash threshold.

## **B. Internal audit**

2. The Assembly took note of the report of the Office of Internal Audit on the activities of the Office,<sup>2</sup> and noted further that the Committee had considered the report and discussed the specific findings and recommendations with the Acting Head of Audit and the Court officials.

## **C. Other audit matters**

3. The Assembly endorsed the recommendations contained in paragraph 22 of the report of the Committee on the work of its ninth session relating to the roles of the Internal Auditor and the External Auditor and to the approval by the Audit Committee of the annual programme of work of the Office of Internal Audit, and in paragraph 23 relating to the annual reporting by the Audit Committee to the Committee on Budget and Finance. The Assembly noted that the Committee had decided to revert to this issue at its next session, and supported the Committee's requests to the Court to prepare a report looking holistically at the progress in developing audit and governance arrangements across the Court.

4. Nonetheless, the Assembly recommended that the Registry submit annually to the Assembly of States Parties a report summarizing the main activities undertaken by the Office of the Internal Auditor, to include the most relevant conclusions of its report and such guidance and recommendations that have been adopted. The report should also advise on the implementation rate of the above-mentioned guidance and recommendations. For this purpose, the Registrar shall take such appropriate steps, as necessary, to ensure access at the Court to the information contained in any particular report prepared by the Office of the Internal Auditor to any State Party if so requested, and in so doing, take appropriate measures to safeguard confidential or personal information.

5. Further, the Assembly recommended that Internal Control regulations be drafted specifying the audit procedures concerning, in particular, competence to order audit activities, types of reports and follow-up to the execution of the recommendations and instructions.

6. The Assembly recommended that the Internal Auditor should report annually and on an ad hoc basis, where appropriate, to the Committee through the Chair of the Audit Committee, and that the Committee would refer any matters to the Assembly that require its attention. The Assembly noted that the process recommended by the Committee would require amendment of the Financial Regulations and Rules and decided to amend rule 110.1 accordingly.

7. The External Auditor provided information on best practices and governance in international organizations concerning an independent Audit Committee.

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<sup>1</sup> Financial statements for the period 1 January to 31 December 2006 (ICC-ASP/6/5) and Trust Fund for Victims statements for the period 1 January to 31 December 2006 (ICC-ASP/6/6).

<sup>2</sup> ICC-ASP/6/7.

## **D. Exchange of views on general matters relating to the budget**

8. The Assembly considered matters relating to the presentation and preparation of the budget, and welcomed the improvements in the presentation of the budget.

9. While it was noted that there were specific issues that would require further consideration, the Assembly supported the recommendations contained in the reports of the Committee on the work of its eighth and ninth sessions, which were adopted as a package. Consequently, the Assembly supported the Committee's proposed reduction of the overall budget proposed by the Court.

10. The Assembly expressed concern at the low implementation rate of the 2007 budget and welcomed the efforts being undertaken by the Court in this regard. It noted that the budget proposed for 2008 was an increase of 9.8 per cent over the 2007 budget. The Assembly noted, further, that a more realistic and appropriate baseline to be followed to allow for a sound comparison between financial years should be the implementation rate and not the approved budget, and that the budget revised by the Committee would still be an increase of 18 per cent compared to the actual expenditure projected for 2007. It was noted that the Court, in consultation with the Committee, should undertake further measures to improve budget implementation. The Assembly requested the Court to use the implementation rate as the baseline in its preparation of the 2009 budget.

11. The Assembly considered that the flexibility afforded the Court to transfer funds within major programmes was adequate to address any difficulties resulting from the proposed reduction of the proposed budget for 2008, and that this flexibility should be retained.

12. The Assembly noted the high vacancy rate and the frequent use of general temporary assistance (GTA) to fill established posts, and that, given the low rate of recruitment for established posts, the real need for these posts should be reviewed before new posts were considered.

## **E. Consideration of the proposed programme budget of the Court for 2008**

### **1. Recommendations of the Committee on Budget and Finance of a general nature**

#### **(a) Presentation**

13. The Assembly welcomed the efforts of the Court to improve the presentation of the budget. The Assembly agreed that the format of the proposed 2008 budget should be used for the 2009 budget, and agreed, further, that the link between the Strategic Plan and the budget should be better developed, as well as that the Court should continue to improve the justification of non-recurrent resources and to ensure a clear delineation between proposed new resources and current resources.

14. The Assembly endorsed the recommendation of the Committee contained in paragraph 33 of the report of the Committee on the work of its ninth session that the Court should develop an implementation plan to address difficulties in results-based budgeting and inculcate them in the culture of the Court.

#### **(b) Common system costs/inflation**

15. The Assembly agreed that, in relation to common system costs, the Court's calculation of staff costs in the proposed budget for 2008 was justified.

