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**Presentation to the Assembly of States Parties in its consideration  
of the 2012 Proposed Programme Budget**  
Tenth Session of the Assembly of States Parties

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*Check against Delivery*

Madam President of the Assembly of States Parties,  
Excellencies,  
Distinguished delegates,  
Ladies and Gentlemen,

It is a great honour to address the tenth session of the Assembly of States Parties to the Rome Statute, a session that marks a milestone in the development of the International Criminal Court.

Let me first congratulate the newly elected Judges and the newly elected Prosecutor of the Court, as well as welcome the new President and Bureau of this Assembly.

As it has already been mentioned, the coming year the Court celebrates its tenth anniversary and in doing so, we must look into the future and continue our fight for a world without impunity for the most serious crimes and where victims can access to justice and reparation. We must also look into our present to take stock of our lessons-learned and celebrate our remarkable achievements; and we must look into the past in order to not lose perspective and never take for granted the immense achievement that this institution constitutes for the peace, security and well-being of humanity.

I am pleased that the States have recognized during the General Debate that the Court is now stronger, more universal and more respected than ever. The Court is a well-established judicial institution fulfilling its central role as an essential element of the international peace and security system and a key instrument in combating impunity.

As in past years, 2011 has been a momentous and challenging year for the Court.

The unanimous referral from the UN Security Council and the unprecedented opening of an investigation of the basis of the acceptance of jurisdiction by a non-State Party have moved the Court from 5 to 7 situations, we have increased to 6 persons in

detention, in addition, we witnessed an increase from 2 to 8 suspects appearing voluntarily before the Court, 3 trials running simultaneously, the commencement of pre-trial proceedings in four new cases and one trial has ended and is now in the deliberation phase, bringing us close to the conclusion of a full judicial cycle.

**This unprecedented pace of developments has taken us to an approximate 40 per cent increase in the Court's judicial work in a period of less than 12 months.**

Madam President,

Let me start the presentation of the 2012 proposed programme budget of the Court by acknowledging our common goal to continue to build an efficient and effective institution that can deliver fully its mandate. The Court continues to make all efforts to keep growth to the absolute minimum and linked solely and directly to an increase in its judicial activity. Reductions have been made where they could be made, savings have been found through efficiencies and reallocation of resources which will enable us to optimize our capacity.

I wish to strongly emphasise that the Court is acutely aware of the difficult financial situation currently affecting many States and I fully understand the drastic measures that many governments are taking.

States entrust us with making optimal use of the resources which they grant us every year to fulfil the mandate of the Court. The Court takes this mandate seriously, and looks for every opportunity to find further efficiencies and savings in our operations and has proactively engaged in internal reforms that are cost-saving and more importantly improve the efficiency of the Court.

For example, most recently, the strategic review of the field operations, which facilitated a cost-neutral absorption of increased workload; the proactive review of the

legal aid system with the potential to deliver further savings in the near future; and, the ongoing rotation of resources to cope with new activities.

In fact, had the Court had the same level of activity as that foreseen for the 2011 budget, the Court would have presented a budget with an overall reduction of at least € 2.5 million. We will continue to report the efficiencies achieved to the Committee on Budget and Finance, which has praised the Court for its efforts in this regard.

We welcome the continued engagement with States on how to manage increasing costs for known drivers and new situations in a manner that is respectful of the judicial independence of the Court and mindful of the trust of States in its senior officials.

Madam President,

As approved by this Assembly at its last session, the Court's budget for 2011 is € 103.6 million. The forecast implementation rate of the regular budget to the end of the year is 98.8 per cent based on a projected expenditure of approximately € 102.3 million. Details have been circulated to the Secretariat of the ASP on 9 December 2011.

In regards to the contingency fund, the cost initially estimated for unforeseen activities was of € 8.5 million, but it is now estimated that these costs will be in the region of € 5.3 million.

Considering the implementation rate of the 2011 budget which reflects the efforts made by the Court to first absorb costs notified under the contingency fund within our existing resources, it is estimated that the actual access to the contingency fund will be a significantly less, in fact only € 3.2 million.

