

**Eleventh session**

The Hague, 14-22 November 2012

**Report of the Court on the methodology  
for its scale of assessment\*****I. Introduction**

1. At its eighteenth session held in April 2012, the Committee on Budget and Finance (hereinafter “the Committee”) noted that, in accordance with article 117 of the Rome Statute, the scale of assessment for the Court was based on the scale adopted by the United Nations for its regular budget and adjusted in accordance with the principles on which that scale was based. The Committee recommended that the Court provide the Committee at its nineteenth session with the methodology it uses for establishing the scale.<sup>1</sup>
2. In, compliance with the Committee’s request, the present report provides the methodology used by the Court for establishing its scale of assessment.

**II. Legal framework**

3. According to the Financial Regulations and Rules,<sup>2</sup> the Court shall be financed by contributions from States Parties in accordance with an agreed scale of assessment, as provided for in article 117 of the Rome Statute. This scale shall be based on the scale adopted by the United Nations for its regular budget, and adjusted in accordance with the principles on which that scale is based, in order to take into account the differences in membership between the United Nations and the Court.
4. The scale of assessment is adopted by the Assembly of States Parties (hereinafter “the Assembly”) in its resolution for the year in question on the Court’s programme budget, Working Capital Fund, scale of assessments for the apportionment of expenses of the Court, financing appropriations and Contingency Fund. The application of the appropriate scale of assessment is disclosed in the annual financial statements and certified by the external auditors.
5. It should further be noted that, at its sixth session, the Assembly provided that any maximum assessment rate for the largest contributors applicable for the United Nations regular budget will apply also to the Court’s scale of assessment.<sup>3</sup>
6. The UN scale of assessment fixes the maximum assessment rate at 22 per cent.<sup>4</sup>

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\* Previously issued as CBF/19/11.

<sup>1</sup> *Report of the Committee on Budget and Finance on the work of its eighteenth session* (ICC-ASP 11/5), para 18.

<sup>2</sup> See *Financial Regulations and Rules of the International Criminal Court*, Regulation 5.2.

<sup>3</sup> Resolution ICC-ASP/6/Res.4, part C.

<sup>4</sup> UN Resolution A/RES/64/248 para. (h).

7. Under the Financial Regulations and Rules of the United Nations, new States shall be required to make a contribution for the year in which they become members and to provide their proportion of the total advances to the Working Capital Fund at rates to be determined by the General Assembly.<sup>5</sup> The Court's Financial Regulations and Rules mirrors this provision.<sup>6</sup>

8. The Rome Statute shall enter into force for a new State Party on the first day of the month after the 60th day following the deposit by such State of its instrument of ratification, acceptance, approval or accession.<sup>7</sup> The pro-rated portion of the new State Party's contribution will be determined on the basis of this date.

9. The refund of cash surplus shall be apportioned among States Parties in proportion to the scale of assessment applicable to the financial period to which the surplus relates.<sup>8</sup>

10. Payments made by a State Party shall be credited first to the Working Capital Fund, then to the General Fund, and then to the Contingency Fund, in the order in which the State Party was assessed.<sup>9</sup>

### **III. Scale of assessment applicable for replenishment of the Contingency Fund**

11. The level of the Contingency Fund and the means by which it shall be financed shall be determined by the Assembly. At its tenth session, the Assembly decided to maintain the Contingency Fund at the level of €7 million for 2012 and to replenish the Fund in the amount of €2.2 million in 2012.<sup>10</sup>

12. The replenishment of the Contingency Fund has been based on the above mentioned principle in respect of cash surplus and is apportioned among States Parties in proportion to the scale of the assessments applicable to the financial period in which the costs have been charged against the Fund.<sup>11</sup>

13. At its eighteenth session, the Committee further recommended that the scale of assessment chosen for replenishment of the Contingency Fund in future years be not that of the budget year when the replenishment is approved by the Assembly, but that of the corresponding budget year when the replenishment is apportioned among States Parties, as replenishment of the Contingency Fund is forward-looking.<sup>12</sup> The Court will approach the auditors to obtain their opinion as to the conformity of this proposed change in current practice with the principles on the provision of funds established in regulation 5, as well as best financial practice.

### **IV. Description of the calculation of the Court's scale of assessment**

14. The formula used by the Court to determine the scale of assessment is based on the UN scale of assessment and takes into account the difference in membership between the United Nations and the Assembly of States Parties to the Rome Statute. The formula is the following:

$$\text{Assessment rate of the State Party in the UN scale} / \text{sum of assessment rates of all States Parties to the Court in the UN scale} * 100\%$$

<sup>5</sup> United Nations: ST/SGB/2003/7, Regulation 3.7.