**(c) Recruitment delays and vacancy rates**

16. The Assembly shared the concerns of the Committee on the recruitment delays and the vacancy rates and endorsed the recommendations of the Committee contained in paragraph 49 of its report in respect of the urgent and strong action to address the high vacancy rate and to increase its overall recruitment capacity. The Assembly also endorsed the recommendation of the Committee contained in paragraph 50 of its report that the vacancy rates for approved posts in the budget should be adjusted to a level commensurate with the likely rate of appointment of additional staff. Further, the Assembly agreed with the Committee's recommendation contained in paragraph 51 of its report that the vacancy rate should be adjusted to 18 per cent for all existing posts and 50 per cent for all new posts which the Assembly may approve for 2008. The Assembly also endorsed the Committee's recommendation regarding the distribution of the adjustment for each major programme to the vacancy rate. If problems would arise for the small major programmes as a result of the application of this rate across the board, it was understood that the Court could, if necessary, revert with proposals for transfers between major programmes to be approved by the next session of the Assembly.

17. The Assembly concurred with the recommendation of the Committee contained in paragraph 52 of its report regarding the abolition in the proposed programme budget for 2009 of established posts that were no longer required.

**(d) Major new requirements**

18. The Assembly endorsed the recommendation contained in paragraph 53 of the report of the Committee that, with respect to proposed additional resources in the areas of victims and witnesses, field infrastructure, security and legal aid, the Court should provide cross-references to the relevant programmes in the next budget proposal to allow easy reference between the overview and the specifics in the budget.

**(e) Pension scheme for judges**

19. The Assembly endorsed the recommendation of the Committee contained in paragraph 100 of its report that the pension scheme for judges be amended, and accordingly adopted the draft amendments to the Pension Scheme Regulations for judges as contained in the report of the Court on the pension scheme for judges,<sup>3</sup> with entry into force as of the sixth session of the Assembly. In accordance with the decision of the Assembly at its second plenary meeting, these amendments thus apply to the judges elected at the sixth session.

**(f) Classifications/Reclassifications**

20. The Assembly noted that the Committee had approved the classification or reclassification of a total of 20 positions, covering 39 individual posts at its eighth session, and two positions covering three individual posts at its ninth session, in line with its decision at its fifth session.<sup>4</sup> The Assembly decided to grant the Court the flexibility to reclassify General Service posts where there is a need to do so, to report future reclassifications through the proposed programme budget, and to report annually to the Assembly on the programme budget implications thereof.

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<sup>3</sup> ICC-ASP/6/12, annex III, Corr.1 (English only), Corr. 2 and Add.1.

<sup>4</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November to 1 December 2006* (International Criminal Court publication, ICC-ASP/5/32), part II.D.1(c), para. 23.

**(g) Detention costs**

21. The Assembly approved the recommendation of the Committee contained in paragraph 103 of its report that the Assembly approve the payment to the host State of the outstanding debt of €391,056 for detention facilities from 2006 from financial appropriations in 2007.

**2. Specific recommendations of the Committee on Budget and Finance on major programmes**

22. The Assembly endorsed the recommendations of the Committee contained in the report on the work of its ninth session in respect of the major programmes of the Court.

**(a) Major programme I: Judiciary**

23. The Assembly endorsed the recommendation of the Committee contained in paragraph 55 of its report that the resources proposed for programmes 1100 and 1200 were reasonable and therefore should be approved.

24. The Assembly also agreed that consultancy funds should not be automatically rolled forward each year and that a reduction in proposed resources should not be regarded as “savings”.

**(b) Major programme II: Office of the Prosecutor**

25. The Assembly endorsed the recommendation of the Committee contained in paragraph 59 of its report that the resources proposed for the Office of the Prosecutor were reasonable and should therefore be approved.

26. The Assembly also agreed that the post of Deputy Prosecutor should be budgeted at zero cost for 2008 since the Prosecutor had not proposed the appointment of a new Deputy Prosecutor at the sixth session of the Assembly.

**(c) Major programme III: Registry**

**(i) Security**

27. The Assembly noted the comments of the Committee on security measures implemented at the premises of the Court, including the Committee’s request that the Court continue to review and determine security requirements on the basis of expert assessments of the threats and risks facing the Court, bearing in mind the need to use resources efficiently.

**(ii) Family visits of indigent detainees**

28. The Assembly noted that it was generally agreed that this was an issue that required careful further study and discussion. It was noted that there was no international jurisprudence in this particular field. The Assembly noted that some delegations felt that any policies established could set undesired precedents and, inter alia, also have implications for States entering into agreements with the Court on the enforcement of sentences; that a number of delegations had stressed the importance of the humanitarian considerations of this question; and that some had noted that other international organizations or bodies have a specific mandate in this field.

29. The Assembly took note of the comment of the Committee in paragraph 67 of its report, and in order to follow its recommendation in the same paragraph, bearing in mind the absence of a policy decision by the Assembly on this matter, invited the Court to prepare a report as stated in paragraph 14 of resolution ICC-ASP/6/Res.2, so as to provide it with the tools to take the best

informed decision at its seventh session. The Assembly entrusted the Bureau to remain seized of the matter.

**(iii) Interpretation and translation costs**

30. The Assembly noted that a number of delegations had stressed the importance of well-functioning translation services. With respect to the recommendations by the Committee contained in paragraphs 68 to 70 of the report on the work of its ninth session, the Assembly endorsed the recommendation of the Committee that the Court consider distributing costs for interpretation and translation work to relevant areas in the proposed programme budget for 2009 and ensure that managers are accountable for the expenditure of such funds.