**This very limited access to the contingency fund is a testament to the Court's constant search for efficiencies.**

Madam President,

**Today the situation is very different to the one that underpinned the budget submission in July.**

The initial budget assumptions are established in January. Since then, revisions were necessary in light of the referral from the Security Council of the situation in Libya in February, the significant developments in the Kenya and Darfur situations, the warrants of arrest in the Libya situation. Even after the submission of the budget, new events have arisen, including the death of one of the suspects and the arrest of another in the Libya situation, and the opening of the investigation in Côte d'Ivoire resulting in the transfer of a suspect just two weeks ago.

**This perfectly exemplifies how quickly events that require the Court's intervention evolve.**

As a result, I presented in July a proposed programme budget for € 117 million. In December, we have presented a supplementary budget for the situation in Côte d'Ivoire for € 4.4 million and the 2GV costs for the permanent premises project for €900,000.

Let me now explain what have been the main cost drivers behind our proposals.

The sole increases in the budget are the situations in Libya and Côte d'Ivoire, the necessary increase for legal aid for the defence and victims, and the costs of the compliance with the UN Common System.

I will first refer to the situation in Libya.

As you are aware, both referrals to the ICC from the UN Security Council in regards to Libya, as before in Darfur, have explicitly stated that none of the expenses incurred in connection with the referrals shall be borne by the UN and as such, costs shall be borne by the ASP. These costs were included in the proposed programme budget in the amount of €7.2 million.

Since then, in response to a recommendation of the Committee on Budget and Finance and in light of the well-known developments in the situations in Libya I have continued to coordinate with the Office of the Prosecutor and other organs on the possible budgetary consequences. In this context, I have proactively submitted a document to the CBF identifying resources associated with activities dependent upon a number of external factors that could potentially reduce the resource requirements.

The CBF has considered this matter and will provide its recommendation on the funding of these activities for the consideration of this Assembly.

Madam President,

The Court has presented a supplementary budget proposal for an additional € 5 million. This proposal includes the resources needed in 2012 for the new situation in Côte d'Ivoire, as well as, approximately € 900,000 for the 2GV costs transferred from the Permanent Premises Project upon a request by the Oversight Committee on Permanent Premises. How to fund these latter costs are a matter for the consideration of this Assembly.

Only in October, after the CBF had already considered the Court's proposed programme budget, Pre-Trial Chamber III authorised the opening of an investigation in Côte d'Ivoire. The Court's objective has been to submit a document with the highest possible degree of certainty within a reasonable timeframe. The preparation of the proposed provisions for Côte d'Ivoire proved a challenge as the situation and the case evolved quite rapidly rendering assumptions obsolete from one day to the other.

Furthermore, the Court was not in a position to submit concrete figures or assumptions for 2012 without disclosing information which at the time remained confidential.

In this spirit, the Court presented the most accurate estimate it could on the same day as the initial appearance of the suspect where the tentative date for the confirmation hearing was determined.

The CBF has examined the proposal and has presented recommendations for the consideration of this Assembly.

Madam President,

An additional cost driver is that of legal aid.

The unavoidable increase in legal aid results from the direct application of the currently adopted legal aid system. The Registry is mandated in accordance with rule 21 of the Rules of Procedure and Evidence to provide support to the defence and representatives of victims and administer their legal fees.

Whilst the CBF recommendation endorsed by the ASP was to initiate a review process of the legal aid system once the first judicial cycle had been completed, I have myself brought forward the review of the current system. Consultation on this review will continue during 2012. In the meantime, I have submitted the preliminary findings to the States.

I must stress however, that the most effective way to achieve substantial reductions in the costs for legal aid is by ensuring adequate cooperation from States in the tracing and recovery of the assets of suspects and accused individuals.

Let me now address the issue of staff costs.