<sup>6</sup> See Financial Regulations and Rules of the International Criminal Court, Regulation 5.10.

<sup>7</sup> Rome Statute, article 126.

<sup>8</sup> See Financial Regulations and Rules of the International Criminal Court, Regulation 4.7.

<sup>9</sup> See Financial Regulations and Rules of the International Criminal Court, Regulation 5.8.

<sup>10</sup> Resolution ICC-ASP/10/Res.4, part E.

<sup>11</sup> See Financial Regulations and Rules of the International Criminal Court, Regulation 4.7.

<sup>12</sup> ICC-ASP 11/5, para. 17.

15. As an example, the Court's scale of assessment for 2012 contributions includes an assessment rate of 9.7866% for the United Kingdom. The assessment rate in the UN scale of assessment for the United Kingdom is 6.604%. The sum of the assessment rates of all States Parties to the Court in the UN scales amounts to 67.48%. Applying the above-mentioned formula, 6.604% is divided by 67.48 and multiplied by 100, giving the rate of assessment for the Court as 9.7866%. After applying the same formula to all States Parties to the Court, the total sum of the Court's assessment rates equals 100%, as against the 67.48% for the UN.

16. For the application of the maximum assessment rate of 22 per cent, the following formula is used. For any State Party for which, under the above formula, the assessment rate for the Court is more than 22 per cent, the rate is fixed at 22 per cent. For the remaining States Parties, the sum of assessment rates in the UN scale is determined. In order to calculate the assessment rates for the Court for each of those States Parties, it is necessary to take the UN assessment rate for that State Party multiplied by 78% (100% minus 22%) and divide it by the sum of the UN assessment rates for the remaining States Parties.

*Assessment rate of the State Party in the UN scale \*78% / sum of assessment rates of the remaining States Parties in the UN scale*

17. The new total, for States Parties with a 22 per cent assessment rate, plus the remaining States Parties, equals 100%. The table below provides an example of the calculation of the Court scale of assessment where one State has a maximum assessment rate of 22 per cent.

**Table 1. Theoretical calculation of scale of assessment for the Court**

<i>Member States UN</i>	<i>UN Scale (%)</i>	<i>Member States ICC</i>	<i>UN Scale (%)</i>	<i>ICC Scale (%)</i>	<i>UN Scale (%)</i>	<i>Adjusted ICC scale with 22% max. rate (%)</i>
State 1	5	State 1	5	6 <sup>1</sup>	5	7.5 <sup>2</sup>
State 2	9					
State 3	13	State 3	13	15	13	19.5
State 4	35	State 4	35	40	0	22.0
State 5	12	State 5	12	14	12	18.0
State 6	10	State 6	10	11	10	15.0
State 7	4					
State 8	7	State 8	7	8	7	10.5
State 9	1	State 9	1	1	1	1.5
State 10	4	State 10	4	5	4	6.0
<b>Total</b>	<b>100</b>	<b>Total</b>	<b>87</b>	<b>100</b>	<b>52</b>	<b>100.0</b>

<sup>1</sup>equals 5 / 87 \*100.

<sup>2</sup>equals 5\*78/52, where 78 represents remainder of the scale once 22 is deducted from 100.

## V. Including a new State Party in the scale of assessment

18. In the year of admission, a new State Party is assessed for its full annual share of the advances to the Working Capital Fund and a pro-rated share based on the total number of months of full membership for all other funds. In the event of a new State Party's entrance date being later than 1 January, the originally derived 1 January scale will be revised so as to re-assess the existing States' contributions for the financial period, which will consequently decrease. Any difference in existing States Parties' contributions resulting from the amount of the assessed contribution of the new State Party will be refunded to those States.

19. The calculation of the new scale of assessment of the Court will be similar to the calculation of the scale of assessment described under D above.

## **VI. Applicable scale of assessment**

20. For the regular budget, and for the related Working Capital Fund, the Court applies the scale of assessment as indicated in the resolution in which the Assembly adopts the approved budget.

21. For the refund of the cash surplus, the Court applies the scale of assessment based on the number of States Parties for which the Rome Statute has entered into force as at 31 December of the year in question.

22. For the replenishment of the Contingency Fund, the Court applies the same principle, taking the scale of assessment based on the number of State Parties for which the Rome Statute has entered into force as at 31 December of the relevant year.

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