31. Further, the Assembly agreed with the recommendation of the Committee that options for outsourcing work should be explored with the aim of finding lower cost providers, particularly for less sensitive work, but thought that a report to the Committee should also address the general issue of managing and providing translation services to full satisfaction and taking into account the requirements of quality, efficiency, confidentiality and security.

32. The Assembly endorsed the recommendation of the Committee, contained in paragraph 69 of the report on the work of its ninth session, that a proposed increase of GTA by €59,300 not be approved, decided to approve the proposal of the Court concerning subprogramme 3340 (Court Interpretation and Translation Section) and invited the Court to find the necessary budgetary means for this purpose within the approved budget of major programme III.

**(iv) Legal aid**

33. The Assembly noted the views expressed by the Committee in paragraphs 72 to 74 of its report in respect of the legal aid scheme created by the Court, and endorsed the view of the Committee that the proposed increase in contractual services for legal aid and the GTA P-4 Counsel should not be approved and that these requirements should be met from existing resources. The Assembly nevertheless stressed the importance of providing adequate legal aid in situations of indigence to ensure fair trials, as well as the need to keep this issue under constant review. It noted that a number of delegations would have been ready to grant more resources for this purpose. It was pointed out that costs for legal aid related to a second trial could, if necessary, be covered by the contingency fund.

**(d) Major programme IV: Secretariat of the Assembly of States Parties**

34. The Assembly endorsed the recommendation contained in paragraph 76 of the Committee's report that a new post of Finance and Administration Officer be approved, to be budgeted at the P-4 level, and that the cost be offset by eliminating the vacant post of GS-PL Finance Assistant at the G-6 level.

**(e) Major programme V: Investment in the Court's Premises**

35. The Assembly noted the view of the Committee set out in paragraphs 77 and 78 of its report on the minimal utilization of programme 5100 (Interim premises) that the Court had used only 7.1 per cent of the budget, and was unlikely to require a large proportion of the nearly €2.5 million proposed for interim premises, and accordingly, in light of the declaration of the host State, endorsed the recommendation of the Committee contained in paragraph 79 of its report that the programme should be terminated and that the items recommended for approval by the Committee should be integrated into the appropriate areas of the Registry.

36. The Assembly endorsed the recommendation of the Committee in respect of programme 5200 (Permanent premises) that the two proposed posts of P-4 Construction Officer and P-3 Project

Auditor should not be approved, but that a continuation of the contractual services should be allowed in order to give the Project Office capacity to source specialist assistance where needed. The Assembly also endorsed the Committee's recommendation that the programme should be integrated in the budget for major programme III.

**(f) Major programme VI: Secretariat of the Trust Fund for Victims**

37. The Assembly decided to endorse the recommendation of the Committee contained in paragraph 82 of its report and thereby approved the funds proposed for 2008, including the P-3 Field Programme Officer to be based in Kampala, Uganda, and that the cost should be offset by eliminating the post of P-2 Associate Legal Officer as proposed in the budget. It noted that a number of delegations had highlighted the importance of the work undertaken by the Secretariat of the Trust Fund for Victims and the need to grant adequate resources for this work.

**3. Recommendations on other matters**

**(a) Premises of the Court**

38. The Assembly took note of the recommendations of the Committee on the permanent premises of the Court contained in the report on the work of its ninth session, and decided to establish a major programme VII to cover the office of the Project Director. The Assembly further decided, on an exceptional basis, that the Project Director's Office be funded from resources additional to those recommended by the Committee.

39. The Assembly endorsed the recommendation of the Committee contained in paragraph 96 of the report on the work of its ninth session that a major programme VII be established. The Assembly recommended, as an extraordinary measure, that the sum of €208,500 for major programme VII be added to the budget of the Court for 2008.

**(b) Future budget improvements**

40. The Assembly endorsed the recommendation of the Committee contained in paragraph 86 of its report regarding the indication of the level of future year commitments where investment programmes exceed one financial year.

41. Regarding the transfer of funds of €200,000 or more between sub-programmes, the Assembly endorsed the recommendation of the Committee that such transfers should be reported to the Chair of the Committee at the time they take place, and then reported in the annual performance report. The Assembly further endorsed the Committee's recommendation that, for the time being, transfers of €200,000 or more should not take place between staff and non-staff costs, except as a result of a decision to outsource a function.

**(c) The Working Capital Fund**

42. The Assembly endorsed the view that the Working Capital Fund for 2008 should be frozen at the level of 2007 and recommended that the Committee on Budget and Finance consider the issue of an appropriate policy concerning this Fund.

**4. Resolution**

43. At its seventh meeting, on 14 December 2007, the Assembly adopted by consensus resolution ICC-ASP/6/Res.4 entitled "Programme budget 2008, the Working Capital Fund for 2008, scale of assessments for the apportionment of expenses of the International Criminal Court and

financing appropriations for the year 2008". The text of resolution ICC-ASP/6/Res.4 is included in part III of this report.