The core asset and the largest expense of the Court is its human capital which is unique in terms of their expertise and valuable in terms of their commitment to the mission of the Court. There has been no increase in established posts in the budget proposal. The only increases are a result of the compliance with the UN Common System as in previous years. I have taken note of the suggestions of some states to reduce remuneration and entitlements, however, States should be mindful that the CBF recommendations already have a significant impact on staff costs.

In this regard, I would recall that this Assembly with due diligence resolved that the Court should participate in the UN pension fund the requirements of which are to apply the UN Common System. I therefore caution any short-term measures that will undoubtedly have legal repercussions and lead to negligible budgetary savings. I rather encourage States to address this matter through the appropriate forum, that is, at the UN General Assembly. This will enable the organisation to attract the most competent staff in an increasingly competitive market, favour staff mobility within the system. Furthermore, joining an existing system represents the most efficient solution for States rather than establishing and administering a new one.

Madam President,

I would like to briefly address the impact of the CBF recommendations resulting from its 17th regular session in August this year.

But before doing so, I would like to express my deep appreciation for the very important and positive work of the Committee on Budget and Finance and for its technical analysis of the Court's budget proposal for 2012. In this context, I also express my deep appreciation and gratitude to Ambassador Klaus Korhonen who has taken up the difficult task to facilitate the complex budgetary discussions.



In particular, I note the departure of Mr. Santiago Wins from the Committee. I thank him for his valuable contributions as both Chairperson of the Committee and as one of its founding members. I am sure his work will provide an important legacy for our institution.

The report of the Committee of its 17<sup>th</sup> session was a culmination of a thorough and detailed technical review of the budget proposals with the Court. As a result, the Committee recommended reductions in the order of € 5 million. As it has been recognized by the Committee, these recommendations challenge the Court already to the very limits of its operational capacity.

I strongly caution against any additional reductions of a short-term, arbitrary or cross-cutting nature to the Court's budget. This would have the effect of considerably slowing down the Court's operations and/or for the first time preventing the Court from carrying out certain judicial activities due to budgetary constraints. In this regard, I would recall that the CBF at its last session noted that *"the Court is reaching the point when the expectations on the type and level of activities and on the level of resources may be diverging."*

A number of States have expressed concerns that the Court did not prepare in addition to its budget proposal a zero nominal growth budget option. In this regard I have adhered to the requirements under the financial regulations and rules and budgeted for the assumptions before the Court. Furthermore, I maintain that I am not in a position to prioritize the mandates of the Court. However, in the interest of transparency I have presented a document detailing the mandate of the Court and the costs attached thereto. I would nevertheless concur with the CBF statement that *"(...) it may be unrealistic for the Court itself to propose large reductions in its activities and potentially stop some programme activities that had previously been mandated by the Assembly."*

In conclusion, in less than ten years the Court has already had a tremendous impact in the international legal and political dynamics. Justice has become a pillar of international peace and security and the ICC, a pillar of justice. But this is still the beginning, the Court still as some distance to achieve its full operational capacity. To believe that the Court can manage its increasing workload without the requisite resources is to undermine the very spirit of the Rome Statute system.

Effective justice requires that the Court be adequately resourced to deliver on its mandate. The ICC is a Court of last resort, which means that if national jurisdictions are not able to conduct proceedings, then the Court **must** be able to do so.

Madam President, I am confident that under your able stewardship and the continued support of this Assembly, we will reach an outcome that recognises the growth in the work of the Court with the means and flexibility to meet the challenges ahead.

To conclude, I am pleased to announce that after months of collaborative work between the Court and the Office of the Attorney General of Qatar, the contours of a first regional center on the ICC for the Middle East and the wider Arab World, to be hosted in Doha, have been jointly crafted. The agreement for this regional center will soon be finalized, and we look forward to the launch of the center in 2012. I take this opportunity to express my utmost gratitude to the authorities of the State of Qatar, including HE Dr. Ali bin Fetais Al-Marri, the Attorney General of the State of Qatar, for their notable contribution and commitment to the important mandate of the Court.

Thank you for your kind attention.